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Town of Hammond

Local Law No. 2 of the year 2011

A local law to Amend and Restate in its entirety Local Law No. 1 of the Year 2009, Wind Energy Facilities

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

Section 1. Town of Hammond Local Law No. 1 of the Year 2009 is hereby amended, and as amended is restated in its entirety, as follows:

WIND ENERGY FACILITIES

Article I
General

§1. Title

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

§2. Purpose

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

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§3. Authority

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

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

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

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

4. The supersession authority of New York Municipal Home Rule Law, §10 (2)(d)(3), specifically as it relates to determining which body shall have power to grant variances under this Local Law, and what variances may be granted to the extent such grant of power is different than under Town Law §267 and §274-b, and as it relates to the power of the Town Board to regulate land use within the Town to the extent the provisions of this Local Law differ from the authority granted to the Town by Article 16 of the Town Law.

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

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

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

8. New York Real Property Tax Law §487.

§4. Findings and Determinations

The Town Board of the Town of Hammond makes the following findings and determinations:

1. Wind energy is a renewable and nonpolluting energy resource of the Town.

2. Wind turbines are designed to generate electricity and designs vary widely from large industrial units to medium and small residential units.

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

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

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

6. Wind Energy Facilities present a risk to birds, bats and other creatures. The Town of Hammond is uniquely situated between two important bodies of water, the St. Lawrence River in the Thousand Islands Region and Black Lake that contain critical migratory flyways.

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

8. Wind Energy Facilities may be significant sources of noise, including infrasound that, if unregulated, can negatively affect the quiet enjoyment of properties in the vicinity and the human health of residents.

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

10. Wind Energy Facilities can cause electromagnetic interference issues with various types of communications.

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

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

13. Wind Energy Facilities may have an effect on future sub-divisions.

14. Considering all of the above factors, the geographic characteristics of the Town of Hammond and the density of certain residential areas within the Town, the Town Board has determined that there may be limited areas within the Town where Wind Energy Conversion systems can be safely constructed and operated and will be compatible with other nearby land uses. These areas shall be designated by the Town Board through enactment of this Local Law as the Town of Hammond Wind Overlay District, the boundaries of which shall be as defined in Section 6 of this Local Law.

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

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§5. Permits Required

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

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

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

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

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

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

G. Transfer. Wind Energy Facility or Special Use Construction and Continued Operation Permits are issued exclusively to the applicant and are not transferrable without the approval of the VPOB. The sale of the entity to which such a Permit has been issued including the sale of more than 30% of the stock of such entity (not counting sales of shares on a public exchange), without the prior approval of the VPOB and the Town Board shall operate to void the Permit.

Request for transfer approval or approval of sale must include:

1. Name, address, and telephone number of the transferee (buyer). If an agent represents the transferee (buyer), the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

2. Name and address of the property owner. If the property owner is not the transferee (buyer), 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 transfer of ownership and (ii) authorizes the submission of the application.

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

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4. A description of the Wind Energy Facility or proposed Facility, including the number and maximum rated power output capacity of each WECS.

5. Detailed explanation of financial and legal agreements to execute the ownership transfer.

6. Written acceptance by the transferee (buyer) including a detailed presentation assuring complete commitment to and adequate resources to comply with each requirement of this local law. No transfer shall operate to eliminate the liability of an applicant or of any other party under this Local Law.

§6. Definitions.

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

AMBIENT SOUND – Ambient sound encompasses all sound present in a given environment, being usually a composite of sounds from many sources near and far. 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 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SITE - The minimum area necessary for a Wind Energy Facility to satisfy the required setbacks and any other standards in this local law. The Site may be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where an individual or group of individuals own or control adjacent properties, those properties may be combined for the purposes of this law through an Easement Agreement to be recorded in the Real Property records in the St. Lawrence County Clerk's Office. The easement must, at a minimum, describe all lands that may be impacted if the WECS fell and must remain in effect as long as the WECS is in place. Where multiple adjacent lots are in single ownership or are combined through an Easement Agreement, such multiple or combined lots shall together be considered the "Site".

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

SOUND PRESSURE LEVEL - means the level, expressed in decibels, which is equaled or exceeded a stated percentage of time. Sound Pressure Level is spectrally weighted to correspond to a spectrum of interest. For example, the A-weighted decibel scale (dBA) represents those frequencies most readily audible to the human ear. The C-weighted decibel scale (dBC) approximates response of the human ear to low-frequency sounds. The G-weighted decibel scale (dBG) is designed for infrasound. Sound Measurements shall use sound meters that meet the American National Standard Institute Specifications for Integrating Averaging Sound Level Meters, S1.43-1997 for Type I instruments and be capable of accurate readings (corrections for interval noise and microphone response permitted) at 20 dBA or lower.

SPECIAL USE PERMIT - A construction and operating permit granted in accordance with the provisions of this local law.

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.

VARIANCE AND PROJECT OVERSIGHT BOARD – A five-member board established pursuant to this local law to review and act on any variance requests, receive and act on complaints, enforce violations, and manage all town interests associated with any Wind Energy Facility project.

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WIND ENERGY CONVERSION SYSTEM ("WECS") - A machine that converts the kinetic energy in the wind into electricity with a rated capacity in excess of 100kW/hour (commonly known as a "wind turbine" or "windmill").

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

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

WIND OVERLAY DISTRICT – Those areas of the Town of Hammond that the Town Board has determined may or may not be appropriate for the development of Wind Energy Conversion Systems (WECS) and related infrastructure, electrical lines and substations, access roads and accessory structures, depending on adequate health, environmental, economic, and safety setbacks. The boundaries of the Wind Overlay District shall be as shown on the map entitled Town of Hammond Wind Overlay District and on file in the Town Clerk's Office, a copy of which is attached to this local law as Appendix "B" and is described as follows:

1. Railroad bed from the St. Lawrence/Jefferson County line to the village limits of the Village of Hammond.

2. Black Lake Road from the village limits of the Village of Hammond to the town line between the Town of Hammond and the Town of Morristown.

