TOWN OF ENFIELD, TOMPKINS COUNTY, NEW YORK
LOCAL LAW NUMBER 1 OF 2009

WIND ENERGY FACILITIES LOCAL LAW

Local Law Number 1 of 2009, entitled "WIND ENERGY FACILITIES LOCAL LAW," is hereby adopted by Resolution of the Town Board of the Town of Enfield, Resolution dated January 14, 2009, and reads in its entirety as follows:

ARTICLE I – GENERAL STATEMENT AND DEFINITIONS

SECTION 1: TITLE & APPLICATION - This Local Law shall be known as "Local Law Number 1 of 2009" (herein, the "Local Law"). Local Law Number 1 of 2009 hereby repeals any prior Local Law or Resolution that is inconsistent herewith. Local Law Number 1 of 2009 applies to all land and governed projects within the Town of Enfield, in Tompkins County, New York.

SECTION 2: LEGISLATIVE FINDINGS - The Town Board of the Town of Enfield adopts this Local Law to promote the effective and efficient use of the Town's wind energy resources through Wind Energy Facilities and Wind Turbine Generators, and to regulate the design and placement of such systems so that the public health, safety, and welfare will not be unreasonably jeopardized. Further, the Town Board of the Town of Enfield finds and declares that: (i) wind energy is an abundant, renewable and non-polluting energy resource of the Town and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy resources; (ii) the generation of electricity from properly sited wind turbines, including small systems, can be cost effective, and in many cases existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users or energy consumption at that location can be reduced; (iii) regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health, safety, and welfare of neighboring property owners and the general public; (iv) wind turbines, if not properly sited and regulated, represent significant potential aesthetic impacts because of their large size, lighting, and shadow effects; (v) wind turbines can be sources of noise, which, if unregulated, can negatively affect adjoining properties and residents; (vi) without proper planning, the construction of Wind Energy Facilities and Wind Turbine Generators can create traffic problems and damage local roads; and (vii) if improperly sited, wind turbines can interfere with certain types of communications.

SECTION 3: AUTHORITY - The Town Board of the Town of Enfield enacts this Local Law under the authority granted by: (a) Article IX of the New York State Constitution, §§ 2(c)(6) and 10; (b) the New York Statute of Local Governments, §§ 10(1) and (7); (c) the New York Municipal Home Rule Law, §§ 10(1)(i) and (ii), and §§ 10(1)(a)(6), (11), (12), and (14); (d) the New York Town Law § 130(1) (Building Code), §130(3) (Electrical Code), §130(5) (Fire Prevention), §130(7) (Use of Streets and

Highways), §130(7-a) (Location of Driveways), §130(11) (Peace, Good Order and Safety), §130(15) (Promotion of Public Welfare), §130(15-a) (Excavated Lands), §130(16) (Unsafe Buildings), §130(19) (Trespass), and §130(25) (Building Lines); and (e) the New York Town Law § 64(17-a) (Protection of Aesthetic Interests), and §64(23) (General Powers).

SECTION 4: DEFINITIONS – The following terms have the following meaning within and for the purposes of this Local Law:

ACE – The United States Army Corps of Engineers.

AGRICULTURAL OR FARM OPERATIONS – the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation as defined in the Agriculture and Markets Law. A farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

APPLICANT – Any Person who submits or joins in the submission of any application under this Local Law.

DEC – The New York State Department of Environmental Conservation.

DECOMMISSIONING FUND - A type of security or undertaking, acceptable to and approved by the Town Board, posted or deposited by an Applicant or Operator in favor of the Town, that is designed to provide guaranteed access to funding to remove and decommission WTG and Wind Energy Facilities and restore and remediate the Site, usually in the form of cash, a letter of credit, or a bond.

DECOMMISSIONING PLAN – A written detailed plan submitted by an Applicant or Operator that shows and verifies continual compliance with the requirements of this Local Law relative to the removal and decommissioning of WTG and Wind Energy Facilities and restoration and remediation of the Site.

DEIS – A Draft Environmental Impact Statement, as defined and construed under SEQRA.

EAF – An Environmental Assessment Form, as defined and construed under SEQRA.

EIS – An Environmental Impact Statement, as defined and construed under SEQRA.

ENFORCEMENT OFFICER – Any Person appointed by the Town Board to (i) review applications, (ii) interpret or enforce this Local Law, or (iii) take any action or make any determination under this Local Law. Unless the Town Board resolves otherwise, the Town's Code Enforcement Officer(s) shall be deemed Enforcement Officers under this Local Law.

FAA – the Federal Aviation Administration.

LOCAL LAW – Local Law Number _ of 2008, known as the Wind Energy Facilities Local Law, of the Town of Enfield, Tompkins County, New York.

OPERATOR – Any Person who owns, manages, operates, or otherwise exercises decision making authority for any Wind Energy Facility or WTG, but not including such Persons who own, manage or operate Small WTG.

PERSON – Any individual, partnership, limited liability company, corporation, joint venture, business, or other person or entity of whatever kind or nature, but not including the Town, the Town Board, the Planning Board, or any other employee, elected official, or agent of the Town, and not including the State of New York or the Federal Governments and their departments, bureaus, and employees thereof.

PLANNING BOARD – The Planning Board of the Town of Enfield, in Tompkins County, New York.

RESIDENCE – Any dwelling suitable for year-round habitation, possessing insulation, and serviced by a potable water supply, commercial electric power supply, and a functioning septic system or equivalent sewage disposal service, existing in the Town of Enfield on the date an application is received. A residence may be part of a multi-dwelling or multipurpose building, but shall not include buildings such as hunting camps, correctional institutions, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes.

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.

SITE – One or more parcels of land where a Wind Energy Facility or WTG is actually or proposed to be located. A "Site" may be publicly or privately owned, and may be comprised of multiple parcels owned by one or more Persons. Where a Site is comprised of multiple lots or parcels owned by any one or more Persons, the combined lots or parcels shall be deemed one "Site" for the purposes of applying any setback requirements. Any lot or parcel subject to a lease, easement, or other agreement relating to the siting or impacts of a WTG or a Wind Energy Facility shall not be considered, to the extent so applicable, based upon the terms of such lease, easement, or other agreement, for purposes of impact and permit analyses under this Local Law.

SMALL WIND TURBINE GENERATOR or SMALL WTG – a wind turbine generator consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is primarily intended to reduce consumption of utility power at that location.

SOUND PRESSURE LEVEL – A measurement of noise or sound performed in accordance with the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or, with the approval of the Enforcement Officer, another accepted and recognized industry procedure for measuring noise or sound.

TOTAL HEIGHT – the height of the tower and the furthest vertical extension of the WTG.

TOWN – The Town of Enfield, in Tompkins County, New York.

TOWN BOARD – The Town Board of the Town of Enfield, in Tompkins County, New York.

TOWN CLERK – The Town Clerk of the Town of Enfield, in Tompkins County, New York.

VARIANCE – A process by which an Applicant or Operator or permit holder seeks to change or modify a requirement of this Local Law.

WAIVER - A process by which an Applicant or Operator or permit holder seeks to have a requirement of this Local Law not apply to a Site, Person, project, or permit.

WIND ENERGY FACILITY – Any WTG, Small WTG, or Wind Measurement Tower, including all related infrastructure, electrical lines, substations, access roads and accessory structures.

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.

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

WIND TURBINE GENERATOR or WTG – A machine or device that converts the kinetic energy of the wind into electricity available for use beyond that used by the machine (also commonly known as a "wind turbine" or "windmill").

ARTICLE II – PERMITS

SECTION 1: APPLICABILITY -

A. The requirements of this Local Law shall apply to (i) all Wind Energy Facilities proposed, and (ii) all Wind Energy Permit applications submitted or issued after the effective date of this Local Law, and (iii) each and every Person who desires to build, lease, maintain, or operate any Wind Energy Facility, WTG, Small WTG, or Wind Measurement Tower.

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. If such Wind Energy Facility is out of service or does not provide energy for a continuous period of 12 months, such Wind Energy Facility shall be required to thereafter comply with the requirements of this Local Law prior to commencing or re-commencing production;

2. No modifications or alterations to such Wind Energy Facility shall be permitted except in compliance with this Local Law.

SECTION 2: PERMITS REQUIRED; TRANSFER; MODIFICATIONS -

A. Permit Requirements.

1. No Wind Energy Facility shall be constructed or operated in the Town except in compliance with this Local Law.

2. No WTG shall be constructed or operated in the Town except pursuant to a Wind Energy Permit approved pursuant to this Local Law.

3. No Wind Measurement Tower shall be constructed in the Town except pursuant to a Wind Energy Permit Issued pursuant to this Local Law.

4. No Small WTG shall be constructed or operated in the Town except pursuant to a Wind Energy Permit issued pursuant to this Local Law.

B. Applicability. This Local Law shall apply to all areas of the Town.

C. Agricultural Use Exemption. No permit or other approval shall be required under this Local Law for WTG utilized solely for agricultural operations in a state or county agricultural district so long as the facility (i0 is set back from property lines at least 1.0 times the Total Height, and (ii) does not exceed 120′ in Total Height. Towers over 120′ in Total Height utilized solely for agricultural operations in the state or county agricultural district shall apply for a permit in accordance with this Local Law, but shall not require a height variance. Prior to the construction of a WTG under this exemption, the property owner or a designated agent shall submit a sketch plan or building permit application to the Town to demonstrate compliance with setback requirements.

D. Transfer. The transfer of any Permit to an entity other than the Applicant to whom the permit was issued shall require approval of the Town Board, which approval may be conditioned upon any one or more reasonable factors, including, but not limited to, (i) compliance with this Local Law, and (ii) the written acceptance by the proposed

transferee of all obligations imposed under any permit, Variance, Waiver, this Local Law, any Developer's Agreement, or any other applicable contract or agreement, and (iii) such other terms as shall be reasonably determined by the Town Board. Whenever required by the Town Board, the transferee shall take such actions and submit such documentation as shall allow the issuance of a permit in the name of the proposed transferee.

E. Facility Modifications. Notwithstanding the requirements of this Local Law, replacement in kind or modification of a Wind Energy Facility may occur without Town approval when there will be (i) no increase in Total Height, (ii) no change in the location of the WTG, (iii) no additional lighting or change in facility color, and (iv) no increase in noise produced by the WTG.

ARTICLE III – PERMITS AND PERMITTING PROCESS

SECTION 1: APPLICATION REQUIREMENTS -

A. Application Contents. An application for a Wind Energy Permit shall include the following:

1. Applicant Information. The name, address, and phone number of 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 agent to represent the Applicant;

2. Property Owner Information and Authorization. The name, address, and telephone number of the property owner of the proposed Site of any Wind Energy Facility. If the said owner is not the Applicant, the application shall include (i) a letter or other written permission signed by such property owner that (i) confirms that the property owner is familiar with the proposed application(s) and (ii) authorizes the submission of the application, or (ii) an easement, lease, or other agreement of such owner relative to the siting of the Wind Energy Facility;

3. Adjacent Owners. A list of each and all of the property owners, together with their respective residence and mailing addresses, located within 500' of the boundaries of the proposed Site;

4. Parcel Information. The address or other property identification information, and the tax parcel number (tax map section, block and lot number) of each proposed WTG location;

5. Project Description. A reasonably detailed description of the project including, but not limited to, the total number of proposed WTGs and the maximum rated capacity of each WTG;

6. Plot Plans. A set of plot and/or site plans containing sufficient detail to clearly describe and show the following:

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

   (b) Locations of all proposed facilities and improvements, including WTG, access roads, electrical lines, substations, storage or maintenance units, and gates or fencing;

   (c) Location of all Residences and other existing structures on the Site and within 500′ of the Site boundaries;

   (d) Locations of parcels adjoining the Site;

   (e) Locations of public roads on or adjacent to the Site;

   (f) Locations of all aboveground utility lines and/or easements upon or affecting the Site;

   (g) To demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed WTG location equal to both 1.1 times the tower height and 1.1 times the blade radius (sweep) measurement.

7. Wind Turbine Information. One drawing or other set of information may be submitted for each WTG of the same type and Total Height. For each such type of WTG proposed, the application shall include:

   (a) A vertical drawing of the WTG showing Total Height, turbine dimensions, tower and turbine colors, distance between ground and lowest point of any blade, location of climbing pegs, and access door(s);

   (b) Make, model, picture, and manufacturer's specifications, including information on the noise levels during WTG operation;

   (c) Manufacturer's Material Safety Data Sheet documentation for the type and quality of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants;

8. Landscaping Plan. A written plan depicting existing vegetation and describing any areas to be cleared and the specimens proposed to be added to provide landscaping or screening;

9. Lighting Plan. A written plan showing any FAA required lighting and other proposed lighting;

10. Decommissioning Plan. The Applicant shall submit a written decommissioning plan that shall include, at a minimum: (i) the anticipated life of the WTG; (ii) the estimated decommissioning cost in current dollars; (iii) how said estimate of decommissioning costs was determined; (iv) the method of ensuring that funds will be available for decommissioning and restoration costs; (v) the method by which the decommissioning and restoration cost funds will be kept current relative to increases and decreases in total decommissioning and restoration costs; (vi) the form of any type of security, bond, or other undertaking that will be posted to assure that the then current decommissioning and restoration costs are available for decommissioning and restoration; and (vii) the manner in which the WTG will be decommissioned and the Site restored;

11. Complaint Resolution Plan. The application will include a proposed complaint resolution process to address complaints from Persons who live in nearby Residences. The process may use an independent mediator or arbitrator and shall include a time limit for acting upon any complaint;

12. Construction Information. Information pertaining to the construction/installation of the Wind Energy Facility, including, at a minimum, the following:

    (a) A construction plan, blueprints, specifications, and similar construction documents duly sealed by a New York State licensed engineer or architect depicting the sequence, construction methodologies, methods and manners of proposed construction, times of operation, site and access controls, and safety and security plans; and

    (b) A construction schedule describing anticipated construction commencement and completion dates; and

    (c) A description of the routes to be used by construction and delivery vehicles; and

    (d) The gross weights and heights of all loaded delivery and construction vehicles;

13. EAF. A Completed Part 1 of the Full EAF as required by SEQRA, together with visual impact assessment addendums;

14. Standards and Other Information. The Applicant shall (i) affirmatively show compliance with the standards of Article IV of this Local Law, and (ii) provide such other information and data as reasonably required by the Town;

15. Signed Statement. A statement, signed under penalty of perjury, that the information contained in the application is true and accurate.

B. Positive Declaration. If the Applicant agrees in writing that the proposed Wind Energy Facility or any WTG therein may have a significant adverse impact on the environment the Town Board may issue a positive declaration of environmental significance. In such case, the Applicant shall cooperate with the Town and its agents to properly complete a DEIS.

C. Environmental Studies. The following information and studies shall be submitted to the Town Board for review in connection with any permit application and/or any SEQRA review. If a positive declaration of environmental significance is determined by any SEQRA lead agency, such submissions may and shall also be made in connection with the DEIS:

1. Visual Impact Assessment. A visual impact assessment of each proposed WTG. A visual impact assessment shall include a computerized photographic simulation demonstrating any visual impacts from all reasonable strategic vantage points as identified or confirmed by the Town. The visual impact assessment shall also include (i) color photographs of the proposed Site from at least two locations accurately depicting the existing property conditions and proposed impacts of each WTG upon visual sight and horizon conditions, and (ii) a map showing the location of each WTG in relation and keyed to the color photographs referenced in item (i) of this paragraph;

2. Noise Study. A Sound Pressure Study and noise analysis documenting the pressure and noise levels associated with each proposed WTG, which studies shall account for (i) seasonal and other variations in ambient noise, (ii) noise levels measured from varying distances and elevations, and (iii) an A-weighted study of noise levels across a range of wind speeds and directions as measured at various distances out to 2,000′ from each WTG;

3. Shadow Flicker Study. A study of potential shadow flickers from each WTG. The study shall identify locations where shadow flickers could be caused by the WTG and the expected durations of the same at these locations. Shadow Flickers shall be mitigated if their impact materially affects any Residence;

4. Communication Impacts. An assessment of potential interference of each proposed WTG with microwave, radio, television, personal communication systems and other wireless communications. If reasonably determined necessary by the Town, an EMI (electromagnetic interference) study and the method and manner of mitigation of any EMI impacts shall be supplied;

5. Fire Protection Plan. A fire protection and emergency response plan that (i) complies with the Tompkins County All-Hazards Mitigation Plan, and (ii) is created in consultation with the fire department(s) having jurisdiction over the proposed Site.

SECTION 2: APPLICATION REVIEW -

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

B. Escrow Agreement. The Town may require the Applicant to fund an escrow agreement or to sign a Developer's Agreement to cover the amount by which the Town's estimated costs and expenses of review, including reasonable legal and engineering fees, exceed (or will exceed) the application fees paid by the Applicant.

C. Application Submittal. Six copies of the completed application, including all related and ancillary exhibits, studies, and materials, shall be submitted to the Town Clerk.

D. Application Completeness Review. The Town, or its designated consultant(s), shall, within 30 days of receipt by the Town Clerk, determine whether all information required under this Article is included in the application. Such a determination is not to be construed as an approval of any materials or submissions. No application shall be considered until determined to be complete. If the application is deemed incomplete, the Town, or its designated consultant(s), shall provide the Applicant with a written statement listing any incomplete or missing data, forms, or other material or information. No application fees may be refunded for any reason, and no additional application fees shall be required for supplemental submissions unless the project materially changes or the number of proposed WTGs is increased.

E. Board Receipt of Applications. The Town Clerk shall transmit the completed application and related materials to the Town Board within 10 days of the determination that the application is complete.

F. Public Hearing. The Town Board shall thereafter promptly consider and review the application. In addition, the Town Board shall schedule and conduct at least one public hearing upon the application. In addition to the types of notices required by the Town

Law of the State of New York, notice of such public hearing shall be given by first class mail to all property owners within 500′ of the boundary of each proposed WTG at least 7 days in advance of the public hearing. Persons entitled to notice may be determined by reference to the latest completed official County assessment roll, and any address stated in such assessment roll(s) shall be presumed to be a valid address for delivery of such notice. "Notice" shall be deemed sufficient if such notice is mailed by regular first class mail, postage prepaid, and deposited into the exclusive care and custody of the United States Postal Service at least 10 days before the said Public Hearing. If any hearing is adjourned by the Town Board to hear additional comments, or for any other reason, no further publication or mailing shall be required unless required by the Town Law of the State of New York.

G. County Planning Board Notice. Notice of the project shall also be given to the Tompkins County Planning Board when required by General Municipal Law 239-l, 239-m, and 239-n.

H. SEQRA Review. Permit applications shall be deemed Type I projects under SEQRA. However, the Town reserves the right to classify a temporary Wind Measurement Tower as a Type II action pursuant to the current opinion and practice of the New York State Department of Environmental Conservation and 6 NYCRR Part 617.5 subsections (15), (18) and/or (21). The Town may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by such agencies shall become part of the record of the Town's proceedings.

I. SEQRA Findings. If a positive declaration of environmental significance has been issued at the completion of the SEQRA review process and an EIS prepared, the Town shall issue a Statement of Findings, which statement may also serve as the Town's decision on the application.

J. Application Decision. 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 shall issues its determination upon the application within 30 days.

SECTION 3: ISSUANCE OR DENIAL OF WIND ENERGY PERMITS - Upon completion of the review process, the Town Board shall, upon consideration of the standards contained in this Local Law and the record of the SEQRA review, issue a written decision with the reasons for approval, conditional approval, or denial fully stated. If approved, the Town Board will direct the Town Clerk to issue a Wind Energy Permit upon satisfaction of all conditions for said Permit, and will further direct the building inspector to issue a building permit upon demonstrated compliance with the Uniform Fire Prevention and Building Code, the applicable energy codes, other applicable codes, and other pre-construction conditions of this Local Law. The decision of the Town Board shall be promptly filed in the Office of the Town Clerk and a copy shall be promptly mailed by the Town Clerk to the Applicant by first class mail.

SECTION 4: APPROVAL LIMITATIONS; EASEMENTS AFFECTING TOWN PROPERTY -

A. Wind Flow. Nothing in this Local Law shall be deemed to give an 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 Applicant or Operator to acquire any necessary wind flow or turbulence easements or related rights to remove vegetation.

B. Easements on Town Property. Pursuant to the powers granted to the Town to manage its own property, the Town may, in compliance with applicable law, enter into noise, setback, or wind flow easements on such terms as the Town Board deems appropriate.

ARTICLE IV - STANDARDS FOR WIND ENERGY FACILITIES

SECTION 1: Transmission Lines. Wherever possible, power transmission lines from any WTG to any building or other structure shall be buried at least 36 inches underground using the "double-trench" method.

SECTION 2: Antennae Co-Location. No television, radio, or other communications antennae may be affixed or otherwise made part of any WTG, unless a Variance or Waiver is granted under and pursuant to this Local Law.

SECTION 3: Advertising. No paid advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.

SECTION 4: WTG Lighting. No WTG shall be lit except to comply with FAA regulations or where required by the permit for safety reasons.

SECTION 5: Visual Impact Mitigation. Applicants shall use measures to reduce the visual impact of WTG to the extent possible, including, at a minimum, the following: (i) WTG shall use tubular towers or other certified structures; (ii) WTG shall be finished in a single, non-reflective matte finish color; (iii) WTGs within a multiple WTG project shall be constructed using WTGs whose appearance with respect to one another is similar within and throughout the project so as to provide reasonable uniformity in overall size, geometry, and rotational speeds.

SECTION 6: Guy Wires. The use of guy wires for WTG is disfavored. A WTG using guy wires for tower support shall incorporate appropriate measures to mark and protect the guy wires and any Person from injury or damage.

SECTION 7: Microwave Links. No WTG shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to interfere in the link's operation.

SECTION 8: Waste Removal. Solid waste, hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate laws, rules and regulations, including, but not limited to all environmental laws, rules, regulations and orders.

SECTION 9: Clearing. Wind Energy Facilities shall be designed to minimize erosion, sedimentation and stormwater impacts of soil disturbances, land clearing and the project. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible.

SECTION10: Wildlife. Wind Energy Facilities shall be located in a manner that minimizes significant negative impacts, if any, upon rare animal species in the vicinity, particularly bird and bat species.

SECTION 11: Wetlands. Wind Energy Facilities shall be located in a manner consistent with all applicable state and federal wetlands laws and regulations and any issued wetland permits.

SECTION 12: Stormwater. Stormwater run-off and erosion controls shall be managed in a manner consistent with all applicable local, state and federal laws and regulations.

SECTION 13: Construction Times. Construction of the Wind Energy Facilities shall be limited to the hours of 7 a.m. to 7 p.m., except for certain activities that (i) require otherwise due to temperature or other engineering circumstances, and (ii) are so approved by the Town Board.

SECTION 14: Water Supply. Construction of Wind Energy Facilities shall be managed in a manner that minimizes the impact upon aquifers and private and public water supplies.

SECTION 15: Required Safety Measures. The following safety measures shall be complied with:

A. Controls. Each WTG 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. Minimum Blade Height. The minimum distance between the ground and any part of rotor or blade system shall be 20′.

C. Signs. 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. The Town may require additional signage;

D. Climbing Pegs. No climbing pegs or tower ladders shall be located within twelve 12′ of ground level, as measured from the base of the structure;

E. Access Control. WTG shall be designed to prevent unauthorized access to electrical and mechanical components, and shall have access doors that are kept securely locked at all times.

SECTION 16: Roads and Traffic**.** The following traffic and road requirements shall be complied with:

A. Traffic Routes. Construction and delivery vehicles for WTG and Wind Energy 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 WTG traffic during times of school bus activity;

3. Minimizing wear and tear on local roads;

4. Minimizing impacts on local business operations.

B. Traffic Controls. Wind Energy Permit conditions may limit WTG-related traffic to specified routes, and may include a plan, or require the Applicant to provide a written plan, for disseminating traffic route information to the public.

C. Road Remediation. The Applicant shall be responsible for the remediation and repair of damaged Town roads and highways. A public improvement bond, or other security as determined by the Town Board, shall be posted prior to the issuance of any building permit in an amount, as determined by the Town Board, sufficient to compensate the Town for any estimated loss or expense and to effect repair and remediation of Town roads and highways, and their related appurtenances.

SECTION 17: Sound Levels and WTG Setbacks. The following standards and requirements shall apply to each WTG:

A. Sound Levels. The statistical Sound Pressure Level generated by a WTG shall not exceed 60 decibels above ambient sound levels measured at the nearest off-Site Residence.

B. Setbacks. Each WTG shall be located with the following minimum setbacks, as measured from the center of the WTG:

1. Occupied Structures. 450′ or 1.1 times the Total Height, whichever is greater, of the proposed WTG as measured horizontally from the center-point of the Tower(s) to the closest edge of the Residence, unless the owner of the Residence has consented otherwise pursuant to a written lease, easement or other agreement regarding a WTG or the Wind Energy Facility;

2. Property Line. 100′ or 1.1 times the Blade Radius (Sweep) measurement, whichever is greater, from the property line(s) between Site and any adjacent property owners, unless the neighboring landowner has consented otherwise pursuant to a written lease, easement or other agreement regarding a WTG or the Wind Energy Facility;

3. WTG. 450′ or 1.1 times the Total Height of the WTG as measured horizontally from the center-point of the proposed WTG to the center-point of any existing WTG;

4. Wetlands. 100′ from mapped or jurisdictional wetlands, except where wetlands fill or construction permits have been issued by the DEC or ACE, as applicable.

C. Utility Lines, Driveways and Roads. There shall be no required minimum setbacks of WTGs and Wind Energy Facilities from public utility lines, other than the requirements of the Public Utility Easements or the Public Service Commission. There shall be no required minimum setbacks of WTGs and Wind Energy Facilities from public or private roads and rights of way, private maintenance driveways and roadways, seasonal and limited use roadways, and abandoned or qualified abandoned roads other than the requirements for property line setbacks.

SECTION 18: Noise and Setback Waivers. Waivers granted under this Section do not require the issuance of any different or additional Waiver or Variance under Article V of this Local Law. In the event a Wind Energy Facility does not meet a setback requirement or exceeds noise or other criteria established by this Local Law as it existed at the time the Wind Energy Permit is granted, a special waiver may be granted from such requirement by the Town Board in the following circumstances:

A. Written consent from the affected property owners has been obtained stating that they are aware of the Wind Energy Facility and the noise and/or setback limitations imposed by this Local Law, and that consent is granted to (i) allow noise levels to exceed the maximum limits otherwise allowed or (ii) setbacks less than required; and

B. Such consent is in a recordable form based upon the requirements of the Tompkins County Clerk, such as in a duly notarized lease, easement, or other agreement, and such consent has been recorded in the County Clerk's Office describing the benefited and burdened properties and the nature and scope of such consent, which consent may not be revoked or cancelled without the consent of the Town, which consent shall be

granted upon either the completion of decommissioning of the WTG in accordance with this Local Law or the acquisition of the burdened parcel by the Applicant or Operator of the Wind Energy Facility. Otherwise, the consent of the Town shall not be unreasonably withheld.

ARTICLE V – WAIVERS, VARIANCES, AND APPEALS

SECTION 1: WAIVERS - Where the Town Board finds that, due to the special circumstances of a particular case, a waiver of certain requirements is justified a Waiver may be granted upon the following terms and conditions:

A. The Town Board calls and conducts a public hearing upon such Waiver request, whereat the impact of the Waiver on the neighborhood, the potential detriment to nearby properties, the benefit to the Applicant, feasible alternatives, and the scope of the Waiver request shall be duly considered;

B. The Town Board may attach such conditions as it deems appropriate to any Waiver approvals to minimize the impact of the Waiver, including conditions precedent to the effectiveness or validity of the Waiver;

C. In all cases, no Waiver shall be granted unless the Town Board finds and records in its minutes that: (1) granting the Waiver would be keeping with the intent and spirit of this Local Law and is in the best interests of the community; (2) there is no adverse effect upon the welfare of the neighborhood; (3) there are special circumstances involved in the particular case; (4) denying the Waiver would result in undue hardship to the Applicant or Operator, provided that such hardship has not been self-imposed; and (5) the Waiver is necessary or required due to any rational factor, including, but not limited to, limitations due to topography, the state of scientific knowledge or the limits of material sciences, or the nature of the Site.

D. The Enforcement Officer may revoke any Waiver for reasonable cause should the Applicant or Operator fail to comply with any non-waived provision of this Local Law, or fail to comply with the terms and conditions stated in any granted Waiver. If the Applicant or Operator believes the revocation was improper an administrative appeal may be filed in accord with this Local Law.

SECTION 2: VARIANCES – Where the Town Board finds that, due to the special circumstances of a particular case, a Variance or modification of certain requirements is justified, such Variance may be granted upon the following terms and conditions:

A. The Town Board finds and records in its minutes that: (1) granting the Variance would be keeping with the intent and spirit of this Local Law, and is in the best interests of the community; (2) there is no adverse effect upon the welfare of the neighborhood; (3) there

are special circumstances involved in the particular case; (4) denying the Variance would result in undue hardship to the Applicant or Operator, provided that such hardship has not been self-imposed; and (5) the Variance is the minimum necessary degree of variation from the requirements of this Local Law.

B. The Town Board may attach such conditions as it deems appropriate to Variance approvals to minimize the impact of the Variance, including conditions precedent to the effectiveness or validity of the Variance;

C. The Enforcement Officer may revoke any Variance for reasonable cause should the Applicant or Operator fail to comply with any non-waived provision of this Local Law, or fail to comply with the terms and conditions stated in any granted Variance. If the Applicant or Operator believes the revocation was improper an administrative appeal may be filed in accord with this Local Law.

SECTION 3: ADMINISTRATIVE APPEALS - Any Person(s) aggrieved by the failure to issue or renew any variance, Waiver, or permit, by any determination, interpretation, or decision of the Town, the Town Board, the Planning Board, or the Enforcement Officer, including by any conditions attached to any permit, Variance or Waiver, or the revocation or suspension of any permit Variance or Waiver, shall have a right to appeal such matter to the Town Supervisor, and this process shall be referred to as an "Administrative Appeal" under this Local Law. Such appeal must be filed within 10 days of the date the Enforcement Officer files and provides notice of any decision or within 10 days of any other action or determination appealed from. The following procedures apply to all Administrative Appeals under this Local Law:

A. Any Person seeking to appeal must file a petition for appeal, the form of which shall be supplied by the Enforcement Officer. Such petition must concisely state the basis of the appeal, and describe the underlying denial, revocation, condition, or other matter appealed from. Such petition shall be verified and shall state the ground or grounds upon which the applicant claims that the determination of was erroneous, arbitrary or capricious.

B. Such petition shall be filed with the Town Clerk within 10 days after the receipt of notice of the adverse determination or other matter providing grounds for an appeal.

C. Within 20 days of the filing of such appeal with the Town Clerk, the Town Supervisor shall investigate the matter, and may hold one or more hearings on the matter. The Person who filed the appeal is entitled to (i) at least 10 days notice of any hearing, and (ii) be present at all such hearings and meetings. Such notice shall state the name and address of the appellant, the subject matter of the hearing and the date, place and hour designated for such hearing. A copy of such notice shall be mailed to the appellant at least 10 days before such hearing. Upon any hearing, the applicant involved shall be entitled to be represented by legal counsel and to present whatever competent and

material testimony or other evidence as may be relevant to the subject matter of the hearing. Whenever such hearing is required to be a public hearing, the Town Supervisor shall comply with all other notice procedures required by this Local Law and by the Town Law of the State of New York. Similarly, the requirements of the Open Meetings Law shall apply.

D. At the hearing, the Town Supervisor shall consider or re-consider the appellant's petition and, in his discretion, may receive new or additional evidence in support of or in opposition thereto. The Town Supervisor, after such hearing, may affirm the action or determination made, may require the granting or reinstatement of any Variance, Waiver or Permit, or may take such other action as he deems necessary or desirable relative to such appeal.

E. The Town Supervisor shall have appellate jurisdiction over the decisions and determinations of the Town Board as Chief Executive Officer for the Town (and not as a legislator thereof), such that no claim that an administrative appeal of a Town Board action or determination is futile or unnecessary shall permit the appellant to avoid the Administrative Appeals process set forth in this Local Law.

F. A determination upon the appeal shall be made by the Town Supervisor within 30 days of the close of the hearing(s) and written notice of the determination must be mailed to the appellant and filed in the Office of the Town Clerk.

G. No judicial review may be had or filed until the administrative appeal process outlined in this Local Law has been completed and a determination is either (i) issued pursuant to sub-paragraph D of this Section, or (ii) the Town Supervisor fails to issue a determination upon the appeal within the time required by sub-paragraph F of this Section. If the Town Supervisor issues his decision and the appellant remains aggrieved, a judicial review may be had pursuant to Article 78 of New York's Civil Practice Law and Rules, and the determination of the Town Supervisor shall be a "final action or determination" for the purposes of said Article 78.

ARTICLE VI – OPERATION, PERMIT REVOCATION, ABATEMENT, VIOLATIONS

SECTION 1: OPERATION, PERMIT REVOCATION, AND ABATEMENT -

A. Operation. Each WTG and each Wind Energy Facility 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.

B. Violations of Permit Conditions or Local Law. Should the operation of any WTG or Wind Energy Facility, or any Applicant or Operator, violate any permit condition(s) or any requirements of this Local Law, the Applicant or Operator shall remedy each such violation or situation of non-compliance within 90 days after the delivery of written notice from the Enforcement Officer, unless, for good cause shown, the Town Board grants an extension to such 90-day compliance period. The Town Board may grant or deny any request for an extension in its own and sole discretion, without recourse, and for any or no reason.

C. Hearing. If the violation(s) and/or incidents of non-compliance are not cured within such 90-day period and no extension to such 90-day period has been granted, the Town Board may, after a public meeting at which the Applicant or Operator shall be given opportunity to be heard and present evidence and/or a plan to come into compliance: (i) order remedial action within a particular time frame, or (ii) order revocation of the Wind Energy Permit and require the removal and decommissioning and of the WTG and restoration of the Site within 90 days. If the ordered removal, decommissioning and restoration are not completed within said 90 days, the Town shall have the right to remove the WTG at the Applicant's or Operator's expense, and the Town may use any security posted as part of the Decommissioning Fund to pay the costs and expenses of such removal, decommissioning and restoration, or undertake any other action permitted by this Local Law.

D. Inoperative WTG. If any WTG or Wind Energy Facility remains non-functional or inoperative for any continuous period of 12 months the said WTG or Wind Energy Facility shall be removed, decommissioned, and the Site restored. This requirement may be suspended for one or more consecutive 6 month periods, but not to exceed 18 months, if either (i) the Operator or Applicant demonstrates to the Town Board that it has been making good faith efforts to restore the WTG or the Wind Energy Facility to an operable condition, but despite such good faith efforts, whether due to a shortage of materials, labor, Acts of God, moratorium or prohibition, or other cause outside the reasonable control of the Operator or Applicant, such restoration to operable condition is not possible and/or feasible, or (ii) the Town issues a remedial action plan, which plan shall recommend to the Operator or Applicant the means, manners, and timeframes in or by which the WTG or Wind Energy Facility shall be brought into compliance with this Local Law and placed into operable condition. The lack of function or operation of any WTG or Wind Energy Facility may be conclusively proven by reference to reports to or from the Public Service Commission, NYSERDA, a New York Independent System Operator, or by the lack of income and/or electrical power generation. Upon request of the Town or the Enforcement Officer, the operator or Applicant shall make available to the Town Board all reports to and from the purchaser(s) of energy from any individual WTG necessary to prove the WTG is functioning, which reports may be redacted as necessary to protect any proprietary information.

E. Removal and Remediation. WTG and Wind Energy Facility removal shall include removal of all aboveground equipment and structures, removal of all buried wires and conduits, removal of foundations to a depth of three (3.0) feet below grade, restoration of soil conditions, and restoration of vegetation to be consistent and compatible with surrounding native vegetation.

F. Decommissioning Fund. The Applicant or Operator shall continuously maintain a fund, bond, irrevocable letter of credit, or other form of security or undertaking that is: (i) acceptable to the Town; (ii) in an amount reasonably and periodically determined by the Town; (iii) in favor of and payable to the Town upon demand; (iv) for the removal and decommissioning of any WTG or Wind Energy Facilities and for Site restoration; (v) in the amount of $125,000.00, or such greater amount as reasonably determined by the Town, for each WTG and/or each Wind Energy Facility subject to a permit. All costs of the financial security shall be borne by the Applicant. All Decommissioning Fund requirements shall be fully funded and approved by the Enforcement Officer before any building permit is issued. The amount of the required Decommissioning Fund may be periodically reviewed by the Town, in its discretion, and increased or decreased based upon the changes over time for the actual estimated costs of removal, decommissioning and Site restoration. Failure to provide such additional security or undertaking within 90 days of the Town's demand there for shall subject the Applicant or Operator to Permit revocation or other remedies set forth in this Local Law.

ARTICLE VII - WIND MEASUREMENT TOWERS

SECTION 1: WIND SITE ASSESSMENT - The Town acknowledges that prior to construction of a WTG a wind site assessment is usually conducted to determine the wind speeds and the feasibility of using particular Sites. Installation of Wind Measurement Towers, also known as meteorological or MET towers, shall be permitted only pursuant to the issuance of a Wind Energy Permit in accordance with this Article.

SECTION 2: APPLICATIONS FOR WIND MEASUREMENT TOWERS -

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

1. Applicant Information. The name, address, and phone number of 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 agent to represent the Applicant;

2. Property Owner Information and Authorization. The name, address, and telephone number of the property owner of the proposed Site of any Wind Measurement Tower(s). If the said owner is not the Applicant, the application shall include (i) a letter or other written permission signed by such property

owner that (i) confirms that the property owner is familiar with the proposed application(s) and (ii) authorizes the submission of the application, or (ii) an easement, lease, or other agreement of such owner relative to the siting of the Wind Measurement Tower;

3. Site Information. The address of each proposed tower location including the tax map section, block and lot number;

4. Map. A map showing proposed location of the Wind Measurement Tower and any roads, parcel boundaries or structures within a radius of the Total Height of the Wind Measurement Tower.

SECTION 3: STANDARDS FOR WIND MEASUREMENT TOWERS -

A. Setback. The distance between a Wind Measurement Tower and a property line shall be at least equal to the height of the Wind Measurement Tower. Sites for a Wind Measurement Tower can include more than one lot or parcel of property, and if so, then the requirements shall apply to the combined properties. Property line setback exceptions for neighboring properties are also allowed with the consent of those neighboring property owners.

B. Permit Duration. Wind Energy Permits for Wind Measurement Towers may be issued for a period of up to two years. Permits shall be renewable upon application to the Town Board.

ARTICLE VIII - SMALL WTG

SECTION 1: PURPOSE AND INTENT - The purpose of this Article is to provide standards for Small WTG that are: (i) designed for home, farm, and small commercial uses; (ii) wholly located upon the same parcel or lot of land; and (ii) primarily used to reduce consumption of utility power at that location. 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.

SECTION 2: APPLICATIONS - Applications for Small WTG Wind Energy permits shall include:

A. Applicant Information. The name, address, and phone number of 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 agent to represent the Applicant;

B. Property Owner Information and Authorization. The name, address, and telephone number of the property owner of the proposed Site of any Small WTG. If the said

owner is not the Applicant, the application shall include (i) a letter or other written permission signed by such property owner that (i) confirms that the property owner is familiar with the proposed application(s) and (ii) authorizes the submission of the application, or (ii) the submission of an easement, lease, or other agreement of such owner relative to the siting of the Small WTG;

C. Site Information. The address of each proposed tower location including the tax map section, block and lot number;

D. Height Information. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system;

E. Electrical Drawing. 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 Uniform Fire Prevention and Building Code and other applicable codes and requirements;

F. Electric Use. Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location;

G. Utility Notice. 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, and so states so in the application, to connect the system to the electricity grid;

H. Visual Analysis. A visual analysis of the Small WTG 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.

SECTION 3: DEVELOPMENT STANDARDS - All Small WTG 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 in this section:

A. Lot Size. A Small WTG shall be located on a lot with a minimum size of one acre; however, this requirement can be met by multiple owners submitting a joint application or by the Applicant obtaining a lease, easement, or other consent from applicable neighboring landowners;

B. Number. Only one Small WTG per acre and/or per lot shall be allowed. Multiple Applicants' joint lots shall be treated as one lot for purposes of this Article;

C. Use. Small WTGs shall be used primarily to reduce the on-site consumption of electricity;

D. Color. The WTG's tower and blades shall be (i) painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible, and (ii) incorporates non-reflective surfaces to minimize any visual disruption;

E. Visual Impact. The Small WTG shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas;

F. Lighting. Exterior lighting on any structure associated with the system shall not be allowed except when otherwise required by the FAA;

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

H. Electromagnetic Interference. 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 harmful interference or cease operation of the system;

I. Signs. 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;

J. Access Control. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access control(s): (i) Tower-climbing apparatus located no closer than 12 feet from the ground; (ii) A locked anti-climb device installed on the tower; and/or (iii) A locked protective fence at least six feet in height that encloses the tower;

K. Anchors. Anchor points for any guy wires shall be located within the property boundaries where the Small WTG is located and shall not cross any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a 6' fence, sheathed in a non-removable covering from ground level to a height of eight feet above ground level, or similarly protected as directed by the Town;

L. Access Roads. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural conditions after completion of installation;

M. Code Compliance. All Small WTGs shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Code and other applicable codes and requirements;

N. Controls. All Small WTGs 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.

SECTION 4: STANDARDS – All Small WTGs shall comply with the following standards:

A. Setbacks. A Small WTG shall not be located closer to a property line than 1.1 times the Total Height of the Small WTG;

B. Noise. Except during short-term events including utility outages and severe wind storms, a Small WTG shall be designed, installed, and operated so that the noise generated by the system shall not exceed 50 decibels as measured at the closest Residence not located on Site.

SECTION 5: PERMIT REVIEW AND PROCESS – The procedural provisions of Article II, Sections 2, 3 and 4 shall apply to the review and issuance or denial of Small WTG Wind Energy Facilities permits under this Local Law.

SECTION 6: ABATEMENT -

A. Operation. All small WTG shall be maintained in good condition and in accordance with all requirements of this Article.

B. Removal. Small WTG which are not used for a continuous period of 1 year 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 requirement, or with any and all conditions that may be attached to the granting of any permit, shall constitute grounds for the revocation of the permit.

ARTICLE IX – GENERAL AND MISCELLANEOUS PROVISIONS

SECTION 1: PERMITS, FEES AND AGREEMENTS -

A. Wind Energy Permits. Non-refundable application fees shall be as follows:

1. WTG Wind Energy Permit: $250 per WTG.

2. Wind Measurement Towers Wind Energy Permit: $200 per tower.

3. Small WTG Wind Energy Permit: $150 per WTG.

4. Wind Measurement Tower Wind Energy Permit renewals: $50 per WTG.

B. Building Permits. The review of building and electrical permit applications and renewals, and the inspection of such facilities, requires specific expertise. Accordingly, the permit fees for such facilities shall be $25 per permit request for administrative costs, plus the amount charged to the Town by any outside consultant hired by the Town to review the applications, plans, construction, or conduct the inspections. In the alternative, the Town and the Applicant may enter into an agreement for an inspection or certification procedure for these unique facilities. In such cases, the Town and the Applicant may agree to a fee and escrow agreement to pay for the costs of inspections, the review of plans, test results and certifications, and such other reviews and services as may be reasonably needed in connection with any matter pertaining to permits or this Local Law.

C. Host Community Agreements. Nothing in this Local Law shall be read as limiting the ability of the Town to enter into host community or PILOT agreements with any Applicant to compensate the Town for expenses or impacts on the community.

SECTION 2: VIOLATION AND ENFORCEMENT -

A. Penalties. Any Person that (i) violates or fails to comply with this Local Law or the terms and condition of any Waiver, Variance or Permit, or (ii) fails to obey the lawful order or direction of the Enforcement Officer, or (iii) who assists, aides, or abets any such violation, non-compliance or lack of adherence to a lawful order, shall be shall be guilty of an offense and (i) subject to prosecution civilly or criminally, and (ii) subject to the fines and penalties as set forth below:

1. First Violation: Any Person that violates Local Law shall be (1) guilty of a criminal offense and subject to a fine of not more than $350.00 per violation per day, or (2) subject to a civil penalty of not more than $350.00 per violation per day to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate offense for each day that such violation, disobedience, omission, neglect or refusal shall continue.

Similarly, a separate civil penalty shall apply and/or be assessable for each day that such violation, disobedience, omission, neglect or refusal shall continue.

2. Second Violation: Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any other violation of this Local Law shall be deemed a second violation. Any Person that commits any second violation shall be (1) guilty of an offense and subject to a fine of not more than $500.00 per violation per day, or (2) subject to a civil penalty of not more than $500.00 to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate offense for each day that such violation, disobedience, omission, neglect, or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each day that such violation, disobedience, omission, neglect, or refusal shall continue.

3. Third and Subsequent Violations: Any violation that is found to have occurred within 2 years of any prior civil or criminal determination of any second violation of this Local Law shall be deemed a third or subsequent violation, as applicable. Any Person who commits a third or subsequent violation of this Local Law shall be (1) guilty of an unclassified misdemeanor and subject to a fine not more than $1,000.00 per violation per day, or (2) subject to a civil penalty of not more than $1,000.00 per violation per day to be recovered by the Town in a civil action. Every such Person shall be deemed guilty of a separate unclassified misdemeanor for each day that such violation, disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each day that such violation, disobedience, omission, neglect, or refusal shall continue.

B. Other Remedies. The Town shall have the following additional rights or remedies:

1. The Enforcement Officer, upon observation of any violation or non-compliance with this Local Law or the terms and conditions of any Waiver, Variance or permit issued hereunder, shall be empowered to issue a stop work order. Any Person receiving a stop work order shall immediately cease and desist from all further construction or operation of any Wind Energy Facility or WTG and/or shall cease all acts, or failures to act, that are in violation of or non-compliance with this Local Law or the order of the Enforcement Officer. No actions, work or operations shall be continued or re-commenced until the stop work order is lifted by the Enforcement Officer.

2. In the event of any violation or threatened violation of any of the provisions of this Local Law, including the terms and conditions imposed by any Variance, Waiver or permit issued pursuant to this Local Law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such actual or threatened violation. In the event the Town seeks any equitable order or relief, the Town shall not be required to prove that there exists, or is likely to exist, an imminent threat of irreparable harm, and under no circumstances shall the Town be required to post any bond or undertaking.

3. In the event of any violation or non-compliance with this Local Law, or the terms and conditions of any Variance, Waiver or permit issued hereunder, the Town and/or the Enforcement Officer may withhold any permits, permit renewals, certificates of compliance, certificates of occupancy, approvals, and the like, and any applications upon the same, until such time as such violation or non-compliance is cured.

4. In the event of any violation or non-compliance with this Local Law, or the terms and conditions of any Variance, Waiver or permit issued hereunder, the Town and/or the Enforcement Officer may revoke any Variance, Waiver, certificate or permit by providing to the Person in violation or non-compliance a written Noncompliance Notice that specifies (i) the nature of the violation, non-compliance or other problem, (ii) the name and address of the issuing Officer and the Town, (iii) the actions necessary, or the actions that must be ceased or stopped, to cause compliance, and (iv) a date by which compliance is required, which date may not be longer than 90 days from the date of the Noncompliance Notice. If such Person has not caused, or come into, compliance with the requirements of this Local Law or the terms and conditions of any Variance, Waiver, certificate or permit, or the order of any Enforcement Officer, then the Enforcement Officer may suspend or revoke any such Variance, Waiver, certificate, or permit. Such determination and the issuance of a Noncompliance Notice may be appealed through the Administrative Appeal process set forth in this Local Law. If any court proceedings are brought concerning any Variance, Waiver, certificate, or permit suspension or revocation and there is an adjudication in favor of the Appellant, Applicant, Operator, or Person holding a permit, Variance, or Waiver pertaining to (i) the alleged violation of this Local Law, or (ii) any Variance, Waiver, certificate, or permit issued hereunder, then the Variance, Waiver, certificate, or permit shall be reinstated by the Enforcement Officer with the same effect as if (1) no Noncompliance Notice had ever been issued, and (2) no suspension or revocation had occurred.

5. To condemn and order removal of any structure that is an unsafe building or structure under the Uniform Fire Prevention and Building Code, or other applicable laws and regulations.

6. To order cleanup, remediation, removal, and the decommissioning of Wind Energy Facilities, and failing compliance with such order, the Town may recover its expenses pursuant to the following procedures. The Enforcement Officer may order any Person to (i) cleanup, remediate, and restore any Site to its condition prior to its use as a Wind Energy Facility or to its natural condition, and/or (ii) remove any Wind Energy Facility when authorized or required under this Local Law. Such Person shall then have a period of no more than 90 days in which to remove facilities, cleanup, remediate, and restore the Site(s). Upon notification given by the Enforcement Officer to the Town Board that the Owner has failed or refuses to remove facilities, cleanup, remediate, and/or restore the Site within that 90-day period, the Town Supervisor may,

but is not required to, cause the Town to commence or contract-out the removal, cleanup, remediation, and restoration of such Site(s). After the work has been completed the Enforcement Officer shall file in the office of the Town Clerk a verified statement (herein, the "Verified Statement") of all the direct costs of the removal, cleanup, remediation or restoration of the Site(s), together with a 50% surcharge as compensation to the Town for administering, supervising and handling said work in accord with the provisions of this Local Law. Such Verified Statement shall be served by certified mail upon the Person so ordered to cleanup, remediation, removal, and decommissioning any Wind Energy Facilities and any other responsible party. Upon such filing and service, each such Person shall, within 30 days, pay the amount(s) indicated as due to the Town under such Verified Statement. Absent payment within the said 30 days, (i) the Town may enter a civil judgment in the amount of any Verified Statement through the Town Court, or any other court of competent jurisdiction, and enforce the same in accord with law, and/or (ii) the Town Clerk may, where such Person owns the land upon which is situate the affected Site, enter the same in the records of the Town Clerk as a lien against the affected properties, shall add the same to the next assessment roll of general Town taxes, and collect and enforce the assessment in the same manner, by the same proceedings, at the same time, and under the same penalties as the general Town tax, and as a part thereof. The making and filing is a Verified Statement is subject to the filing of an Administrative Appeal as set forth in this Local Law, and the amount claimed as due in such Verified Statement is also subject to such appeal and review. The amount of the Verified Statement may, but is not required to be, offset by any amounts actually recovered by the Town from any Decommissioning Fund. Similarly, the Town need not apply to any surety or other holder of Decommissioning Funds prior to effecting cleanup, remediation, removal, and decommissioning, issuing any Verified Statement, or seeking to collect such amounts due, whether judicially or administratively through tax assessment(s) or otherwise.

C. Each and all remedies and rights of the Town under this Article shall be cumulative. The Town's pursuit of any one right or remedy does not effect a waiver or an election of remedies, and the Town may thereafter pursue or continue to pursue any other right or remedy it may have in law, equity, or in admiralty. The rights and remedies herein stated are not the exclusive rights and remedies of the Town.

SECTION 3: SECTION 487 TAX ELECTION – Pursuant to Subdivision 8 of the New York Real Property Tax Law, the Town hereby declares and determines that no exemption under said Section 487 (as now exists or as hereafter re-codified or amended) shall be applicable within the Town with respect to wind energy systems or farms. The Town reserves the right to enter into an authorized PILOT agreement with any Person in connection with any such wind energy system or farm.

SECTION 4: SEVERABILITY - If any provision of this Local Law shall be adjudged by any court or other tribunal of competent jurisdiction to be invalid or unenforceable, such determination or judgment shall not affect, impair, or invalidate the remainder of this Local Law, which shall remain valid and enforceable. Any found invalidity or unenforceability shall be confined in its operation only to (i) the jurisdiction where such invalidity or unenforceability was determined, and (ii) the provision directly involved in the controversy in which such determination or judgment shall have been rendered, and (iii) the parties, facts, and circumstances involved in the particular controversy reviewed, and such determination or judgment shall not apply to other parties, facts, or circumstances.

SECTION 5: INDEMNITY AND LIMMITATION UPON TOWN LIABILITY - In the course of conducting any removal, cleanup, remediation, or restoration operations, all work shall be undertaken with a diligent regard to, and a diligent application of, all applicable safety standards, rules, laws and regulations, in accord with the safest practice and customs in the applicable industry. Each Person working upon any removal, cleanup, remediation, or restoration work, including all Persons acting in furtherance of the performance of any work pursuant to or under any Noncompliance Notice, shall indemnify, keep and save harmless the Town from and against any and all losses, costs, damages, expenses, judgments, claims, or liabilities of any kind whatsoever which may accrue against or be charged to or recovered from the Town from or by reason of or on account of accidents, injuries, damages, and/or losses to Persons or property during any removal, cleanup, remediation, or restoration work. This indemnity provision shall be construed and applied to the maximum extent permitted by law. The Town shall not be liable or responsible for any injury to Persons or damage to property due to the Town's actions, or failures to act, under or pursuant to this Local Law, unless it is proven to a reasonable degree of certainty that such injury or damage was solely caused by a malicious, or similar willful or intentional, act of the Town.

SECTION 6: CONSTRUCTION – Section and paragraph headings are for convenience only and do not limit or define the contents of such paragraph or section. Words in the singular or plural shall be construed in the singular or plural as the context thereof so requires or admits. Words in the masculine, feminine or neuter gender shall be construed as in such gender the context thereof so requires or admits.

SECTION 7: EFFECTIVE DATE AND FILING - This Local Law shall be and become effective immediately upon filing with the Secretary of State in accordance with Municipal Home Rule Law. In addition, this Local Law shall be filed with the Tompkins County Department of Assessment, the New York State Board of Real Property Services, and the Office of the President of the New York State Energy Research and Development Authority.