

Note: "XXX" is the Chapter Number which will be assigned by General Code when this is inserted into the Clarkson Code Book

LOCAL LAW # 1-2010
WIND ENERGY FACILITIES LAW OF THE TOWN OF CLARKSON

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF CLARKSON

XXX- 1. Title. This Chapter may be cited as "Local Law #1-2010" or "Wind Energy Facilities Law of the Town of Clarkson".

XXX-2. Findings. Based on the recommendations of the Wind Generator Committee, a committee created by Local Law #1-2009 as revised by Local Law #3-2009, the Town Board finds that:

- A. Wind energy is an abundant, renewable, and nonpolluting energy resource of the Town of Clarkson 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 sources.
- B. The generation of electricity from properly sited wind turbines has the potential to tie into existing power distribution systems allowing for the transmission of electricity from wind generation stations to utilities or other users, or alternatively may be used to reduce or eliminate on-site consumption of energy.
- C. 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, the environment, and the general public. Wind Energy Conversion Systems need to be consistent with the Town of Clarkson Zoning Code and the Town of Clarkson Comprehensive Plan.
- D. Wind Energy Conversion Systems may represent significant potential issues because of their size, environmental impacts, and safety effects such as: lighting/shadow effects, risks to avian species, blade and ice throw, tower toppling, or communications. The installation of Wind Energy Conversion Systems may change the landscape and appearance of the Town of Clarkson.
- E. Wind Energy Conversion Systems may present risks to the property values of adjoining property owners.

XXX -3. Purpose. The purpose of this Local Law is to promote the effective and efficient use of the Town's wind energy resources through wind energy conversion systems (WECS), and to regulate the construction, placement, operation and decommissioning of such systems so that the public health, safety, and welfare will not be jeopardized.

XXX- 4. Authority. The Town Board of the Town of Clarkson adopts this Local Law under the authority granted by:

- A. Article IX of the New York State Constitution, § 2 (c) (6) and (10).
- B. New York Statute of Local Governments, § 10 (1), (6), and (7).

- C. New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and § 10 (1)(a)(6), (11), (12), and (14).
- D. The supersession authority of New York Municipal Home Rule Law, § 10 (2)(d)(3).
- E. New York Town Law, Article 16 (Land Use).
- F. 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).
- G. New York Town Law § 64(17-a) (protection of aesthetic interests) and (23) (General powers).

xxx-5. Definitions; word usage; interpretation.

A. The following rules of construction of language shall apply to the text of this chapter:

- (1) Words used in the present tense include the future tense.
- (2) Words used in the singular include the plural, and words used in the plural include the singular.
- (3) The word "person" includes an individual, firm or corporation.
- (4) The word "shall" is always mandatory; the word "may" is always permissive.

B. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

C. In cases where words or phrases are not defined in this chapter but are defined elsewhere in the Clarkson Code, the words or phrases shall have the meaning set forth elsewhere in the Code.

D. In the event of a conflict, the definitions in this chapter shall control

E. When used in this chapter the following terms shall have the respective meanings set forth herein, except where the context shows otherwise:

ALTERNATIVE ENERGY SYSTEMS: Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, or electricity or other forms of energy on-site and may be attached to or separate from the principal structure. Current examples include windmills, solar collectors and solar green houses, heat pumps or other related devices.

APPLICANT, DEVELOPER, OPERATOR or OWNER. As used in this chapter, the terms Applicant, Developer, Operator and Owner may, where appropriate, be interchangeable and will be interpreted to give the most reasonable and logical application to the provision(s) containing one or more of these terms..

AS BUILT: When construction conditions require changes to contract drawings they are so noted and described on final drawings of record.

DEVELOPER. See “**APPLICANT, DEVELOPER, OPERATOR or OWNER**” above.

ELECTRONIC AND ELECTRONIC MAGNETIC INTERFERENCE: Interference to satellite towers, microwave transmissions, cell communication towers and “ghosting” of television reception caused by electronic reflections of electrical generating facilities.

