

Town of Sangerfield
P.O. Box 84 • 1038 State Route 12 • Sangerfield, NY 13455

TOWN OF SANGERFIELD WIND ENERGY LOCAL LAW #3 OF 2015

Town of Sangerfield Wind Energy Facility

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Article I. General Requirements

Section 1.1 Title

This Local Law Number 3 of 2015, entitled “Commercial Wind Energy Facilities Law of the Town of Sangerfield.

Section 1.2 Purpose

The Town Board of the Town of Sangerfield adopts this Local Law to promote the effective and efficient use of the Town’s wind energy through wind conversion systems (WECS), and to regulate the placement of such systems so that the public health, safety, and welfare will not be jeopardized. This Law reflects on the information and feedback from the Sangerfield community in the Comprehensive Plan and shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

Section 1.3 Authority

1. Article IX of the New York State Constitution, §2(c)(6) and (10).
2. New York Statue of Local Governments, §10(1)(6) and (7) .
3. New York Municipal Home Rule Law, §10(1)(i) and (ii) and §10(1)(a)(6),(11).
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, to the extent such grant of power is different than under Town Law §267.
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). (11)(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).

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Section 1.4 Findings

A. The Town Board of the Town of Sangerfield finds and declares that

1. Wind energy is an abundant, renewable and nonpolluting energy resource of the Town and its conversion to electricity may help reduce dependence of nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
2. Careful regulation and monitoring of the siting, installation, height, distance from populated areas, operation, maintenance, repair and removal of wind power facilities in the Town of Sangerfield is necessary.
3. Setbacks will be measured from property lines or residences as the laws dictate.
4. Appropriate road use agreements and financial assurances need to be a part of any plan for the construction and operation of any such facility, because construction of industrial scale wind facilities can be disruptive to traffic and destructive to roads.
5. Adequate financial and other assurances are necessary as a condition to permitting, because decommissioning of industrial scale wind energy facilities is complicated and expensive.
6. Since the State of New York has enacted article X of the Public Service Law that could permit the construction of industrial scale wind energy facilities in the town, it is necessary to establish reasonable substantive development standards as guidance in the state review process.

Section 1.5 Applicability

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- A. The requirements of this Local Law shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this Local Law.
- B. Wind Energy Facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this Local Law, shall not be required to meet the requirements of this Local Law; provided, however, that
 - 1. Any such preexisting Wind Energy Facility which does not provide energy for a continuous period of twelve (12) months shall meet the requirements of this Local Law prior to recommencing production of energy.
 - 2. No modification or alteration to an existing Wind Energy Facility shall be allowed without full compliance with this Local Law.
 - 3. 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 Energy is obtained.
- C. Wind Energy Facilities may be either principal or accessory uses. A different existing use or 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.

Section 1.6 Permits

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

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- B. No WECS or Small Wind Energy Conversion System shall be constructed, reconstructed, modified, or operated in the Town of Sangerfield except with a Wind Energy Facility Permit approved pursuant to this Local Law.
- C. This Local Law shall apply to all areas of the Town of Sangerfield with the exception of those areas lying within the Village of Waterville.
- D. Exemptions. No permit or other approval shall be required under this Local Law for mechanical fifty (50) feet and under non-electrical WECS utilized solely for agricultural operations.
- E. Transfer. No transfer of any Wind Energy Facility or Wind Energy Permit, nor sale of the entity owning such facility including the sale of more than 30% of the stock of such entity (not counting sales of shares on a public exchange), may occur without prior approval of the Town of Sangerfield, which approval shall not be unreasonably withheld upon written acceptance of the transferee of all obligations of the transferor under such permit and this Local Law. No transfer shall eliminate or modify the liability of any permittee or applicant, nor of any other party under this Local Law.
- F. Notwithstanding the requirements of this Section, replacement in kind or modification of a Wind Energy Facility may occur without Town Planning Board and Town Board approval when (1) there will be no increase in Total Height; (2) no change in the location of the WECS; (3) no additional lighting or change in the facility color; and (4) no increase in noise produced by the WECS.

Section 1.7 Definitions

Ambient sound level- the background sound level found to be exceeded 90% of the time over which sound is measured in a noise analysis.

Decibels- A unit of relative loudness.

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EAF-environmental assessment form used in the implementation of SEQRA.

Non-Participating property owner- A property owner who has no contractual agreement with the applicant/owner operator. The fact that an otherwise non-participating property owner consents to a waiver of setback requirements, even if for considerations, shall not make that property owner a participating property owner.

Owner operator- The person or entity with legal ownership of WEF , including successors and assigns, that has the authority and responsibility to operate the WEF on a day to day basis. An owner operator must have the legal authority to represent and bind.

Participating land owner- One or more persons that hold title in fee to the property on which the WEF is proposed to be located pursuant to an agreement with the development owner operator.

Pilot Agreement- A contractual agreement between the Town of Sangerfield and the applicant to provide payment in lieu of property taxes.

Residence- means any dwelling suitable for human habitation that has a connected electrical service ,potable water supply and waste water treatment / disposal system on a full time basis.

SEQRA- the new York state environmental quality review act, as codified in article 8 of the new York state environmental conservation law.

Site- The parcel(s) of land where a wind energy facility is to be placed.

Small wind energy conversion system (“small WECS”)- A wind energy conversion system of not more than 100 KW and a total height of less than 250 feet.

Total Height- The furthest vertical extension of the WECS.

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Wind Energy Conversion System(WECS)- A machine that converts wind energy into a more usable form.

Wind Energy Facility (WEF)- Any wind energy conversion system and related infrastructure.

Wind Measurement Tower(WMT)- A tower used for the measurement of meteorological data.

Wind Energy Permit- A permit granted pursuant to this local law granting the holder the right to construct, maintain and operate a wind energy facility.

Section 1.8 Tax Exemption

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

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Article II Wind Energy Facilities

Section 2.1 Scope

This Article of this Law is applicable to Wind Energy Facilities containing one or more Wind Turbines having: A. Name Plate Rating (either singly or in aggregate) exceeding 100 kw; B. Turbine Height exceeding 250 feet from ground level & meteorological towers

Section 2.2 Permits

No Wind Energy Facilities in the Town of Sangerfield shall be constructed, reconstructed, modified, or operated, except by obtaining a Wind Energy Facility Construction Permit as provided under this Law.

Section 2.21 Applications

A. Complete application for a Wind Energy Facility Construction Permit shall include:

1. Site Plan

A site plan prepared by a Licensed Land Surveyor, Professional Engineer, Landscape Architect, or Architect (as appropriate for the scope of practice and in compliance with New York State Education Law), including:

The zoning designation of the subject and adjacent properties as set forth in the Town Zoning Law.

- a. Location, approximate dimensions and types of major existing structures and uses on the Site, public roads, and adjoining properties within 1000 feet of any proposed Wind Turbines.
- b. Location and elevation of each proposed Wind Turbine.
- c. Location of all utility lines, as well as transformers, the interconnection point with transmission lines, and other ancillary facilities or structures.

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- d. Location of buffers as required by this law.
- e. Location of residential structures within 1000 feet of each proposed tower.
The distance from the center of the tower to any Off-Site Residence within 1000 feet shall be noted.
- f. All proposed facilities, including access roads, electrical substations, storage or maintenance units and fencing.
- g. Landscaping plan, depicting existing land features and contours, trees, forest cover and vegetation, and describing all proposed changes to existing features, the area to be cleared and the specimens proposed to be added, identification by species and size of the specimen at installation, and their locations.
- h. Construction Access Plan, approved/ prepared by a Professional Engineer licensed to practice in New York State, approved in advance by the Town, in which the Access Plan shall include the following:
 - 1. Identification of all roads, including seasonal roads, and rights of way within the Town to be used for Site access during construction, and a plan for marked detours where necessary, so traffic to Residences and businesses can continue unobstructed,
 - 2. Estimate of the number of vehicle trips over each road by vehicle type and gross weight.
 - 3. Indicate any areas where clearing of trees, road widening, or realignment is necessary.
 - 4. The engineer shall provide an analysis of potential road damage.
 - 5. A video of the current condition of all roads to be used for construction access.

2. Lighting Plan

- A. Lighting Plan showing any FAA-required lighting as well as all other proposed lighting. The application should include a copy of any determination by the Federal Aviation Administration to establish required markings and/or lights for each

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structure that is part of the facility, 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.

B. Lighting shall be directed up and out, not down, with the exception of security lighting.

3. Erosion and Sediment Control Plan to conform with EPA and DEC requirements.

4. Construction and Transportation Schedule

A. A construction schedule describing commencement and completion dates, including a traffic analysis with a description of the routes to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles.

B. The applicant is responsible for repair of all damages to Town Roads occurring during the construction or maintenance of a WECS. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the highway superintendent, sufficient to compensate the Town for any damage to local roads.

C. The applicant shall provide pre-development and post-development photographic evidence of the condition of any Town, State or County roads along the proposed route.

5. Operation and Maintenance Plan

Provide the WECS make, mode, picture and manufacturer's specification, including noise decibel data. A maintenance plan providing for regular periodic maintenance schedules, any special maintenance requirements, and procedures and notification requirements for restarts

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during icing events and the applicant shall provide evidence of operation to the planning board annually.

6. Decommissioning Plan

Decommissioning Plan which shall include the following information:

- A. The anticipated life of the Wind Turbine
- B. The estimated decommissioning costs in current dollars.
- C. How this decommissioning estimate was determined.
- D. The method of insuring that funds will be available for decommissioning and restoration.
- E. An annual re-estimate by a licensed engineer approved by the town board , that the decommissioning and restoration costs will be kept current.
- F. The manner in which the Wind Energy Facility will be decommissioned and the Site restored in compliance with the Guidelines for Agricultural Mitigation for Wind Power Projects published by the New York State Department of Agriculture and Markets, less any fencing or residual improvements requested by the landowner including foundation removal .

7. List of property owners, with their mailing addresses, within 1000 feet of any proposed wind turbine.

8. Complaint Resolution

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Complaint Resolution: The application will include a complaint resolution process to address complaints from nearby residents. The process may use an independent mediator or arbitrator and shall include a time limit, of no more than sixty (60) days, for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.

9. SEQRA Report: (Long form) to include:

The following information must be submitted by the applicant, either with the application, or in the event of a positive declaration under SEQRA, as part of any EIS submitted by the applicant with respect to the application for a Wind Energy Facility:

- 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 may interfere with residences and/or commercial businesses and must describe measures that shall be taken to eliminate or mitigate the impacts of shadow flicker on such residences, including but not limited to operational measures to stop rotation at such times when modeling predicts that shadow flicker will impact neighboring residences.

- B. Visual Impact: Applications shall include a visual impact study of the proposed WECS as installed, which may 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.

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- C. Fire Protection and Emergency Response: Applications shall include a fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed Site.

- D. Noise Assessment: Applications shall include a Noise Impact Assessment conducted by a reputable acoustical consultant documenting the noise levels associated with the proposed WECS and its impact on humans. Such Noise Impact Assessment should be conducted in accordance with the criteria recommended by the New York State Department of Environmental Conservation's Program Policy guidance document entitled: "Assessing and Mitigating Noise Impacts", utilizing adjacent property lines as receptor locations. Such Noise Assessment must also describe measures that shall be taken to eliminate or mitigate the impacts of noise on nearby receptors.

- E. Electromagnetic Interference: Applications shall include an assessment of potential electromagnetic interference from the proposed facility with microwave, radio, television, personal communication systems and other wireless communication.

- F. Ground Water Impacts: An analysis of impacts on local ground water resources shall be prepared, regarding effects anticipated during construction, reconstruction, modification and operation of WECS.

- G. Cultural Resources: An analysis of impacts on cultural resources shall be prepared regarding effects anticipated during construction, reconstruction, modifications and operation of WECS.

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10. Ten copies of the complete application shall be submitted to the Town Clerk, along with one electronic copy in portable document format (Adobe. Pdf). Payment of all application fees shall be made at the time of submission.

a. Application Review Process

1. Applicants may request a pre-application meeting with the Town Planning Board or with any consultants retained by the Town Planning Board for application review. Meetings with the Town Planning Board shall be conducted in accordance with the Open Meeting Law.
2. Town staff or town-designated consultants shall, with 30 days of receipt, or such longer time if agreed 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.
3. 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 WECSs proposed is increased.
4. 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 Town Planning Board.
5. The Planning Board shall hold at least one public hearing on the application. Notice shall be provided by first class mail to property owners within 1000 feet of the boundaries of the proposed 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 Town 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,

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and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