3. South side of NYS Route 12 from the St. Lawrence/Jefferson County line to Hammond/Morristown town line.

4. St. Lawrence/Jefferson County line from the railroad bed to the south side of the NYS Route 12 right of way line.

5. Hammond/Morristown town line from Black Lake Road to the south side of the NYS Route 12 right of way line.

§7. Applicability

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

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

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

Article II
Wind Energy Conversion Systems

§8. Wind Energy Conversion Systems Permitted.

Wind Energy Conversion Systems shall only be permitted within the boundaries of the Wind Overlay District and only after receipt of a Special Use Permit issued by the Town Planning Board pursuant to the provisions of this Local Law.

§9. Applications for Wind Energy Conversion Systems

A. An application for Special Use Permit for a Wind Energy Facility or a single WECS shall include the following:

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

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

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

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

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

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

   (b) Location, approximate dimensions and types of existing structures and uses on Site, public roads, and adjoining properties within a three thousand foot radius of the proposed WECS.

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

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

(e) Location and size of structures above 35 feet within a three thousand foot radius of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are considered structures.

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

(g) To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower site having a radius equal to:

(i) Five times the total height of the proposed WECS;

(ii) Three thousand feet;

(iii) One mile;

(iv) Two times the total height of the proposed WECS;

(v) Five thousand feet; and

(vi) One and one-half times the total height of the proposed WECS.

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

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

(j) The names and addresses of all property owners within a three thousand foot radius of each WECS, together with evidence of the current use of all such property.

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

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

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

9. Decommissioning Plan: A decommissioning plan as specified in section 17(c).

10. Complaint Resolution Plan: A Complaint Resolution Plan to address complaints within 24 hours of receipt of notice thereof and to resolve any complaint in a diligent and timely manner under the circumstances. The Plan should at a minimum comply with the process described in Section 33.

11. Information relating to the construction/installation of the Wind Energy Facility as follows:

    (a) A construction schedule describing commencement and completion dates of the project and beginning and ending hours of daily construction

    (b) A description of the routes to be used by construction and delivery vehicles, the gross weights, and heights of those loaded vehicles.

12. Completed Part 1 of the Full EAF.

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

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

15. If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information shall be included in the Draft Environmental Impact Statement (DEIS) prepared for a Wind Energy Facility. If the lead agency issues a Negative Declaration of environmental significance following its review of the EAF, an amended application shall be submitted which shall include, at a minimum, the following information:

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

(b) Visual Impact: Applications shall include a visual impact study of the proposed WECS as installed, which shall include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed Site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

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

(d) Noise Analysis: A noise analysis by a competent acoustical consultant documenting the noise levels associated with each proposed WECS. The study shall document noise levels at property lines and at the nearest residence not on the Site (if access to the nearest residence is not available, the VPOB may modify this requirement). The noise analysis shall be performed according to the International Standard For Acoustic Noise Measurement Techniques For Wind Generators (IEC 61400-11), or other procedure accepted by the Town Planning Board, and shall include both a dBA analysis and dBC analysis.

(e) Property Value Analysis: Property value analysis prepared by a New York State licensed appraiser experienced in appraising rural properties of the type and nature typically found in the Town of Hammond and approved by the Variance and Project Oversight Board (VPOB) in accordance with industry standards, regarding the potential impact of the project on values of properties in the Town of Hammond.

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

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(g) Transportation Impacts: An analysis of impacts on local transportation shall be prepared, regarding impacts anticipated during construction, reconstruction, modification, or operation of each WECS. Transportation impacts to be considered shall include, at a minimum, potential damage to local road surfaces, road beds and associated structures; potential traffic tie-ups by haulers of WECS' materials; impacts on school bus routes; impacts of visitors to the WECS' facilities. Local roads shall include all state highways, county highways, town highways, and village streets and highways, which will be or may be used by the applicant.

(h) Transportation Plan: A transportation plan describing routes to be used in delivery of project components, equipment and building materials, and those to be used to provide access to the Site during and after construction. Such plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, and measures to restore damaged/disturbed access routes following construction. Roads shall include all state highways, county highways, town highways, and village streets and highways, which will be or may be used by the applicant.

(i) Ground Water Impacts: An analysis of impacts on local ground water resources shall be prepared, regarding impacts anticipated during construction, reconstruction, modification or operation of each WECS. An assessment of potential immediate and long-term impacts to local flora and fauna, micro and macro habitats, and ground and surface water related, but not limited to, excavation, blasting, clear-cutting and grading during the Site preparation phase. A geotechnical report shall include: soils engineering and engineering geologic characteristics of the Site based on Site sampling and testing, a bedrock profile within one (1) mile of the Site, information on depth of well, average flow rate, and with permission by owner, test of water equality 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.

(j) Cultural, Historical and Archeological Resources Plan: An analysis of impacts on cultural, historical and archeological resources shall be prepared, regarding impacts anticipated during construction, reconstruction, modification or operation of each WECS. This assessment shall be conducted in accordance with the New York State Office of Parks, recreation and Historic Preservation.

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(k) Wildlife Impacts: An analysis of impacts on local wildlife shall be prepared, regarding impacts anticipated during construction, reconstruction, modification, or operation of each WECS. Wildlife impacts to be considered shall include, at a minimum, anticipated impacts on flying creatures (birds, bats, insects), as well as wild creatures existing at ground level. An assessment of the impact of the proposed development on the local flora and fauna will include migratory and resident avian species, bat species. The scope of such assessment shall be developed in consultation with the New York State Department of Environmental Conservation and the United States Fish and Wildlife Service and must at a minimum consist of pre-construction data of three years, and literature survey for threatened and endangered species that provide relevant information on critical flyways, and shall describe the potential impacts of any proposed facilities on bird and bat species, and an avoidance or mitigation plan to address any impacts, as well as plans for three-year post-installation studies.

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

(m) Blade Throw Report: A report from an independent New York State professional engineer that calculates the maximum distance that ice from the turbine blades and pieces of turbine blade may 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.

(n) Stray Voltage Report: An assessment, pre- and post-installation, of possible stray voltage problems on the Site and neighboring properties within one (1) mile of the project boundary to show what properties need upgraded wiring and grounding.

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

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

18. Proof of continuous liability insurance in the amount of $5,000,000 per occurrence with a total policy minimum of $20,000,000 per year. This shall be submitted to the Town of Hammond indicating coverage for potential damages or injury to landowners.

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

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

21. The Town shall require the applicant to fund an escrow agreement pursuant to Section 31 of this local law to cover the amount by which the Town's cost to review the applicant's applications exceed the application fees paid by the applicant.

22. Copies of all applications and proposed plans should be made available to the public within seven days of receipt by the Town Planning Board and placed in the Town Library and Town Clerk's office as well as on the Town of Hammond website.

§ 10 Application Review Process

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

B. Twelve (12) photocopies of the application and a complete digital version shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.

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

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

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E. In addition to the public hearing requirement, the Planning Board may require the Applicant to conduct work session/information sessions for the public benefit. The number of such sessions shall be at the discretion of the Planning Board and notice shall be given by first class mail to all property owners in the Town of Hammond and published in the Town's official newspaper. During these sessions, the public will be afforded the opportunity to question the Applicant regarding the Project.

F. The Planning Board shall hold at least one formal public hearing on the application. Notice shall be given by first class mail to all property owners in the Town of Hammond and published in the Town's official newspaper, no less than ten nor more than twenty days before the hearing. In the event any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses. In the event a waiver is requested by the applicant pursuant to the procedure contained at §11 the notice shall specify the variance requested and that the Planning Board will consider the variance pursuant to §11 as part of its review of the application.

G. At the discretion of the Planning Board, the public hearing may be combined with public hearings on any Environmental Impact Statement. Notice for SEQR public hearings must meet the specification set out in 6 N.Y.C.R.R. §617.12 (c).

H. Notice of the project shall also be given, when applicable, to (1) the St. Lawrence County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to adjoining Towns where the project site is located within three thousand feet of the adjoining Town boundary.

I. SEQRA review. Applications for WECS are deemed Type I projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies or communities, in which case the records of review by said agencies or communities shall be part of the record of the Planning Board's proceedings. The applicant shall be responsible for the Town's legal and engineer's fees in connection with the SEQRA and other reviews under this Local Law. The Planning Board shall require an escrow agreement with the applicant to cover the engineering and legal review of the applications and any environmental impact statements before commencing its review. The escrow agreement shall provide a minimum balance that the applicant must maintain in escrow with the Town from which the Town may pay its professionals' fees for review.

J. After a thorough and detailed evaluation of the application in which the Planning Board completes the required "hard look" of all materials and public input and upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with what is in the best interest of all of the residents of Hammond and the standards in this Article.

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

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

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

N. If any approved WECS is not substantially commenced within one year of issuance of the permit, the special use permit shall expire.

§11. Waiver of Criteria

Pursuant to §274-b (5) of the New York Town Law, the Planning Board shall have the authority to waive the strict application of any of the above criteria when specifically requested by the applicant and will apply to the application process only. The Planning Board may grant such request if it determines that such request is reasonable under the circumstances and that strict application is not required under the circumstances in order to protect the public health, safety and general welfare. The Planning Board shall keep with the spirit and intent of this local law in their determinations and shall specify, in its findings, the reasoning behind such determinations. Any waiver of the standards for WECS requires a variance request to the VPOB to be reviewed by the VPOB, pursuant to the criteria set forth in Section 16 for the granting of a variance.

§12. Standards for WECS

The following standards shall apply to all large WECS.

A. All power transmission lines from the tower to any building or other structure shall be located underground unless a variance is granted by the VPOB.

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

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

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

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

F. The use of guy wires is permitted in connection with small WECS and wind measurement towers only.

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

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

I. WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided. The use of previously developed areas will be given priority wherever possible. All top soil disturbed during construction, reconstruction or modification of each WECS will be stockpiled and returned to the site upon completion of the activity, which disturbed the soil. Compliance with the New York State Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Wind Power Projects is required. The guidelines in effect as adoption of this Local Law are attached hereto as Appendix "A".

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

K. WECSs shall be located in a manner consistent with all applicable state and Federal wetlands laws and regulations.

L. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations. Compliance with the New York State

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Department of Agriculture and Markets Guidelines for Agricultural Mitigation for Wind Power Projects is required.

M. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects in effect as of the date of the application shall be adhered to, both inside and outside of agricultural districts. These guidelines in effect as of the effective date of this local law are reproduced at Appendix A for reference.

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

O. Construction of the WECS shall be limited to the hours of 7 AM to 7 PM Monday through Friday, unless varied by the Variance and Project Oversight Board (VPOB), and determination thereof is filed with the Town.

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

Q. WECSs shall be located in a manner that minimizes significant negative impacts on the historical and cultural aspects of the community (i.e. high concentration of historic stone houses and buildings). This shall be done in coordination with the New York State Office of Parks, Recreation and Historic Preservation. In addition, the review of NY's Department of State guidelines for Scenic Areas of Statewide Significance should be respected.

R. Health and Safety Setbacks: Where an individual or group of individuals own or control adjacent properties, those properties may be combined for the purposes of this Law through an Easement Agreement to be recorded in the Real Property records in the St. Lawrence County Clerk's Office. Where multiple lots are in single ownership or are combined through an Easement Agreement, the combined lots shall be considered as one for the purposes of the setback requirements imposed by this Law and/or the sound level measurements at the property lines. However, in no instance shall the Easement provide for a setback between a WECS and a residence that is less than five times the total height of the WECS. (see definition of "Site") Each WECS shall be setback measured from the center of the WECS a minimum of:

1. Five times the total height of the proposed WECS from the nearest site boundary property line.

2. Five times the total height of the proposed WECS from the nearest public road.

3. Three thousand feet from the Village of Hammond boundaries.

4. One mile from Route 12.

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5. Five times the total height of the proposed WECS from any non-WECS structure or any aboveground utilities.

6. Two times the total height of the proposed WECS from state and federal wetlands.

7. Five thousand feet from the property lines of a school.

8. One and one-half times the total height of the proposed WECS from the Overlay District Boundary where a greater setback as provided in this Section from such boundary is not applicable.

§13. Required Safety Measures

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

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

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

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

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

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

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

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in full compliance with the provisions of this law and the permit as issued, and shall otherwise comply with the provision of Section 32 of this law.

§14. Traffic Routes

A. Construction of WECSs poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECSs and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include (1) minimizing traffic impacts from construction and delivery vehicles; (2) minimizing WECS-related traffic during times of school bus activity; (3) minimizing wear and tear on local roads; and (4) minimizing impacts on local business operations. Permit conditions may limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public. This shall be done in coordination with the Town Highway Superintendent, and Transportation Supervisor for the Hammond Central School District, and in compliance with the provisions of Section 32 of this law.

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

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

D. Prior to placing the Wind Energy Facility in operation, and for the life of the project, the applicant shall repair or reconstruct all state highways, county highways, town highways and village streets and highways damaged by the applicant to the standards set forth by the St. Lawrence County Highway Department regardless of the condition of such highways, roads and streets prior to the commencement of construction by the applicant.

§15. Noise Standards for Wind Energy Conversion Systems

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

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

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

Table 1. WECS noise limits at residential receivers

	Daytime 7 AM to 8 PM	Nighttime 8 PM to 7 AM
A-weighted level (dB)	45	35
C-weighted level (dB)	63	53

C. A-weighted background community noise levels shall be based on measured hourly L90 levels gathered continuously for at least 2 weeks. The day shall be divided into two time periods: (1) daytime, the hours from 7 AM to 8 PM, and (2) nighttime, the hours from 8 PM to 7 AM. If insect noise possibly can dominate some of the hourly L90 measurements,[1] then Ai weighting (see Schomer *et al*., 2010[2]) shall be used in lieu of the Standard A-weighting, or measurements shall not be made when insect noise possibly can dominate some of the hourly L90 measurements. The background shall be reported by time period, and computed as follows. The minimum hourly L90 shall be tabulated by time period and by day, and the arithmetic average by time period over all the days of measurement shall be computed. These three averages of daily minima shall be reported as that site's daytime, evening, and nighttime A-weighted background, respectively.

C.1 <u>Parcels 3 acres or smaller</u>

The A- weighted background measurements shall be made along the line from the nearest proposed WECS to the dwelling in question. If the parcel of land has no dwelling, then the line shall terminate within 25 ft of the center of the parcel. The actual position of the microphone shall be within the property in question and should be within 25 feet to either side of the line, no closer than 50 feet from the property boundary, and no closer than 25

[1] In relatively quiet areas insect noise, especially during summer months, can easily dominate the A-weighted ambient sound level. This domination occurs partly because the primary frequencies or tones of many, if not most, insect noises are in the range of frequencies where the A-weighting is a maximum, whereas, most mechanical and WECS noises primarily occur at the lower frequencies where the A-weighting significantly attenuates the sound. Also, insect noise and bird song do not mask WECS noise at all because of the large differences in frequencies or tones between them.

[2] Schomer, Paul D. *et al.,* "Proposed 'Ai'-Weighting; a weighting to remove insect noise from A-weighted field measurements," InterNoise 2010, Lisbon Portugal, 13-16 June 2010.

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feet from the house or any other structures. If positioning within this "measurement box" is not possible because of unique site conditions such as the position being underwater or the property being too small, then the unique conditions shall be fully documented and an alternate position selected and justified.

C.2 Parcels larger than 3 acres

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

C.3 Measurement requirements

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

C.4 Background prediction and measurement

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

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

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

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

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

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

G. The maximum noise level for any WECS measured from the property boundary lines of any school shall not exceed 45 dBA.

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

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

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period, e.g., during nighttime for nighttime enforcement, and the WECS shall operate continuously during the 30-minute measurement.

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

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

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

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

A compass shall be used to measure wind direction to at least an 8-point resolution: N, NE, E, SE, S, SW, W, NW. Measurements shall be A-weighted, or, alternatively, in one-third-octave bands. For A-weighted measurements, the uncertainty (tolerance) of measurements shall be 1 dB for a type 1 meter and 2 dB for a type 2 meter. For one-third-octave-band measurements, the meter shall meet the type 1 requirements of ANSI S12.4 and S12.4a-1985 (R2006), and the uncertainty of measurements shall be 5 dB in each and every one-third-octave band.

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

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

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

Table II. Correction in dB that shall be subtracted from the WECS sound level measurement (which always includes the background sound level) because of the

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background sound so that the result is just the sound level of the WECS alone (See Note 1 below).

Δ, difference (dB)	< 3	3 - 4	5 – 6	7 - 10	>10
K, correction (dB)	Notes 2, 3	3	2	1	0

Notes:

1. This table provides a simple correction to measurements of WECS sound in the presence of the background. For example, the sound of a WECS (along with the background sound which is always present) is measured as 40 dB(A), and the background sound level alone (without the WECS) is measured as 34 dB(A). Then Δ, the difference in decibels is 6 dB (first row, third column), and the corresponding correction shall be 2 dB (second row, third column). That is, 2 dB shall be *subtracted* from the measured 40 dB(A) level, and it is adjusted to and reported as 38 dB(A). The same procedure is followed in each band for one-third-octave-band data.

2. When using directly measured A-weighted levels, if the difference between the WECS sound level (plus background sound level) and the background sound level alone is less than 3 dB, then it shall not constitute a violation of this chapter.

3. When using measured one-third-octave-band data, if the difference between the WECS sound pressure level (plus background sound pressure level) and the background sound pressure level alone, each in the same one-third-octave band, is less than 3 dB, then the WECS level for that one-third-octave band shall be set to zero.

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

§16. Variance and Project Oversight Board (VPOB)

The Variance and Project Oversight Board (VPOB) is hereby established and granted the power to vary or modify the strict application of the requirements contained in this Law pursuant to the provisions for granting a variance as stated in this law, together with the other powers and duties enumerated in this Section. In no event shall the Variance and Project Oversight Board (VPOB) have the authority to issue a use variance to permit the location of a WECS in an area outside of the Wind Overlay District as established under this Law. The VPOB shall keep with the spirit and intent of this local law in their determinations and shall specify, in its findings, the reasoning behind such determinations.

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A. Variance and Project Oversight Board:

1) Creation of Variance and Project Oversight Board (VPOB)

a) The VPOB shall consist of five members appointed by the Town Board upon receipt of an application for a Wind Energy Facility Permit by the Planning Board. The members shall be appointed to five-year terms, with the initial appointments being staggered for one to five year terms and one vacancy filled each subsequent year.

b) Board members must be Non-Participants. Any member becoming a Participant must immediately resign from the board. The Town Board shall fill the resulting vacancy within 60 days, and the new member appointed shall complete the resigning member's term.

c) Town Board members are disqualified from serving on the VPOB.

d) Members must meet all applicable ethics/conflict of interest requirements

2) Duties of the Variance and Project Oversight Board (VPOB)

a) Grant variances under the criteria provided in this law.

b) Administer permit fees and use of escrow funds subject to subsection (c).

c) Solicit, evaluate, retain, administer, manage, and terminate all professional, advisory and/or consultant of any nature required to evaluate, supervise, process, analyze, advocate for or provide any other service deemed necessary to support any and all aspects of a Wind Energy Facility project in the Town of Hammond. The Town Board must approve all contracts that exceed six months in term and/or exceed $1000 in value.

d) Supervise enforcement of the provisions of this law and any permit issued hereunder.

e) Monitor safety precautions and any other operations or administration of a Wind Energy Facility. Specific examples of areas to monitor include ongoing evaluation of environmental impact, ongoing evaluation of geological impact, project construction, roads and traffic, and sound compliance.

f) Investigate complaints and if violations of this law or the permit are found, issue Orders to Remedy and for failure to remedy recommend prosecution under Section 34 of this law or permit revocation under Section 19, or both.

g) Administer decommissioning program.

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h) Evaluate and recommend to the Town Board any insurance requirements and risk mitigation actions.

i) Evaluate project ownership changes in order to make recommendations to the Town Board.

j) Maintain ongoing assessment and make appropriate recommendations to the Town Board on the Wind Energy Facility's impact on the town to include, but not be limited to, health related issues, changes in the existing condition of the aquifer, and any other broad impact issues.

k) Provide any and all other support to the Town Board or the Planning Board as requested regarding the Wind Energy Facility.

l) Develop and present an annual report to the Town Board on the status of the Wind Energy Facility.

B. Upon specific request from the applicant, the VPOB shall have the power to grant a variance after taking into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the VPOB shall consider:

1. Whether an undesirable change would be produced in the character of the neighborhood or the granting of the variance would create a detriment to nearby properties.

2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than a variance.

3. Whether the requested variance is substantial.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the VPOB, but shall not necessarily preclude the granting of the variance.

C. All actions of the VPOB shall be made by a majority vote of such Board at a meeting thereof held pursuant to the provisions of the Open Meetings Law contained in the New York Public Officers' law. It is recognized that certain actions to be taken by the VPOB pursuant to Section 33 of this law may require that such Board meet on an immediate or emergency basis, and in such cases, it is deemed reasonable for such Board to meet upon call of its chairman and notification provided to each member of such Board either verbally, electronically or in writing, with the same such notice provided to the news media.

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§17. Decommissioning

A. If any WECS remains non-functional or inoperative for a continuous period of 1year, the applicant shall, without any further action by the Town Board, remove said system at its own expense in accordance with the provisions of subsection C of this section 17. This provision shall not apply if the applicant demonstrates to the Town that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town Board's ability to order a remedial action plan.

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

C. <u>Decommissioning and Site Restoration Plan and Requirements</u>

An application for a Wind Energy Facility permit shall include a decommissioning and site restoration plan containing the information and meeting the requirements in this section.

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

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

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

4. The plan shall include provisions for financial security to secure completion of decommissioning (removal of non-functional towers and appurtenant facilities) and site restoration. The applicant, or successors, shall continuously maintain a

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fund payable to the Town of Hammond, in a form approved by the Town Attorney, and in an amount to be determined by the Town Board for the period of the life of the facility. This fund shall be no less than 125% of the cost of full decommissioning (including salvage value) and restoration in the form of a cash deposit with the Town in the amount of 25% of such fund and the balance of such fund in the form of an irrevocable bond in form and content as approved by the Town Board. All decommissioning funding requirements shall be met prior to commencement of construction.

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

6. Use of Decommissioning Fund

   a) Any non-functional or inoperative utility scale WECS, or any utility scale WECS for which the special use permit has been revoked, shall be removed from the site and the site restored in accordance with the approved decommissioning and site restoration within 180 days of the date on which the facility becomes non-functional or inoperative, as defined above, or of the revocation of the special use permit.

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

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

§18. Limitations on Approvals; Easements on Town Property

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

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

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C. Notwithstanding anything to the contrary contained in this Local Law or any other local law, ordinance, rule or regulation of the Town of Hammond, Building Permits shall not be issued for new construction on the same parcel as a permitted WECS when the proposed construction is located at a distance of five times the height from of any WECS tower on the parcel unless the party requesting the permit has signed and recorded in the County Clerk's Office an easement in favor of the WECS and the Town of Hammond acknowledging and permitting such proximity. In addition, no property or lot upon which a WECS has been permitted shall be further subdivided in a manner that would result in a reduction of the setbacks required by this Local Law and/or as set forth in the permit, unless the party requesting the subdivision has signed and recorded an easement in the County Clerk's Office in favor of the Town of Hammond and the WECS owner acknowledging and consenting to such reduced setbacks.

§19 Permit Revocation

A. Testing fund. A Special Use Permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which shall be included in the annual Operation Maintenance and Compliance report required under Section 17(G) of this Law, and may be required more frequently upon request of the Code Enforcement Officer in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Special Use Permit and this Local Law and shall include an evaluation of any complaints received by the Town. A non-compliant WECS shall be shut down immediately if it exceeds any of the limits in Section 17 of this local law. The applicant shall have 90 days after written notice from the Code Enforcement Officer, to cure any deficiency. An extension of the 90-day period may be considered by the Code Enforcement Officer, but the total period may not exceed 180 days.

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

C. Notwithstanding any other abatement provision under this Local Law, and consistent with §16 and §33, if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular timeframe, or (2) order revocation of the Wind Energy Permit for the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Variance and Project Oversight Board (VPOB) shall have the right to use the security posted as part of the Decommission Plan to remove the WECS.

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Article III
Wind Measurement Towers

§20. Wind Site Assessment

The Town Board acknowledges that prior to construction of a Wind Energy Facility, an assessment is typically needed to determine local wind speeds and the feasibility of using particular sites. Installation of Wind Measurement Towers, also known as anemometer ("Met") towers, shall be permitted as Special Uses, but shall be limited to those areas delineated as Wind Overlay Districts.

§21. Applications for Wind Measurement Towers

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

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

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

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

4. Site plan.

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

§22. Standards for Wind Measurement Towers

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

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

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

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

§23. Application Review Process for Wind Measurement Towers

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

B. Six copies of the application shall be submitted to the Town Clerk. Copies will also be available electronically within five days of submission. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.

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

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

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

F. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within 1,250 feet of each proposed Wind Measurement Tower and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

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

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

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

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

Article IV
Small Wind Energy Conversion Systems

§24. Purpose and Intent

The purpose of this Article is to provide standards for Small Wind Energy Conversion Systems designed for on-site home, farm, and small commercial use, and that are used to generate power for individual sustainability or reduce on-site consumption of utility power. The intent of this Article is to encourage the development of small wind energy systems and to protect the public health, safety, and community welfare.

§25. Permitted Areas.

Small Wind Energy Conversion Systems (Small WECS) may be permitted anywhere within the Town of Hammond upon issuance of a Special Use Permit.

§26. Applications and Application Review Process.

A. Applications for Small WECS special use permits shall include the following:

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

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

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with the proposed application and (ii) authorizing the submission of the application.

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

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

5. Ownership and land use information within a 1,250-foot radius of the location proposed for each tower.

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

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

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

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

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

§27. Application Review Process

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

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

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

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

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

6. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within 1,250 feet of each proposed Small WECS and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

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

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

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

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

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§28. Development Standards for Small WECS.

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

A. Small WECS may be used to generate on-Site power or to reduce the on-Site consumption of electricity.

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

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

D. All parts of the system and its tower, including guy-wire anchors shall be located on the WECS parcel, and shall be more than 10 feet from the closest part of the WECS property boundary. Additionally, the outer and innermost guy-wires shall be marked and clearly visible to a height from the ground level to eight feet above the guy-wire anchors. All small WECS shall be set back from the site boundary a distance equal to one and one-half the height of the Tower measured from the center of the WECS.

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

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

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

H. Decibel levels for the system shall not exceed the limits in Table 1 of section §18 when measured at the nearest point of any residential property.[3] For purposes of this clause, residential property shall include property that contains one or more existing residences and/or a building permit has been issued for a residence on said property, and/or said property is zoned for residential use.

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

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

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

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

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

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

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

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

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

§29. Variances for Small WECS.

The Planning Board is hereby granted the power to vary or modify the strict application of the requirements contained in this Article as they relate to area or dimensions upon the application of the criteria hereafter listed.

A. Upon specific request from the applicant, the Planning Board shall have the power to grant an area variance after taking into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Planning Board shall consider:

1. Whether an undesirable change would be produced in the character of the neighborhood or the granting of the area variance would create a detriment to nearby properties.

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2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.

3. Whether the requested area variance is substantial.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

5. Whether the alleged difficulty was self-created, which consideration be relevant to the decision of the Planning Board, but shall not necessarily preclude the granting of the area variance.

B. The Planning Board, in granting an area variance, shall grant the minimum variance that it shall be necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

C. The Planning Board shall, in granting an area variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

D. All variances shall be considered as part of the overall permit review conducted by the Planning Board in connection with the application.

§30. Abandonment of Use

A. Small WECS, which is not used for twelve (12) successive months, shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with all conditions that may be attached to the granting of any permit shall constitute grounds for the revocation of the permit by the Town of Hammond. If not removed within 180-days from revocation, the town shall have the right to remove the small WECS at the owners expense.

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

Article V
Miscellaneous

§31. Fees

A. Non-refundable Application Fees for WECS, Wind Measurement Towers, and Small WECS shall be established by the Town Board and reviewed on an annual basis.

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

2. Wind Measurement Towers: $500.00 per tower.

3. Small WECS: $150.00 per Small WECS

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

B. Reimbursement of Expenses Related to WECS Project: The Town Board of the Town of Hammond has determined that the review of building and electrical permits for WECS requires specific expertise for those facilities. Accordingly, for such facilities (WECS), an administrative fee of $500.00 per permit request shall be charged for administrative costs, plus the amount charged to the Town by the outside consultant hired by the Town to review the plans and inspect the work. The Town and the applicant will enter into an agreement for an inspection and/or certification procedure for these unique facilities, and the applicant will be required to deposit the sum of $100,000.00 in an escrow account with the Town which the Town may use to pay for any expenses it incurs related to this project. The Variance and Project Oversight Board (VPOB) will manage this account. If the escrow account balance falls below $10,000.00, the applicant will agree to immediately remit the amount of $25,000.00 to be placed in the escrow account.

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

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

§32. Project Management and Oversight

A. Upon approval by the Planning Board of a WECS Special Use Permit application, and as a condition to the issuance of a WECS Special Use Permit, the applicant shall designate a field representative and site manager who will be responsible for overseeing compliance with the conditions of the Permit. Such representative and site manager shall be in place for as long as the WECS is in place and will interact directly with the Variance and Project Oversight Board (VPOB), the project monitor hired by the town and the designated engineering firm representative. This person will have the authority to make management and technical decisions as situations demand. The applicant shall provide and update, at all times, the names, addresses, daytime telephone numbers and emergency telephone numbers of field representative and site manager to the VPOB. The applicant shall also provide contact information for all entities providing operation, maintenance and monitoring services.

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B. The VPOB will make the telephone numbers of the field representative or site manager available to local residents and officials upon request.

C. As a condition to the issuance of a WECS Special Use Permit, the services of an independent engineering firm and an independent full-time on-site monitor shall be retained by the Town of Hammond during the construction phase of the WECS project. The applicant shall assume all costs associated with the hiring and managing of these two positions who will report directly to the VPOB.

D. The engineering firm shall have prior experience in commercial wind development, construction, and operation. Documentation and references will be required.

E. The engineering firm will oversee all aspects of construction and will be included in all design, construction, and planning meetings and shall be provided with all technical information, specification and drawings. A representative of the engineering firm shall be on-site at all times during the construction phase.

F. The engineering firm duties shall include code enforcement and project specification compliance and they will be responsible for confirming that all project specifications are implemented. The firm's representative and the independent monitor will have the authority to issue a "stop work order" for issues including but not limited to: (a) safety, (b) developer compliance issues, and (c) insufficient project documentation.

G. The applicant shall file daily, weekly and monthly construction plans and will follow the planned work schedule as much as possible. When daily, weekly, or monthly schedules are not completed as planned, updated schedules shall be developed and given to the VPOB monitor and the engineering firm representative.

H. Any design changes during construction must be pre-approved by the engineering firm and the VPOB. The applicant shall provide the VPOB and the engineering firm representative with "As Built" Drawings within (1) one week of completion of each portion of the construction phase or as requested by the VPOB monitor or engineering firm representative.

I. All up-grades or changes to the WECS project, as permitted, shall be reviewed and approved by the engineering firm and the VPOB monitor prior to the implementation of such upgrades or changes.

J. A maintenance plan shall be developed by the applicant and approved by the engineering firm representative and the VPOB monitor prior to turbine start-up. The plan will include, but not be limited to:

a. List of all item requiring regular maintenance.

b. Duration of accumulated time between scheduled maintenance.

c. Work to be completed during the maintenance operation.

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d. Person responsible for the maintenance.

e. Process applicant uses to ensure maintenance is carried out appropriately.

K. All performance data routinely monitored during turbine operation shall be made available to the engineering firm representative and the VPOB monitor. Data shall include but not limited to:

a. Vibration levels.

b. Noise levels.

c. Rotational Speeds.

d. Kilowatt hours of production.

L. Performance of an individual turbine or group of turbines shall be reported to the VPOB and/or Town Board, upon request, within 24 hours.

M. All maintenance reports shall be filed with the VPOB weekly.

N. All information provided to the Town shall be made part of the public record.

O. In the event of an accident, the town engineering firm, the VPOB monitor and the (VPOB) shall have the authority to shut down all of the affected turbines. Turbines will not be placed back in service until a though investigation has taken place, a cause has been determined and steps have been taken to ensure the problem will not reoccur.

§33: Complaint Resolution Process

A. Any property owner or resident within the Town of Hammond may register a complaint with the Variance Project Oversight Board (VPOB) that a Wind Energy Facility is being operated in violation of the permit issued pursuant to this law, or otherwise in violation of the criteria set forth in this law. Such complaints may include, but will not be limited to: excessive noise, flicker or shadow affect, change in water quantity or quality, loss of or diminished telephone, television, or radio reception, interference with a medical device, or the new presence of radon gas. The VPOB shall investigate the complaint as provided in this section and, where necessary, may engage the services of an expert to assist in such investigation and provide a report to the VPOB. The cost for such expert services shall be paid from the Escrow Account established by an applicant for a Wind Energy Facility as provided in this law. In the event that the VPOB determines that the complaint is valid, and that the Wind Energy Facility is being operated in violation of its permit or otherwise in violation of the criteria as set forth in this law, the VPOB shall issue an Order to Remedy to the owner and/or operator of the Wind Energy Facility, which Order to Remedy shall specify the actions required to be taken by the owner/operator of the Wind Energy Facility in order to cure the violation, and the time period within such action must be taken.

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B. In the event that the owner/operator of the Wind Energy Facility fails to comply with such Order to Remedy, the VPOB shall report such failure to the Town Board with a recommendation that the Town Board proceed with the enforcement provisions contained in Section 34 of this law, or where appropriate permit revocation pursuant to the provisions of Section 19.

C. If the VPOB determines that the Facility is not being operated in violation of the permit issued under this law or otherwise in violation of the criteria set forth in this law, the VPOB shall set forth its findings which shall be filed with the Town Clerk and forwarded by registered mail to the complaining party. The complaining party shall have a right to challenge such determination in a proceeding commenced pursuant to the provisions of Article 78 of the Civil Practice Law and Rules.

D. The following criteria/process shall apply to the specific areas of complaints as identified below, and where the complaint falls outside of these specific areas, the VPOB shall investigate and engage the services of experts as it deems necessary to its investigation:

(1) Shadow flicker: Upon the receipt of a written complaint of disturbance due to shadow flicker filed by a Non-Participant together with a video thereof identifying the particular WECS(s) by number within the Wind Energy Facility, the VPOB shall notify the owner/operator of the Facility that such complaint has been received, and that the VPOB shall meet at a date and time certain to review the complaint. The owner/operator of the Facility may present evidence to the VPOB to contradict the evidence presented by the complaining party. The VPOB shall meet at the date and time stated in the notice to review the complaint and the evidence provided therewith, together with any evidence provided by the owner/operator of the Facility, and shall make a determination as to the validity of the complaint. In the event the VPOB determines that the complaint is valid, it will notify the owner/operator of the Facility and order that the disturbance be mitigated within 48 hours. Mitigation may be accomplished by ceasing operation of the identified WECS during peak flicker hours or in another manner acceptable to the VPOB as proposed by the owner/operator of the Facility. In the event that the owner/operator of the Facility fails to provide the required mitigation as indicated in the order issued by the VPOB, the VPOB shall render a written report to the Town Board and filed with the Town Clerk with the recommendation that the Town Board commence enforcement proceedings pursuant to Section 34 of the law.

(2) Setbacks: Upon receipt of a written complaint filed by a Non-Participant that a setback requirement imposed under the provisions of this law, or specified in the permit issued pursuant to this law has been violated, the VPOB shall cause such complaint to be investigated and shall meet to review the results of such investigation. In the event a setback violation is confirmed, the VPOB shall notify the owner/operator of the Facility in writing by personal service or registered mail of such violation. The notification shall include an order to remedy which shall set forth the particular method by which such violation

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may be cured and the time period within which the same shall be completed. Failure to comply with the Order to Remedy may result in enforcement pursuant to Section 34 of this law or the revocation of the permit under Section 19, or to both such enforcement and revocation.

(3) Noise/sleep interference: Upon receipt of a written complaint filed by a Non-Participant that a noise disturbance in violation of the provisions of this law and/or the permit issued thereunder is occurring, together with a recorded time noise log of the specific WECS alleged to be in violation, the VPOB shall retain an independent acoustic investigator to investigate the complaint. The fees for such services shall be paid from the Escrow Account established pursuant to the provisions of this law. Copies of the acoustical investigation report shall be supplied to the complaining party, the owner/operator of the Facility, and the VPOB. The VPOB shall meet to review the results of the investigation, and in the event that the investigation confirms a violation of the noise requirements, the VPOB shall issue an Order to Remedy which shall require the WECS causing the noise violation to be shut down during normal sleeping hours as established in this local law. Failure to comply with the Order to Remedy may result in enforcement pursuant to Section 34 of this law or the revocation of the permit under Section 19, or to both such enforcement and revocation.

(4) Electromagnetic-stray voltage: Upon receipt of a written complaint from a Town of Hammond resident of electromagnetic interference of stray voltage, the VPOB shall retain the services of an electrical engineer to conduct a stray voltage or electromagnetic interference investigation with the cost of such services to be paid from the escrow fund established pursuant to this law. The VPOB shall meet to review the results of the investigation and, in the event that the complaint is determined to be valid, the VPOB shall issue an Order to Remedy to the owner/operator of the Facility with a period of one (1) week to cure the violation. Failure to comply with the Order to Remedy may result in enforcement pursuant to Section 34 of this law or the revocation of the permit under Section 19, or to both such enforcement and revocation.

(5) Contamination of aquifers, ground water, or wells: Upon receipt of a complaint, written or oral, from a resident of the Town of Hammond that an aquifer, ground water, or well water has been disturbed by the Wind Energy Facility, the VPOB shall immediately notify the owner/operator of the Facility that such complaint has been received, and the owner/operator shall have 24 hours from receipt of such notice to verify whether the complaint is due to development impact from the Facility. If the owner/operator of the Facility determines that the disturbance is not related to the development and notifies the VPOB thereof, the VPOB may engage the services of a professional engineer to conduct appropriate and necessary tests and render a report to the VPOB as to the causation of the disturbance. The expense for such services shall be paid from the escrow account established pursuant to this law. If the report establishes that the development is the cause of such impact, the VPOB may order the owner/operator of the Facility to provide potable water to the

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affected residents and to file with the VPOB an action report of the proposed resolution of the disturbance. In the event of verification of toxic contamination to a well, ground water or aquifer, the owner/operator of the Facility and/or the VPOB shall notify the New York State Department of Conservation. In the event the incident falls under the jurisdiction of the NYS DEC, the Town shall defer to the NYS DEC for remediation/action in connection therewith. In the event the incident is not within the jurisdiction of the NYS DEC, but disturbance or contamination is found, the owner/operator of the Facility shall have five (5) days from receipt of such findings to correct the disturbance/contamination in a manner satisfactory to the VPOB. Failure to comply with an order of the VPOB issued hereunder shall subject the owner/operator of the Facility to the enforcement provisions of Section 34 of this law or to permit revocation pursuant to Section 19, or to both such enforcement and revocation.

§34. Enforcement; Penalties and remedies for violations.

A. The Town Board shall appoint such Town staff or outside consultants as it may from time to time determine are necessary to enforce this Local Law.

B. Any person owning, controlling or managing any building, structure or land who shall undertake a Wind Energy Facility in violation of this Local Law or, operates such facility in noncompliance with the terms and conditions of any permit issued pursuant to this Local Law, or any order of the VPOB, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than $1,000.00 or to imprisonment for a period of not more than 6 months, or to both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue, and in the event such violation involves the failure to comply with operational restrictions imposed under this Law or pursuant to any permit or approval issued hereunder such as, but not limited to, noise levels or setback requirements, each WECS within the Wind Energy Facility that is in violation of such restriction shall constitute a separate and distinct offense for each such restriction violated. In addition to the criminal penalties imposed hereunder, 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 and/or for injunctive relief in connection with such violation.

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

D. In case of any violation or threatened violation of any of the provisions of this local law, including the terms and conditions imposed by any permit issued pursuant to this local law, in addition to other remedies and penalties herein provided, the Town may institute

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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.

§35: Severability

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

§36: Effective Date

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

§37: Repealer

Local Law No. 1 of the Year 2009, Wind Energy Facilities, shall be repealed in its entirety and replaced with this local law as of the effective date of this law.

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Appendix A

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

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

Guidelines for
Agricultural Mitigation for Wind Power Projects

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

Siting Goals

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

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

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

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

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

Construction Requirements

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

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

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

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

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

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

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

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

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

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

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

Restoration Requirements

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

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

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

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

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

Two Year Monitoring and Remediation

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

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

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

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

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

Revised 1-04-08

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

1. (Final adoption by local legislative body only.) I hereby certify that the local law annexed hereto, designated as local law No. ___ of 2011 of the Town of Hammond was duly passed by the Town Board on _____, ____ 2011, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)
I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____20_____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer)*
on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)
I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of _____was duly passed by the _____on _____20_____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____
(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on 20____ , in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.) I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the
of the (County)(City)(Town)(Village) of _____ was duly passed by _____ on _____ 20_____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the_____ on _____ 20___. Such local
(Elective Chief Executive Officer)
law was subject to permissive referendum and no valid petition requesting such referendum was filed as of_____20___, in accordance with the applicable provisions of law.

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

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

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

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

_____
Darlene Amyot, Clerk, of the
Town of Hammond
(seal) Date:

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

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

_____
Signature

Town Attorney
Title

Town of Hammond
Date:

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