ESSENTIAL SERVICES AND PUBLIC UTILITIES: Erection, construction, operation, or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities, but shall not include telecommunication facilities as defined herein, and shall not include wind energy facilities (including infrastructure supporting wind energy facilities), landfills, waste transfer stations or other facilities with the primary purpose of handling or disposing of household or industrial waste.

FALL ZONE (FOR WIND ENERGY SYSTEMS): A distance of one and a half times (150%) the Wind Energy Conversion System height as measured as a vertical distance from the pre-construction or post construction grade, whichever is lower, at the tower base to the highest point (apex) of the rotor blade.

GLOBAL POSITIONING SATELLITE (GPS): Satellite placed, monitored by governments, to accurately reference electronically, instrument locations on the earth’s surface.

GROUND CLEARANCE: The minimum distance between the lowest point of the rotor blade rotation and ground at the base of a tower.

HUB HEIGHT: Center of rotational axis of rotor blades and gearbox (nacelle).

INDUSTRIAL WIND ENERGY FACILITY: Shall be considered to be the same as Large WECS and regulated as such.

LICENSED: Unless provided otherwise, any reference to a licensed engineer, licensed surveyor, licensed architect or licensed landscape architect shall mean that the person is currently licensed for his or her profession by the State of New York.

METEOROLOGICAL TOWERS: (also referred to as MET Towers) Any commercial equipment and tower used to collect atmospheric data such as temperature, wind speed and direction.

NACELLE: Large enclosure placed at the top of supporting tower, housing equipment such as the generator, gearbox, drive train, rotor blades and hub and breaking system.

NET-METERING: An exchange of excess electricity between owner of generating facility and utility company. The utility company may accept over generation beyond the owner's needs and allows the metering system to reverse spin, thereby crediting the producer under an interconnection agreement.

OFF GRID: Wind System not connected to power grid.

OPERATOR. "APPLICANT, DEVELOPER, OPERATOR or OWNER" above.

ON GRID: Wind System connected to power grid.

OVERLAY DISTRICT: A district that encompasses one or more underlying districts and that imposes additional requirements above that required by the underlying district.

OWNER. See "APPLICANT, DEVELOPER, OPERATOR or OWNER" above.

PILOT PROGRAM: (Payment In Lieu of Taxes) A program implemented as replacement of revenue lost to towns by State of New York Tax Exemption Law for renewable energy systems (Real Property Tax Law 487).

SHADOW FLICKER: Effect of sunrays passing the rotating blades of a wind energy generating system similar to the effect of strobe lighting.

SPECIAL USE PERMIT. Sometimes referred to elsewhere in the Clarkson Code as a "Special Permit".

Standard Interconnection Agreement: Agreement between local producer and utility company

SOUND PRESSURE LEVEL OR SOUND LEVEL (dBA): A logarithmic measurement of sound pressure (sound level) fluctuation produced by a particular source of sound as compared to a reference (background) sound pressure level. Sound pressure shall be expressed in decibels, using A-frequency weighting (dBA), which is the most commonly used standard in the United States for the measurement of environmental noise. With human hearing, low and high frequency sounds appear to be less loud. A-weighting (A-frequency weighting) reduces the level of low and high frequencies to produce a reading that corresponds approximately to what humans hear. The measurement of sound pressure levels shall be performed in accordance with the latest revision of International Standards for acoustic noise measurement techniques for Wind Turbine Generator Systems (IEC 61400-11) or other industry accepted procedures.

TOTAL HEIGHT: (also TIP HEIGHT or MAXIMUM OVERALL HEIGHT) The vertical distance from the pre-construction or post construction grade, whichever is lower, at the tower base to the highest point (apex) of the rotor blade.

TOWER: The support structure, including guyed, monopole and lattice types, upon which a wind turbine, nacelle, generator and other mechanical and electrical devices are mounted.

TOWER HEIGHT: The vertical distance from the pre-construction or post construction grade, whichever is lower, at the tower base to the center of the horizontal axis of the rotor blade.

TRANSFORMER: An electrical device used to change voltages.

TRANSMISSION LINES: Conductive lines required delivering derived power to electrical grid.

VERTICAL AXIS WIND TURBINE: (also VAWT) One or more mechanical devices, such as wind turbines, with multiple caged blades which are designed and used to convert the kinetic energy of wind into a usable form of energy. The turbine rotates on a vertical axis. The VAWT includes all parts of the system except the tower and transmission equipment.

WIND ENERGY OVERLAY DISTRICT: A zoning overlay district which encompasses part or parts of one or more underlying districts and establishes requirements limited to Large Wind Energy Conversion Systems.

WIND ENERGY FACILITY: Any Wind Energy Conversion System, including Large Systems, Medium Systems, Small Systems or Meteorological Towers (MET Towers), including all related infrastructure, electrical lines and substations, access roads, and accessory structures.

WIND ENERGY CONVERSION SYSTEM: The equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation or support, generator, infrastructure, nacelle, rotor, tower, transformer, turbine, vane, wire, substation, or control facilities or other components used in the system. The turbine or windmill may be on a horizontal or vertical axis. A wind energy conversion system may consist of one or more wind turbines.

A-LARGE WIND ENERGY CONVERSION SYSTEM: (Large WECS) A wind energy conversion system (WECS) consisting of one wind turbine, one tower, and associated control or conversion electronics and delivery system which has a total height of greater than 100 feet but no greater than four hundred (400) feet.

B-MEDIUM WIND ENERGY CONVERSION SYSTEM: (Medium WECS) A wind energy conversion system (WECS) consisting of one wind turbine, one tower, and associated control or conversion electronics and delivery system which has a total height of greater than 35 feet but no greater than one hundred (100) feet.

C-SMALL WIND ENERGY CONVERSION SYSTEM: A wind energy conversion system consisting of one wind turbine, one tower, and associated control or conversion electronics, which has a total height not to exceed 35 feet.

Size, Classification and Zoning Allowability Matrix

WEC Size	Neighborhood Res RS-10 Blue	Suburban Residential RS-20 Blue	Agriculture Preservation RS-20 Green (Proposed)	HD Res Hamlets (all) Comm Light Indust Rec Conserv General Indus All Others Historical
<u>Small</u> Up to 35'	Yes	Yes	Yes	Yes
<u>Medium</u> Greater than 35' up to 100'	No	Yes	Yes	No
<u>Large</u> Greater than 100' up to 400'	No	Yes	Yes	No

WIND SITE ASSESSMENT

A.MET

When prior to construction of a WECS or applying for a Wind Energy Overlay District, an assessment of local wind speeds and the feasibility of using particular sites is desired, installation of MET Towers, shall be permitted upon the Planning Board issuing a Special Permit. The standards for the Special Permit shall be those set forth in Article VI of the Clarkson Zoning Code.

B. Applications. An application for a special permit for a MET Tower shall include:

1. Name, address and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
2. Name, address and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner:
 - a. Confirming that the property owner is familiar with the proposed applications
 - b. Authorizing the submission of the application.

3. Address of each proposed tower site, including Tax Map section, block, and lot number.
4. A site plan.
5. A decommissioning plan shall include a cash deposit or letter of credit for removal.

C. Standards.

1. A maximum height of 200 ft. Should a taller MET Tower be desired, an application to the Zoning Board of Appeals for an area variance will be required.
2. The distance between a wind measurement tower and the property line shall be at least 1.5 times the total height of the tower. Sites can include more than one parcel and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.
3. Special Use Permits for wind measurement towers may be issued for a period of up to 24 months. Permits may be renewed if the facility is in compliance with the conditions of the Special Use Permit.
4. Anchor points for any guy wires for a wind measurement tower shall be located within the property that the system is located on and not on or across above ground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering for three feet to eight feet above the ground.

D. Application review process.

1. Applicants may request a pre-application meeting with the Town Planning Board, or with any consultants retained by the Planning Board for application review.
2. Twelve copies of the application shall be submitted to the Planning Board. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.
3. Town staff or Town-designated consultants shall, within 30 days of receipt, or such longer time as agreed to by the applicant, determine if all information required under this article is included in the application. Unless the Planning Board waives any application requirement, no application shall be considered until deemed complete.
4. If the application is deemed incomplete, the Planning Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of wind measurement towers proposed is increased.
5. Upon submission of a complete application, including the grant of any application waiver by the Planning Board, the Planning Board shall hold at least one public hearing on the application.

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

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

xx- 6. WIND ENERGY OVERLAY DISTRICT

A. CREATION. The Town Board of the Town of Clarkson hereby adopts the rules and procedures for creating Wind Energy Overlay Districts to allow consideration of use of the Town's wind energy resource through Large Wind Energy Conversion Systems (Large WECS) and to regulate or prohibit the placement of such systems so that the public health, safety, and welfare will not be jeopardized.

B. WIND ENERGY OVERLAY DISTRICT

1. Wind Energy Overlay Districts are permitted only (RS-20), and Agricultural Preservation and Suburban Residential (SR) Proposed by comprehensive plan.
2. No Wind Energy Overlay District may be initially created without specific requests for a WECS.
3. Once a Wind Energy Overlay District has been created, new Wind Energy Conversion Systems, accessory structures, or facilities may be added in that district by the granting of a Special Use Permit as set forth herein.

C. CREATION OF WIND ENERGY OVERLAY DISTRICTS

1. The process to be followed shall be the same as for the rezoning of land as set forth elsewhere in the Clarkson Code and in Article 16 of the New York State Town Law.
2. If approved, the creation of the overlay district shall be deemed null and void after two years if no construction takes place within the two years. For the purpose of this provision the term "construction" shall not refer to grading, excavating and other general site improvements, but to the commencement of the construction of the towers and ancillary equipment including the providing of the financial security therefore.

XXX-7 LARGE WIND ENERGY CONVERSION SYSTEMS

A. GENERAL

1. No Large Wind Energy Conversion System shall be constructed, reconstructed, modified, or operated in the Town of Clarkson except in compliance with this section.
2. No Large Wind Energy Conversion System shall be constructed, reconstructed, modified, or operated in the Town of Clarkson, except in a Wind Energy Overlay District.
3. The placement, construction, and major modification of all Large Wind Energy Conversion Systems (Large WECS) within the boundaries of the Town of Clarkson shall be permitted only by Special Use Permit issued by the Planning Board.
4. Large Wind Energy Conversion Systems are permitted only in RS-20 (Proposed Agricultural Preservation (AP), Suburban Residential (RS)) Districts proposed by the comprehensive plan.
5. The applicant shall pay all costs associated with the Town of Clarkson's review and processing of each application. The applicant shall submit a deposit with the application in the amount as determined by resolution by the Town Board. The Town of Clarkson may require the applicant to enter into an escrow agreement to cover the anticipated engineering and legal costs of reviewing and processing all applications. This agreement will include the cost of the review required by SEQRA, creation of an overlay district, conducting of public hearings and modification to the Town of Clarkson Comprehensive Plan.
6. Prior to the creation of a Wind Energy Overlay District the Town Board has the ability to negotiate a payment in lieu of taxes and/or host community agreement with any applicant to compensate the Town for expenses or impacts on the community
7. The Town of Clarkson, as permitted by New York State Real Property Tax Law (RPTL) Section §487 (8), elects to eliminate any exemption granted to any wind farm or WECS system constructed after the effective date of this Local Law
8. Prior to the issuance of a building permit, the applicant shall provide the Town of Clarkson with proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with the construction and operation thereof.
9. Prior to the receipt of a building permit the Applicant and the Utility shall have a Standard Interconnection Agreement (SIA).

10. The applicant is responsible for remediation of dedicated roads damaged by the construction and maintenance of a Wind Energy Conversion System. A public improvement bond or other financial

security, the amount thereof to be approved by the Town Board and the bond approved by the Town Attorney as to form, sufficiency and manner of execution.

11. The Town of Clarkson shall be named as an additional insured under the general liability policy of the applicant, with an amount no less than an amount to be determined by the Town Board given the nature and scope of the project.
12. MET data is used to evaluate the feasibility of installing LARGE WIND ENERGY CONVERSION SYSTEMS (LARGE WECS).

B. APPLICATION

1. Applicants shall request a pre-application meeting(s) with the Planning Board, Building Department, Town Attorney, Town Engineer, and with any consultants retained by the Town for preliminary application review.
2. Upon submittal of an application, the Planning Board shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this application is included in the application. No application shall be acted on by the Planning Board until the application is deemed complete by the Planning Board.
3. An Application for a Large Wind Energy Conversion System (Large WECS) shall include the following:
 - a. Name, address, and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation. The application shall include a certified list of individual and corporate officers of the applicant and their responsibilities to this project.
 - b. Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that:
 - 1) The property owner is familiar with the proposed application.
 - 2) The property owner authorizes the submission of the application.
 - c. Proof of ownership of involved properties or long-term leases, legally executed and filed with the Monroe County Clerk.
 - d. Address or other property identification of each proposed tower location, including Tax Map section, block and lot number with Global Positioning Satellite (GPS) location of each proposed wind tower and related structure.
 - e. A plot plan with a minimum scale of one (1) inch = four hundred (400) feet prepared by licensed Professional Engineer, stamped and dated to include:
 1. Sufficient Copies of the Drawing Package as determined at the pre-application meeting.
 2. North arrow, bar scale and location map.
 3. Property Lines and physical dimensions of the site provided by a licensed land surveyor.
 4. Topography by one foot (1 ft.) contours.

5. The applicant shall include an existing Site Plan and proposed Site Plan to include all roadways, fields, ponds, lakes, water courses, wetlands, residences, buildings, structures, historical sites, cemeteries, bridges or culverts, water wells, sewage systems, crop land and wood land by lot, block and tax identification number.
6. Location of public roads, adjoining properties, schools, hospitals, and public buildings within two-thousand five hundred (2500) feet of the boundaries of the proposed LARGE WECS Site.
7. Each Large WECS clearly referenced including location and elevation.
8. To demonstrate compliance with fall zone and set back requirements, circles are to be drawn around each proposed tower location equal to:
 - a. One and a half (150%) times the tower height as measured from the apex of the rotor blade to the base of the tower.
 - b. Circles with a one-thousand five hundred (1500) foot radius.
- f. A Construction Plan sequential by site designation, estimated dates and duration of construction displaying access/egress roads for delivery of construction equipment, staging areas, parking areas for receiving and off loading of materials and structural components. No parking on public roads or streets shall be permitted.
- g. Documentation of existing road, culvert infrastructure. A pre-construction survey to be performed for the purpose of determining damage, and supplied to the Planning Board and Town of Clarkson Highway Department.
- h. Vertical drawing of the Large WECS showing total height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any rotor blade, location of climbing pegs, and access doors. One drawing may be submitted for each Large WECS of the same type and total height.
- i. Landscaping Plan depicting existing vegetation and describing any areas to be cleared and all specimens to be added, identified by species and species size at installation with their location.
- j. Lighting Plan: The applicant shall submit a lighting plan that describes all lighting . Such plan shall include, but is not limited to, the planned number and location of lights, lighting that may be required by the FAA including, a copy of the FAA lighting determination, types of light, whether any such lights will be flashing, and mitigation measures planned to control the light so not to spill over onto neighboring properties.
- k. Adjacent Property Owners: A list of all adjacent property owners of land within two-thousand five hundred (2500) feet as measured from the tower base to non-participating property lines shall be provided to the Planning Board for review and record retention. The list shall contain the names, property addresses, mailing address and tax map numbers of the property owners.
- l. Decommissioning Plan: The applicant shall submit a decommissioning plan which shall include:
 1. The anticipated life of the Large WECS.

2. The estimated decommissioning cost in current dollars.
 3. How said estimate was determined including the amount the cost is offset with salvage value.
 4. A Letter of Credit or cash deposit will be the required method for ensuring that the funds will be available for decommissioning and restoration.
 5. The method, such as annual re-estimate by an independent licensed professional engineer or qualified estimator approved by the Town, by which the decommissioning cost will be kept current.
6. The manner in which the Large WECS will be decommissioned and the site restored and shall include the following:
 - a. Removal of wind turbines and associated ancillary equipment.
 - b. Removal of substations and associated ancillary equipment.
 7. Removal of the concrete base of the wind turbine to a depth of not less than five (5) feet and restoration of affected land to pre-construction grade.
 8. Removal of buried cables if less than five (5) feet in depth.
 9. A pre-decommissioning survey, to be preformed by an independent third party, of roads, culverts and bridges and affected land. The survey shall include photo and/or video documentation.
 10. Removal of access roads and restoration of affected land.
 11. Widening of roadways if necessary for heavy equipment and final restoration of all roadways used during removal.
 12. Restoration of vegetation (consistent and compatible with surrounding vegetation) less any fencing or minor improvements requested by the landowner.
- m. The application shall include information relating to the construction, installation and repair of the Wind Energy Facility as follows:
1. Construction schedule describing anticipated commencement and completion dates.
 2. Hours of operation.
 3. Designation of heavy haul routes.
 4. A list of materials, equipment and loads to be transported.
 5. Identification of temporary facilities intended to be constructed, and representatives in the field with name and phone number(s).
 6. Specific turbine information on the type, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each wind turbine model, tower, and electrical transmission equipment.
 7. Method of delivery, both short and long term storage, and the method of removal from the Site of large components for repairs which may become necessary in the normal course of operation of the WECS over its operational life.
 8. The amount of farm land removed from use during the construction period and after completion of the Wind Energy Conversion Facility.
- n. SEQRA Review:
1. Applications for Large WECS are deemed Type 1 projects under SEQRA. The town may conduct its SEQRA Review in conjunction with other

agencies, in which case the records of review by said agencies shall be part of the record of the Town of Clarkson's proceedings. The SEQRA shall also include a Visual EAF Addendum (from SEQRA Part 617.20, Appendix B).

2. 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 of Clarkson shall issue a Statement of Findings. The Statement of Findings may also serve as the Town's decision on the application.
 - o. Agricultural Data Statement: If required by Section 283-a of New York Town Law or Section 305-a of New York Agricultural and Markets Law, the applicant shall submit an Agricultural Data Statement.
4. Wind Energy studies: The reviewing board may require some or all of the following studies.
Where applicable these studies shall comply with NYSDEC Visual and noise Assessment and Mitigation Guidelines
- a. Meteorological data
 - b. Shadow flicker
 - c. Visual impact
 - d. Property value analysis
 - e. Fire protection
 - f. Noise analysis
 - g. A geological report
 - h. Ice throw calculations
 - i. Blade throw calculations
 - j. Catastrophic tower failure
 - k. A complaint resolution process

C. STANDARDS FOR LARGE WECS

1. Construction and Traffic Routes:
 - a. Construction of a Large WECS poses potential risks because of the large size of construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such routes shall include:
 1. Minimize traffic impacts from construction and delivery vehicles.
 2. Minimize WECS related traffic during times of school bus activity.
 3. Minimize wear and tear on local roads.
 4. Minimize impacts on local business operations.
 - b. Permit conditions may require remediation during construction, limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public and all applicable state, county and municipal highway authorities and superintendents whose roads are included in the

WECS traffic route plan. Notification to all applicable highway authorities and superintendents will include the number and type of vehicles and their size, their maximum gross weight, the number of round trips, and the dates and time periods of expected use of designated traffic routes.

- c. The WECS Owner is responsible for remediation of damaged roads during construction and upon completion of the installation, periods of maintenance, and decommissioning/restoration of a Wind Energy Facility.
 - d. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable State and Federal laws and regulations.
 - e. Geological soil testing shall be done at each proposed tower foundation. Should testing suggest any interference with existing water aquifers the site will be disqualified.
 - f. Access roads required for construction shall be adequate to support weight of trucks, erection cranes, facility sections and heavy construction equipment. Temporary roads are to be returned to pre-construction condition leaving only private driveways used for routine maintenance by facility and utility crews. Overnight parking of vehicles will be permitted only during established construction period or during periods requiring additional personnel or equipment for maintenance and repair of a WECS. Parking is prohibited on public roads at all times.
 - g. Excavation shall be as required for only foundation, over-excavation shall be repaired as per NYS Building Codes. Excess materials shall not be used to raise existing grade at the tower base. These materials may be used elsewhere on the proposed site by permission of the owner and Town of Clarkson Code Enforcement Officer. Excess materials may not be removed from the Town of Clarkson without permission from the Town Planning Board.
 - h. All underground work shall be clearly marked "As Built", documented during construction, plotted upon completed project drawings, and filed with the Town of Clarkson with "Dig Safely New York (1-800-962-7962)" or its successor.
 - i. Redesign of utility poles must consider impact of access for large farming machinery.
 - j. The Town of Clarkson will employ an independent engineering inspection service to monitor all construction/erection activities. The facility developer shall assume all costs of this service.
 - k. All solid waste, hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations as set forth by the appropriate agencies.
 - l. Any construction, ground disturbance or restoration involving agricultural land or land located in agricultural districts shall be done according to the New York State Department of Agriculture and Markets' publication titled "Guidelines for Agricultural Mitigation for Wind Power Projects."
2. Certification
- The Wind Energy Facility Developer shall employ an independent and Town of Clarkson approved, engineering service to certify to the Town that the facility is

built as designed and is qualified for service before final permit is issued by the Planning Board. The applicant shall provide the following certifications:

- a. All structural components, including the foundation, tower and compatibility of the tower with the rotor and rotor-related equipment shall be certified in writing by an independent licensed Professional Engineer. The engineer shall certify compliance with all applicable local, state, and federal codes and regulations.
 - b. After completion of the WECS, the applicant shall provide a post-construction certification from an independent licensed Professional Engineer stating that the project complies with applicable codes and industry practices and has been completed according to the design plans.
 - c. The electrical system shall be certified annually in writing by an independent licensed Professional Engineer. The engineer shall certify compliance with good engineering practices and with the appropriate provisions of IEEE standards and any other explicit technical standards required in New York State.
 - d. The rotor overspeed control system shall be certified in writing by an independent licensed Professional Engineer. The engineer shall certify compliance with applicable design and operational codes.
 - e. Certification of project completion must be supplied by the applicant and approved by the Town of Clarkson Code Enforcement Officer.
3. Color, Finish and Visual Impact
- a. All Wind Energy Facility Developers shall use measures to reduce the visual impact of WECS to the greatest extent possible. All structures shall be finished in a single, non-reflective matte finish color or a camouflage scheme and shall include a maintenance schedule and plan to maintain the finished color and appearance of the WECS.
 - b. Individual WECS within a Wind Energy Overlay District shall be constructed using wind turbines whose design and appearance shall exhibit uniformity to each other in all respects to height, color, size, geometry, and rotational speed.
 - c. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
 - d. No television, radio, or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the telecommunications provisions of the Town of Clarkson Zoning Code.
4. Compliance with Regulatory Agencies
- The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county, and local agencies having jurisdiction and approval related to the completion of the WECS.
5. Electrical
- a. All interconnecting lines and wires from generators to ground ancillary structures and utility transmission grid will be installed underground to the

maximum extent practicable. The Planning Board shall have the authority to waive this requirement only if the Planning Board has sufficient engineering data submitted by the applicant to demonstrate that underground transmission lines are unfeasible.

- b. Underground high voltage lines shall have cover to existing grade, per National Electrical Code (NEC) burial guidelines.
 - c. All precautions shall be applied to prevent stray voltage leakage; should such occur, immediate remedial correction must be taken. A report of complaint and remediation must be given to the Town of Clarkson Code Enforcement Officer for immediate analysis and remedial action.
6. Electromagnetic Interference
- a. No Large WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
 - b. No Large WECS shall be installed in any location along the major axis of an existing microwave communication link where its operation is likely to produce electromagnetic interference in the link's operation.
 - c. If it is determined that a Large WECS is causing electromagnetic interference, the operator shall take necessary corrective action to eliminate this interference, including relocation or removal of the facilities, or resolution of the issue with the impacted parties.
 - d. Failure to remedy electromagnetic interference is grounds for revocation of the Special Use Permit for any specific WECS causing the interference.
7. Fire Prevention
- a. Shall have automatic fire suppression system within the nacelle.
 - b. All WECS shall be designed and constructed in compliance with the applicable requirements of the New York State Uniform Fire Prevention Code, as currently in effect and as hereafter amended.
8. Height Restrictions
- a. The total height of any Large WECS shall be four hundred (400) feet. The total height shall be measured from the ground elevation from the pre-construction or post construction grade whichever is lower to the top of the tip of the blade at the apex of rotation.
 - b. The blade tip of any wind turbine shall, at its lowest point, have a ground clearance of not less than fifty (50) feet.
9. Landscaping
- Upon completion of the installation, the site shall be returned as close as possible to its natural state, including, but not limited to, restoring the subsoil and topsoil

to preconstruction condition and reforestation of any woodland that have been cleared for site preparation. Vegetation shall be planted in a natural pattern on the site to screen as much of the facility as possible without restricting air flow. Existing vegetation may be used to supplement new plantings.

10. Lighting

Towers and turbines shall not be artificially lighted or marked beyond the requirements of the Federal Aviation Administration (FAA). Minimum security or safety lighting may be allowed as approved on the Site Plan. Any lighting systems shall be designed to minimize light pollution and shall include the use of light hoods, low glare fixtures or directing lights at the ground. Lighting shall not shine onto adjacent properties.

11. Maintenance and Replacement

- a. A permitted facility may be maintained and repaired at any time, which becomes necessary in the normal course of operation of the Wind Energy Facility, without a Special Permit or Building Permit, provided the maintenance does not involve the following:
 1. An increase in the number of towers.
 2. An increase in the number of wind turbines.
 3. An increase in the tower height.
 4. A change in the tower location.
 5. A change in the type of wind turbine, nacelle or tower used.
 6. A change in the number or size of accessory structures.
 7. A change that increases the sound pressure level or shadow flicker produced by the facility.
 8. The transportation of heavy equipment, cranes and large spare parts that are oversize loads and require public road use, the widening of access roads, or pose potential damage to the infrastructure of the Town of Clarkson, or surrounding communities.
- b. Replacement in kind of a Wind Energy Facility may occur with Town Board approval when:
 1. There will be no increase in total height.
 2. No change in location of the WECS.
 3. No additional lighting change or facility color.
 4. No increase in noise or shadow flicker produced by the WECS.
- c. Overnight parking of vehicles will be permitted only during periods requiring additional personnel, equipment, or extended periods of time necessary for the maintenance and repair of a wind energy system. There will be no parking on public roads.
- d. Any damaged or unused parts shall be removed from the site within thirty (30) days or stored in a locked on-site storage building. All maintenance equipment, spare parts, oil or chemicals shall also be stored in said on-site locked storage building.

12. Safety and Security Requirements

- a. Large WECS shall have lightning arresting systems.

- b. Wind turbines shall be equipped with electromagnetic (automatic) and mechanical (manual) braking systems to prevent over rotation, reducing stress on tower and rotor blades. No wind turbine shall be permitted that lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
 - c. Security signs for public safety and warnings shall be required. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency contact information, including a local telephone number with 24 hour, 7 day per week coverage. The Planning Board may require additional signs as approved on the Site Plan.
 - d. A security plan shall be required and on file at the Town Hall. The training of first responders and any associated cost shall be the responsibility of the Wind Energy Facility owner/operator. Emergency personnel contact, including appropriate Emergency responders including the Clarkson Town Clerk, shall be posted at the site.
 - e. Vehicle access points shall be guarded by physical structure, fencing or bollards to block non-permitted access to driveways.
13. Noise Standards
- a. The statistical sound pressure level generated by a WECS shall not exceed 50dBA measured at the off-Site property line.
 - b. A Large WECS shall not operated so at an impulsive sound below 20 Hz at the off-site boundary line.
14. Large WECS Setback
- a. