

**TOWN OF WALES**

**LOCAL LAW 4-2008**

**A LOCAL LAW, TO AMEND LOCAL LAW 1-1993 KNOWN AS "ADOPTION OF CODE", ADOPTED BY THE TOWN BOARD OF THE TOWN OF WALES ON MAY 11, 1993, BY ADDING A NEW CHAPTER 195 REGARDING REGULATION OF WIND ENERGY CONVERSION SYSTEMS.**

**BE IT ENACTED BY THE TOWN BOARD AS FOLLOWS:**

**SECTION 1.           LEGISLATIVE INTENT**

**This Local Law amends a prior Local Law known as "Adoption of Code" adopted by the Town of Wales on May 11, 1993, as amended, relating to the administrative, legislative, and general legislation of Codes within the Town of Wales as therein set forth.**

**SECTION 2.           SECTION 195-1, WIND ENERGY CONVERSION SYSTEMS**

- A.     The placement, construction, and major modification of all Commercial WECS within the boundaries of the Town of Wales shall be permitted only by special use permit in the AG Zoning District upon concurrent site plan approval issued by the Town of Wales Town Board as provided herein, after SEQR review, with the Town of Wales Town Board designated as Lead Agency, and upon issuance of a building permit, and shall be subject to all provisions of this Code.**

**B. Applications under this Code shall be made as follows:**

- 1. Applicants for a special use permit to place, construct, or modify Commercial WECS within the Town of Wales shall submit the following information to the Town Board.**
  - a) Name and address of the applicant.**
  - b) Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.**
  - c) Full Environmental Assessment Form (EAF) including the visual EAF Addendum, landscaping plan, and visual assessment report, including appropriate models and photography assessing the visibility from key viewpoints identified in the Visual EAF, existing tree lines, and proposed elevations. The visual EAF shall include a detailed or photographic simulation showing the site fully developed with all proposed wind turbines and accessory structures.**
  - d) A site plan in sufficient detail to show the following:**
    - 1) Location of the tower(s) on the site and the tower height, Including blades, wind turbine diameter, and ground clearance;**

- 2) **Utility lines, both above and below ground, within a Radius equal to the proposed tower height, including the blades;**
- 3) **Property lot lines and the location and dimensions of all existing structures and uses on site;**
- 4) **The location and dimension of all existing structures and uses on all adjacent properties, including across the street or other rights-of-way;**
- 5) **Dimensional representation of the various structural components of the tower construction including the base and footing;**
- 6) **Certification by a licensed New York State professional Engineer that the tower's design is sufficient to withstand wind loading requirements for structures as established by the New York State Uniform Construction Code;**
- 7) **Existing topography;**
- 8) **Proposed plan for grading and removal of natural vegetation;**
- 9) **Proposed plan for restoration after construction according to NYS Agriculture and Markets and NYS Department of Environmental Conservation guidelines;**

- 10) **Wind characteristics and dominant wind direction from which fifty percent (50%) or more of the energy contained in the wind flows;**
- 11) **Plan for ingress and egress to the proposed project site Including:**
  - a) **A description of the access route from the nearest State, County, and/or Town maintained roads to include:**
    - I) **Road surface material stating the type and amount of surface cover;**
    - II) **Width and length of access route, and;**
    - III) **Dust control procedures.**
  - b) **A road maintenance schedule or program, and;**
  - c) **Review railroad accessibility for deliveries.**
- 12) **Detailed construction plan including, but not limited to, a construction schedule, hours of operation, designation of heavy haul routes, a list of material equipment and loads to be transported, identification of temporary facilities intended to be constructed, and contact representative in the field with name and phone number; and**

- 13) **All groves of trees shall be located on the site plan at time of application. No grove or woodlots of trees shall be removed without approval of the Town Board.**
- e) **Specific information on the type, size, height, rotor material, rated power output, performance, safety, and noise characteristics of all Commercial WECS components.**
- f) **Photographs or detailed drawings of each Commercial WECS Component including the tower and foundation.**
- g) **A noise report shall be furnished which shall include the following:**
  - 1) **A description and map of the project's noise-producing features, including the range of noise levels expected and the tonal and frequency characteristics expected. The noise report shall include low frequency, infra-sound, pure tone, and repetitive/impulsive sound;**
  - 2) **A description and map of the noise sensitive environment, including any sensitive noise receptors, i.e. residences, hospitals, libraries, schools, place of worship, and other facilities where quiet is important within two (2) miles of the proposed facilities;**
  - 3) **A survey and report prepared by a qualified engineer that analyzes the pre-existing ambient noise regime**

**(including seasonal variation), including but not limited to separate measurements of low frequency and A-weighted noise levels across a range of wind speeds (including near cut-in), turbulence measurements, distance from the turbines, location of sensitive receptors relative to wind direction, and analyses at affected sensitive receptors located within two (2) miles of the proposed project site.**

- 4) A description and map showing the potential noise impacts, including estimates of expected noise impacts upon construction and operation workers and estimates of expected noise levels at sensitive receptor locations;**
- 5) A description and map of the cumulative noise impacts;**
- 6) A description of the projects proposed noise control features, including specific measures proposed to protect workers and specific measures proposed to mitigate noise impacts for sensitive receptors consistent with levels in this ordinance;**
- 7) Identification of any problem areas;**
- 8) Manufacturers' noise design and field testing data, both audible (dBA) and low frequency (deep bass vibration) for all proposed structures; and**

- 9) **A report that outlines issues and considerations for individuals that use hearing aids.**
- h) **A geotechnical report shall be furnished which shall, at minimum, include the following:**
  - 1) **Soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing;**
  - 2) **Foundation design criteria for all proposed structures;**
  - 3) **Slope stability analysis; and**
  - 4) **Grading criteria for ground preparation, cuts and fills, and soil compaction.**
- i) **Ice throw calculations: A report from a licensed New York State professional engineer that calculates the maximum distance that ice from the wind turbine blades could be thrown. (The basis of the calculation and all assumptions must be disclosed).**
- j) **Blade throw calculations: A report from a licensed New York State professional engineer that calculates the maximum distance that pieces of the turbine blades could be thrown. (The basis of the calculation and all assumptions must be disclosed).**

- k) Catastrophic tower failure: A report from the turbine manufacturer stating the wind speed and conditions that the wind turbine is designed to withstand (including all assumptions).**
- l) Federal Aviation Administration (FAA) notification: A copy of written notification to the FAA.**
- m) Utility notification: Utility interconnection data and a copy of a written notification to the utility of the proposed interconnection.**
- n) Notification to microwave communications link operators: An application that includes any Commercial WECS which is located within two (2) miles of any microwave communications link shall be accompanied by a copy of a written notification to the operator of the link.**
- o) Floodplain: An application that includes any Commercial WECS which is located within a 100-year floodplain area, as such flood hazard areas are shown on the floodplain maps, shall be accompanied by a detailed report which shall address the potential for wind erosion, water erosion, sedimentation, and flooding, and which shall propose mitigation measures for such impacts.**





**dwelling exists.**

- d) From public roads and public railroads:**
    - 1) A minimum of two thousand (2,000) feet for the Commercial WECS from any public road or public railroad;**
    - 2) Where the lot line abuts a public right-of-way, the Setbacks specified above shall be measured from the centerline of such right-of-way; and,**
    - 3) The required setbacks shall be one thousand (1,000) feet for private roads, private driveways, or private railroads.**
  
  - e) From aboveground transmission lines greater than twelve (12) Kilovolts:**
    - 1) A minimum of one thousand (1,000) feet for the Commercial WECS from any aboveground transmission line greater than twelve (12) kilovolts.**
- 3. Maximum overall height:**
- a) The maximum overall height of any commercial WECS shall be five hundred (500) feet, consistent with Federal Aviation Administration (FAA) regulations. The maximum height shall be measured from the ground elevation to the top of the tip of**

**the blade in the vertical position.**

**4. Signage**

- a) No advertising sign or logo shall be placed or painted on any Commercial Wind Energy Facility.**

**5. Color and Finish**

- a) Wind turbines and towers shall be painted a non-obtrusive' (e.g. light environmental color such as white, gray, or beige) color that is non-reflective.**
- b) The design of Commercial WECS buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend the facility to the natural setting and the existing environment.**

**6. Lighting.**

- a) The applicant shall submit a Commercial Wind Energy Facility lighting plan that describes all lighting that will be required, including any lighting that may be required by the FAA. Such plan shall include, but is not limited to, the planned number and location of lights, light color, whether any such lights will be flashing, and mitigation measures planned to control the lights so that it does not spill over onto the neighboring properties.**

7. **Compliance with regulatory agencies.**
  - a) **The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval related to the completion of the Commercial WECS.**
  
8. **Safety and Security requirements: The applicant shall adhere to the following safety and security requirements.**
  - a) **Safety shutdown: Each Commercial WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the wind turbine. A manual, electrical, and/or over-speed shutdown disconnect switch shall be provided and clearly labeled on the Commercial WECS. No wind turbine shall be permitted that lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over-speedway, and excessive pressure on the tower structure, rotor blades, and wind turbine components.**
  
  - b) **All structures which may be charged with lighting shall be grounded according to applicable electrical codes.**
  
  - c) **All wiring between the wind turbines and the Commercial WECS substation shall be underground. The applicant is required to provide a site plan showing the locations of all**

**overhead and underground electric utility lines, including substations for the project.**

- d) All transmission lines from Commercial WECS to on-site substations shall be underground.**
- e) Ground Clearance. The blade tip of any wind turbine shall, at its lowest point, have ground clearance of not less than fifty (50) feet.**
- f) Climability: Wind turbine towers shall not be climbable up to fifteen (15) feet above ground level.**
- g) Access doors locked: All access doors to Commercial WECS structures and electrical equipment shall be lockable and shall remain locked at all times when operator personnel are not present.**
- h) Self-Supporting structures: All towers shall be of monopole construction (single pole). No lattice structures or guy wire supported structures shall be permitted.**
- i) Signage: Appropriate warning signage shall be placed on Commercial WECS and at all entrances. Signage shall also include two (2) twenty-four hour emergency contact numbers to the owner of the Commercial WECS in accordance with Local, State and Federal Codes.**

- j) Ice Throw: Permit shall determine the acceptable ice throw range based on the activities in the area, location, and calculations of the ice throw.**
- 9. Noise Requirements: The applicant shall adhere to the following noise requirements:**

  - a) Compliance with noise regulations required: A Commercial WECS Permit shall not be granted unless the applicant demonstrates that the proposed project complies with all noise regulations.**
  - b) Noise Study required: The applicant shall submit a noise study based on the requirements set out herein. The Town Board shall determine the adequacy of the noise study, and, if necessary, may require further submissions. The noise study shall consider the following:**

    - 1) Low frequency noise;**
    - 2) Infra-sound noise;**
    - 3) Pure tone, and;**

**that such greater setbacks are necessary to protect the public health, safety, and welfare of the community.**

- d) **Audible noise standard:** The audible noise resulting from the operation of any Commercial WECS shall not be created which causes the noise level at the boundary of the proposed project site to exceed that of the mean 24-hour dBA operating noise that currently exists for more than five (5) minutes out of any one-hour time period.
  - e) **Operations - low frequency noise:** A Commercial WECS shall not be operated so that impulsive sound below twenty (20) Hz adversely affects the habitability or use of any dwelling unit, hospital, school, library, nursing home, or other sensitive noise receptor.
  - f) **Noise complaint and investigation process required:** The applicant shall submit a noise complaint and investigation process. The Town Board shall determine the adequacy of the noise complaint and investigation process.
10. **Fire hazard protection:** The applicant shall submit a Fire Control and Prevention Program that is appropriate and adequate for the proposed facility. The proposed program may include, but is not limited to, the following:
- a) **Fireproof or fire resistant building materials;**
  - b) **Buffers or fire retardant landscaping;**

- c) **Availability of water;**
  - d) **An automatic fire-extinguishing system for all buildings or equipment enclosures of substantial size containing control panels, switching equipment, or transmission equipment - without regular human occupancy; and**
  - e) **Provision of training and fire fighting equipment for local fire protection personnel.**
11. **Impact on wildlife species and habitat: The applicant shall adhere to the following regarding the impact on wildlife species and habitat:**
- a) **Endangered or threatened species: Development and operation of a Commercial WECS shall not have a significant adverse impact on endangered or threatened fish, wildlife, or plant species or their critical habitats, or other significant habitats identified in the Town of Wales Comprehensive Plan and/or the studies and plans of the regional planning commissions based on criteria established by the Federal or State regulatory agencies.**
  - b) **Migratory birds: Development and operation of a Commercial WECS shall be evaluated based on SEQR findings.**
12. **Unsafe and inoperable Commercial WECS; site reclamation: The applicant shall adhere to the following:**



- a) **Removal and site restoration: Unsafe Commercial WECS, inoperable Commercial WECS, and Commercial WECS for which the permit has expired shall be removed by the owner. All safety hazards created by the installation and operation of the Commercial WECS shall be eliminated, and the site shall be restored to its natural condition to the extent feasible. A bond or other appropriate form of security shall be required to cover the cost of the removal and site restoration.**
- b) **Removal and site restoration plan required: The applicant shall submit a removal and site restoration plan and removal and site restoration plan cost estimate to the Town of Wales Town Board for its review and approval. The restoration plan shall identify the specific properties it applies to and shall indicate removal of all buildings, structures, wind turbines, access roads and/or driveways, foundations to four (4) feet below finish grade, road repair costs, if any, and all regrading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the Commercial WECS. The restoration shall reflect the site-specific character, including topography, vegetation, drainage, and any unique environmental features. The plan shall include a certified estimate of the total cost (by element) of implementing**

**the removal and site restoration plan.**

- c) Public Nuisance: Every unsafe Commercial WECS and every inoperable Commercial WECS is hereby declared a public nuisance which shall be subject to abatement by repair, rehabilitation, demolition or removal. An inoperable Commercial WECS shall not be considered a public nuisance provided that the owner can demonstrate that modernization, rebuilding, or repairs are in progress or planned and will be completed within no more than six (6) months.**
  - d) Inoperable, defined: A Commercial WECS shall be deemed inoperable if it has not generated power within the preceding six (6) months.**
- 13) Interference with residential television, microwave, radio reception, and Electrical medical devices.**
- a) The applicant must submit information that the proposed construction of the Commercial WECS will not cause interference with microwave transmissions, cellular transmissions, residential television interference, or radio reception of domestic or foreign signals. The applicant shall include specific measures proposed to prevent interference, a complaint procedure, and specific measures proposed to mitigate interference impacts.**

- 14) **Interference with aviation navigational systems: The applicant shall adhere to the following:**
  - a) **No interference with aviation facilities: No Commercial WECS shall be installed or operated in a manner that causes interference with the operation of any aviation facility.**
  - b) **Compliance with FAA regulations: All Commercial WECS siting shall comply with FAA regulations.**
  - c) **Locking mechanisms to limit radar interference required: All Commercial WECS shall include a locking mechanism which prevents the blades from rotating when not producing power in order to limit airport radar interference or "clutter". This provision does not apply while the Commercial WECS is "free-wheeling" during the start-up and shutdown. The Town Board may modify or eliminate the requirement for a locking mechanism if sufficient evidence is presented that no significant airport radar interference or "clutter" will be caused by the Commercial WECS.**
  
15. **Erosion control: The applicant shall adhere to the following:**
  - a) **Erosion Control Plan required: Before the Town of Wales shall issue a grading or building permit for the Commercial WECS, the applicant shall submit an Erosion Control Plan to the Town Board and Town Engineer for its review and approval.**

**The Plan shall minimize the potential adverse impacts on wetlands and Class I and II streams and the banks and vegetation along those streams and wetlands and minimize erosion or sedimentation.**

- b) If the proposed project disturbs over one (1) acre, the applicant must comply with the New York State Department of Environmental Conservation (NYSDEC) SPDES General permit for Stormwater Discharges from Construction Activity (Permit No. GP-02-01). A copy of the Notice of Intent (N.O.I.) And Stormwater Pollution Presentation Plan (SWPPP), as required by the General Permit, must be filed with the Town of Wales prior to construction. Per the General Permit, construction cannot begin until the required time period for NYSDEC review has passed.**

**16) Certification: The applicant shall provide the following certifications:**

- a) Certification of structural components: The foundation, tower, wind turbine, and compatibility of the tower with related equipment shall be certified in writing by a structural engineer registered in New York State. The engineer shall certify compliance with good engineering practices and compliance with the appropriate provisions of the Uniform Construction**

**Code that have been adopted in New York State.**

- b) Certification of post construction: After completion of the Commercial WECS, the applicant shall provide a post-construction certification from a licensed New York State professional engineer that the project complies with applicable codes and industry practices and has been completed according to the design plans.**
- c) Certification of electrical system: The electrical system shall be certified in writing by an electrical engineer registered in New York State. The engineer shall certify compliance with good engineering practices and with the appropriate provisions of the Electric Codes that have been adopted by New York State.**
- d) Certification of wind turbine over-speed control: The wind turbine over-speed control system shall be certified in writing by a mechanical engineer registered in New York State. The engineer shall certify compliance with good engineering practices.**
- e) Certification of project: Certificate of Completion must be supplied by the applicant and approved by the Town of Wales Code Enforcement Officer.**

**D. Monitoring requirements for Commercial WECS:**

- 1. Right to enter premises for monitoring: Upon reasonable notice, Town of Wales officials or their designated representatives may enter a lot on which a Commercial WECS permit has been granted for the purpose of compliance with any permit requirements. Twenty-four (24) hours advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice.**
- 2. Avian/bat impact study plan: The applicant shall submit a plan for monitoring the avian impact of the Commercial WECS to the Town Board for its review and approval. Such plan shall document and follow accepted scientific study procedures.**
- 3. Periodic reporting required: The Town Board may request that the applicant periodically submit documentation reporting the environmental impacts of the operational WECS and shall contain content to be in the form prescribed by the Town Board.**
- 4. Power production report required: The Town Board may request that the applicant periodically submit documentation that the Commercial WECS is producing power.**
- 5. Inspections: Unless waived by the Town Board, a Commercial WECS shall be inspected annually by a licensed New York State professional engineer that has been approved by the Town Board or at any other time, upon a determination by the Town's Code**

**Enforcement Officer, that the wind turbine, tower, or other WECS component have sustained structural damage, and a copy of the inspection report shall be submitted to the Town Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.**

**6. General Complaint process:**

- a) During construction, the Town of Wales Code Enforcement Officer can issue a stop order at any times for any violation of the permit.**
- b) Post-Construction: After construction is complete, the permit holder shall establish a contact person, including name and phone number, for receipt of any complain concerning any permit requirements. Upon receipt of complaint from the Town of Wales Code Enforcement Officer, the permit holder/contact person shall have seven (7) working days to reply to the Town in writing.**

**E. Application and permit fees and costs:**

- 1. Application fee: The applicant shall pay all costs associated with the Town of Wales' review and processing of the application. The applicant shall submit a deposit with the application in the amount as determined by resolution by the Town Board. The Town of Wales may require additional deposits to cover the costs of reviewing and**

**processing the application. Such additional deposits, if requested, shall be promptly submitted by the applicant. Following action on the application, any unused amount of the deposit(s) shall be returned to the applicant with a summary of the costs incurred.**

- 2. Permit Fee: The applicant shall pay a permit fee, in the amount as determined by resolution by the Town Board, to cover the costs incurred by the Town associated with a Commercial WECS special use permit and building permit such as administration, inspections and enforcement.**
- 3. Proof of applicable permits: Prior to the issuance of a building permit, the applicant shall document that all applicable federal, state, county and local permits have been obtained.**
- 4. Proof of Insurance: Prior to the issuance of a building permit, the applicant shall provide the Town Clerk with proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof.**
- 5. The Town of Wales reserves the right to, by local law, provide that no exemption pursuant to the provisions of the New York State Real Property Tax Law (RPTL) Section 487 shall be applicable within its jurisdiction.**



**F. Findings:**

- 1. Findings necessary to grant a Commercial WECS permit: In order to grant a Commercial WECS permit, the Town of Wales shall review the application, all filings by any other party, and conduct a public hearing. A Commercial WECS special use permit shall not be granted unless the Town of Wales Town Board makes the following findings based on substantial evidence:**
  - a) The proposed Commercial WECS project is consistent with the Town of Wales Comprehensive Plan.**
  - b) The proposed Commercial WECS project will not unreasonably interfere with the orderly land use and development plans of the Town of Wales.**
  - c) That the benefits to the applicant and the public of the proposed Commercial WECS project will exceed any burdens.**
  - d) The proposed Commercial WECS project will not be detrimental to the public health, safety or general welfare of the community.**
  - e) The proposed Commercial WECS project shall comply with all required provisions of the Zoning Code, unless variances have been properly applied for and granted by the Town of Wales Zoning Board of Appeals.**

**G. The Town Board may grant the special use permit, deny the special use permit, or grant the special use permit with written stated conditions. Denial of the special use permit shall be by written decision based upon substantial evidence submitted to the Board. Upon issuance of the special use permit, the applicant shall obtain a building permit for each tower.**

**H. The Town Board shall have the authority to waive any of the requirements of this Commercial WECS Code, provided that any waivers are only granted for extenuating circumstances and do not reduce the intent or protection of the Code. In granting any waivers, the Town Board shall take into consideration:**

- 1. The benefit of the waiver weighed against the detriment to the health, safety and welfare of the adjacent properties and community, and**
- 2. Whether an undesirable change will be produced in the character of the project or neighborhood, or a detriment to nearby properties will be created by the waiving of certain requirements.**

**The Town Board, in waiving any requirements, shall grant the minimum waivers deemed necessary. The Board must provide, in writing, its reasoning for issuing waivers.**

**I. Before a Commercial WECS special use permit can be assigned or transferred to another operator or owner, notification shall be given to the Town Board and the new operator or owner shall be made aware of and accept the conditions of the WECS special use permit.**

- J. Amendments to Commercial WECS special use permit: Any changes, modifications, or alterations post construction to the Commercial WECS shall be done only by amendment to the special use permit subject to all requirements of this Code.**
- K. Repair or replacement to a Commercial WECS: Any repairs made to any component of a Commercial WECS or any replacement of any component of a Commercial WECS with a similar component, provided the use, size, and character are not altered and requirements of the special use permit are not violated, shall be done only by review and approval of the Building Inspector.**

**SECTION 2. SECTION 196-2, WIND MEASUREMENT TOWERS**

**The Town Board acknowledges that prior to construction of a Commercial Wind Energy Conversion System, a wind site assessment is conducted to determine the wind speeds and feasibility of using particular sites. Installation of Wind Measurement Towers, also known as anemometer ("Met") towers, shall be permitted by special use permit in the same zoning districts as the Commercial WECS.**

- A. An application for a Wind Measurement Tower shall include:**
- 1. Name, address and 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 and telephone number of the property owner. If the property owner is not the applicant, the applicant shall include a letter or other written permission signed by the property owner (a) confirming that the property owner is familiar with the proposed applications, and (b) 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. **Decommission Plan, including a security bond or cash for removal.**

**SECTION 3. SECTION 195-3, PERMIT REVOCATION**

- A. **Testing fund: A Commercial WECS special use permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third party acoustical measurement consultant, which may be required as often as every two (2) years or more frequently upon the request of the Town of Wales Town Board in response to complaints by residents. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the special use permit and this Code and shall also include an evaluation of any complaints received by the Town. The applicant shall have ninety (90) days after written notice from the Town Board to cure any deficiency. An extension of the Ninety (90) day period may be considered by the Town Board but the total period may not exceed one hundred eighty (180) days.**

- B. Operation: A Commercial 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 Commercial WECS become inoperable, or should any part of the Commercial WECS be damaged, or should a Commercial WECS violate permit conditions, the owner or operator shall remedy the situation within ninety (90) days after written notice from the Town Board. The applicant shall have ninety (90) days after written notice from the Town Board to cure any deficiency. An extension of the ninety (90) day period may be considered by the Town Board but the total period may not exceed one hundred eighty (180) days.**
- C. Notwithstanding any other abatement provision under this Code, if the Commercial WECS is not repaired or made operational or brought into permit compliance after said notice, the Town Board may, after a public hearing at which the operator or owner shall be given opportunity to be heard and present evidence including a plan to come into compliance, (a) order either medial action within a particular time-frame, or (b) order revocation of the Commercial WECS special use permit and require removal of the Commercial WECS within ninety (90) days. If the Commercial WECS is not removed, the Town Board shall have the right to use the security posted as part of the Decommission Plan to remove te Commercial WECS.**

provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving, and/or use, and to restrain, correct, or abate such violation to prevent the illegal act.

**SECTION 6.            SECTION 195-6 DEFINITIONS**

**Commercial Wind Energy Conversion System (WECS) - A wind Energy Conversion System consisting of one wind turbine, one tower, and associated control or conversion electronics, which has a rated capacity greater than two hundred fifty (250) kilowatts, and a total height or more than one hundred fifty (150) feet, and is intended to solely supply electrical power into a power grid for sale.**

**Non-Commercial Wind Energy Conversion System - A Wind Energy Conversion System consisting of one wind turbine, one tower, and associated control or conversion electronics, which has a rated capacity of not more than two hundred fifty (250) kilowatts and a total height of not more than one hundred fifty (150) feet, and is intended to solely supply electrical power for the use on the subject property.**

**Tower - A structure to support antennas, a wind turbine and other mechanical devices. It includes, without limit, freestanding towers, guyed towers, monopole and lattice types and similar structures which do or which do not employ camouflage technology.**

**Tower Height** - The height above grade of the uppermost fixed portion of the tower, excluding the length of any axial rotating turbine blades.

**Total Height** - (also Maximum Overall Height) - The height of the Wind Energy Conversion System measured from the ground elevation to the opt of the tip of the blade in the vertical position.

**Wind Energy Facility** - Any Wind Energy Conversion System, Wind Measurement Tower, or Wind Energy System, including all related infrastructure, electrical lines and substations, access roads, and accessory structures.

**Wind Energy Conversion Systems** - One or more mechanical devices which are designed and used to convert wind energy into a form of electric energy.

**Wind Measurement Tower** - A tower used for the measurement of meteorological data such as temperature, wind speed, and wind direction.

**Wind Turbine** - Any piece of electrical generating equipment that converts wind energy into electrical energy through the use of airfoils, rotating turbine blades, or similar devices to capture the wind.

**SECTION 7.           SECTION 195-7, NON-COMMERCIAL WIND ENERGY CONVERSION SYSTEM**

- A.   Non-Commercial Wind Energy Conversion System:** A wind Energy Conversion System consisting of one wind turbine, one tower, and associated control or conversion electronics, which has a rated capacity of not more than two hundred fifty (250) kilowatts and a total height of not more than

one hundred fifty (150) feet, and is intended to solely supply electrical power for the use on the subject property.

- B. All provisions of this Local Law in regard to Commercial Wind Energy Conversion Systems shall be applicable to Non-Commercial Wind Energy Conversion Systems as determined by the Town Board in its sole discretion on a case-by-case basis, taking into account the facts and circumstances of each Non-Commercial Wind Energy Conversion System.**
- C. Setbacks: Any Non-Commercial Wind Energy Conversion System shall adhere to the following setbacks:**
- D. Site Plan: A site plan drawing in sufficient detail to show the following:**
- 1. Location of the tower(s) on the site and the tower height, including blades, wind turbine diameter, and ground clearance;**
  - 2. Utility lines, both above and below ground, within a radius equal to the proposed tower height, including the blades; and**
  - 3. Property lot lines and the location and dimensions of all existing structures and uses on site.**