6. The public hearing may be combined with any other public hearing required, including public hearings held pursuant to SEQRA.
7. Referral shall also be made, when applicable to the Oneida County Planning Board, pursuant to General Municipal Law §§239-1 and 239-m.
8. SEQRA review applications for WECS shall be deemed Type I projects under SEQRA. The Town of Sangerfield Planning Board shall be responsible for the review of the proposed project under SEQRA, shall where appropriate, act as lead agency under SEQRA and shall coordinate its review with all other involved agencies having discretionary approval over any aspect of the proposed project in accordance with the requirements of SEQRA.
9. The Planning Board shall require an escrow agreement to cover the costs, pursuant to Article II, Section 2.3(A) hereinafter set forth for the engineering and legal review of the applications and any environmental impact statements before commencing its review.
10. At the completion of the SEQRA review process, if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Town Planning Board shall issue a Statement of Findings, which Statement may also serve as the Town Board's decision on the applications.
11. Upon receipt of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Town Board may approve, approve with conditions, or deny the applications, in accordance with the Standards in this Article and applicable law.

b. Issuance of Wind Energy Facility Permits

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1. The Town Board shall, within 90 days of (the Town Planning Board) determining the application is complete and upon consideration of the standards in this law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated.
2. If approved, the Town Board shall direct the Town Code Enforcement Officer to issue a Wind Energy Facility Permit upon satisfaction of all conditions of said Permit, and upon compliance with the New York State Building Code.
3. The decision of the Town Board shall be filed within 15 days in the office of the Town Clerk and a copy mailed to the Applicant by first class mail.
4. If any approved Wind Energy Facility is not substantially commenced within one (1) year of issuance of the Permit, the Permit shall expire, unless the Town Board shall have granted an extension.
5. The Applicant shall, within 270 days of the issuance of the Permit report to the Town Board their progress of work commencement and/or a request for one year extension of permit.

2.3 Enforcement Penalties

- A. The Town of Sangerfield shall designate the Codes Enforcement Officer to enforce the provisions of this law and may employ such professional expertise as may be necessary to support these enforcement efforts and assist the Town Board with application reviews. The Applicant shall reimburse the Town for expenses incurred.
- B. Any person owning, controlling or managing any building, structure who shall undertake a Wind Energy Facility in violation of this law or in noncompliance with the terms and conditions of any permit issued pursuant to this law, or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of a violation of this law and subject to a fine of not more than \$..... The Town may institute a civil proceeding to collect civil penalties in the amount of \$..... for each violation and each week said violation continues shall be deemed a separate violation.

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C. The Town may, in the case of any violation or threatened violation of any of the provisions of this law, including the permit terms and conditions, institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use and to restrain, correct or abate such violation, to prevent the illegal act. This shall be in addition to other remedies and penalties herein provided.

2.4 Waivers and Variances

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

2.5 Standards

The following standards shall apply to all WECS, unless specifically waived by the Town Board as part of a permit:

- A. All power transmission lines from the tower to the building or other structure shall be located underground to the maximum extent practicable.
- B. No television, radio or other communication antennas may be affixed or otherwise made part of WECS, except pursuant to the Town Zoning Law. Applications may be jointly submitted for WECS and telecommunications facilities.

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- C. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.
- D. Lighting of tower. No tower shall be lit except to comply with FAA requirements. 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 WECSs to the extent possible. All structures in a project shall be finished in a single, non-reflective matte finish color. Individual WECSs shall be constructed using wind turbines whose appearance, with respect to one another, is similar 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 disfavored. A WECS using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage which could cause tower failure.
- G. No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would 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 Wind Energy Permit for the specific WECS or WECSs 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. Wind energy conversion facilities shall be located in a manner consistent with all applicable state and Federal laws and regulations.
- J. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations.

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- K. The New York State Department of Agriculture and Markets guidelines for agriculture mitigation for wind power projects shall be adhered to, both inside and outside of agricultural districts.
- L. If it is determined that a WECS is causing stray voltage safety 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 safety issues is grounds for revocation of the Wind Energy Permit for the specific WECS or WECSs causing the problems.
- M. Turbine blades shall pass no closer than (30) feet to the ground during operation of the facility.
- N. Any substation or associated building used in conjunction with a WECS shall be sited in a manner which will have the least intrusive impact upon adjacent residences and shall be sheltered and/or screened with a physical barrier and/or vegetation in a manner to eliminate its views from such residences. The Planning Board shall assess such siting in accordance with the requirements of this Local Law and the Town Zoning Laws.

2.6 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 on the basis of 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

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24 hour, 7 day a week coverage. The Town codes officer 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, with the exception if the ladders are within the secured base of the towers.

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

F. Copies of all reports concerning operating and safety inspections for each WECS shall be file with the Town Clerk.

2.7 Setbacks for WECS.[Note: these setbacks also apply to wind measurement towers.]

A. WEC towers shall be set back a distance of 1.5 total height from the nearest road right of way. In circumstances where a wind power project is proposed to be on both sides of a public road, the Town of Sangerfield Board may waive this setback requirement. In no case shall towers be located closer than 1.5 times the WEC total height from public roads.

B. WEC towers shall be set back a distance of 1.5 total height from any adjacent property lines. The affected participating or non participating adjacent property owner may waive this setback requirement.

C. WEC towers shall be set back a distance of 1000 feet from any primary existing residence. The distance shall be measured from the nearest edge of the primary structure foundation to the center of the closest WEC tower foundation. The owner of the primary structure may waive this setback requirement. In no case shall towers be located closer than 1.5 times the WEC total height from the nearest primary structure.

D. WEC tower shall be set back a distance of 1.5 times the total height of the tower from any other WEC tower.

E. Underground cables related to wind power facilities shall run no closer than 300 feet from the nearest residence foundation, livestock barn or stable.

F. WEC towers shall be set back a distance of 1.5 of total height from third party transmission lines and communication towers.

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G. WEC towers shall be located in conformance with all State (and Federal) wetland laws and regulations.

2.71 Noise levels:

- A. WEC Turbine may not create sound levels exceeding 55dba measured at the nearest non participating property line.
- B. All sound tests and reports will be provided to the Town Planning Board by the applicant as a matter of record.
- C. Ambient sound levels shall be taken:
 1. By a licensed independent acoustical technician
 2. Within twelve months of the date when the project is fully operational, and within four weeks of the anniversary date of the pre-construction background noise measurements, repeat the existing sound environment measurements taken before the project approval. Post-construction sound level measurements shall be taken both with all WECs running and with all WECs off.

2.8 Abatement, Decommissioning

- A. If any WECS remains non-functional or inoperative for a continuous period of one (1) year, the applicant agrees that, without any further action by the Planning Board, the applicant shall decommission and remove said system at its own expense. Removal of the system shall include complete foundation removal , entire above ground structure, including transmission equipment and fencing, from the property. The property owner may choose to leave any below grade infrastructure providing there is an agreed compensation to the property owner. This provision shall not apply if the applicant demonstrates to the Planning Board 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's ability to order remedial action plan after public hearing.
- B. Non-function or lack of operation may be proven or inferred by reports to the Public Service Commission, NYSERDA, New York Independent System Operator, or by lack of income generation. The applicant shall make available (subject to a non-disclosure agreement) to the

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Town Board and Planning Board all reports to and from the purchaser of energy from individual Wind Energy Conversion Systems, if requested necessary to prove the WECS is functioning, which reports may be redacted as necessary to protect propriety information.

- C. Decommissioning Bond or Fund – The applicant or successors, shall continuously maintain a fund, bond or a corporate guarantee which is maintained at a S&P rating BBB/moody BAA or more if either fall below a bond will be required immediately payable to the Town of Sangerfield, in a form approved by the Town Attorney, for the removal of non-functional towers and appurtenant facilities, in a amount to be determined by the Town, for the life of the facility. This fund may consist of a letter of credit from a State of New York licensed financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning bond requirements shall be fully funded before a building permit is issued. The amount of the bond or security fund shall be no less than 125% of the cost of removal of the facilities and the restoration of the Site.
- D. Decommissioning shall restore the Site in compliance with the Guidelines for Agricultural Mitigation for Wind Power Projects published by the New York State Department of Agriculture and Markets including any fencing or residual minor improvements requested in writing by the landowner which are in accordance with the Town Zoning Laws and/or were originally in place.

2.9 Insurance

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

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damage liability, incurred in connection with the construction or operation of a subject Wind Energy Facility, with minimum limits of \$2,000,000 in respect of claims arising out of personal injury, sickness or death in any one accident or disaster, and \$2 ,000,000 in respect of claims arising out of property damage in any one accident or disaster.

2.91 Traffic Routes/Road use agreement

- A. As part of any WECS application, an applicant must identify all public roads and contact the planning board and Superintendent of Highways for the Town of Sangerfield and Oneida County for a review by both planning board and highway superintendent regarding weight, size limits and frequency of trips for use of Town and/or County roads prior to construction. The applicant must include documentation of this contact and permission will be granted after Town Board's review and approval of findings. The Town Board may require and has the right to demand outside engineering guidance.

1. Upgrade existing Town and County roads identified as below weight and size capabilities to permit this use during construction and maintenance of the Wind Energy Facility.
2. Secure a public improvement bond in an amount agreed upon by the Town of Sangerfield for the purpose of modifying and/or repairing any damage to the Town of Sangerfield roads incurred after construction and during maintenance for the term of the operating permit of the Wind Energy Facility (including decommissioning).
3. Provide pre-development and post development photographic evidence of the condition of any Town, County road(s) along the proposed routes.
4. 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 the purpose of determining the seasonal use status of the highway.

Article III. Small WEC (Personal use, Less than 100 KW, Less than 250 feet of tower

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Section 3.1 Scope

This Article of this Law is applicable to Small Wind Energy Facilities intended for personal use having: Name Place Rating less than 100 kw and tower heights less than 250 feet.

Section 3.2 Applications

A. Complete application for Small WEC shall include:

1. Name, address, telephone number of applicant/property owner, tax map section, block and lot.
2. Approximate location of tower, including but not limited to, distances to structures, property lines and roads.
3. Ownership and land use information within 1,000 feet of tower location.
4. Drawing and specifications of proposed Small WEC, including type of tower, supporting system, color and any visual screening intended to lessen the system's visual prominence.
5. Written evidence that the electrical service provider has been informed of the applicant's intent to install an inter-connected customer owned electricity generator system if connecting to the grid.
6. A line drawing of the electrical components of the system in sufficient detail to allow a determination that the manner of installation conforms to the electrical and applicable codes.
7. Seven (7) copies of the application submitted to the Town Clerk.
8. Application Fee: Refer to Fee Schedule for the Town of Sangerfield

B. Application Process

1. The Town Planning Board shall, within 30 days of receipt, or such longer time if agreed by the applicant determine if all information required under this Article is included in the

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application. Unless the Planning Board waives any application requirement, no application shall be considered until deemed complete.

2. 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 unless of the number of Small WECs proposed is increased.

The Planning Board shall hold at least one public hearing on the application. Notice shall be provided by first class mail to property owners within the setbacks described in section 3.3 of the proposed 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 Town Planning Board to hear additional comments, no further publication or mailing shall be required. The assessment roll of the Town shall be used to determine mailing addresses.

3. The Planning Board shall review and take into consideration all comments received from the public and issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated. The decision of the Planning Board shall be made within 60 days of the final public hearing. The Planning Board will then refer its decision to the Town Board for final approval. If approved, the Town Board shall direct the Town Code Enforcement Officer to issue a Wind Energy Facility Permit upon satisfaction of all conditions of said Permit, and upon compliance with the New York State Building Code. The decision of the Town Board shall be filed within 15 days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.

Section 3.3 Standards

A. Setbacks – Small WECs shall not be located closer than 1.5 times the total height of the system to structures, property lines and roads.

B. Noise – Small WECs shall be designed to not exceed 55 dBA, as measured at the nearest neighboring residence.

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- C. All on-site electrical conductors associated with the system shall be installed underground where possible except “tie-ins” to a public utility company transmission poles, towers and lines.
- D. 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’s manufacturer’s logo may be displayed on a system generator housing in an unobtrusive manner.
- E. 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.
- F. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three to eight feet above the ground.
- G. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.
- H. The conformance of rotor and over-speed control design and fabrication with acceptable engineering practices shall be certified by the manufacturer.

Section 3.4 Abandonment of Use

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A. All Small WECs shall be maintained in good condition and in accordance with all requirements of this section whether in use or not in use.

Article IV. Fees

The Town Board shall establish by resolution from time to time a schedule of fees for applications and inspections.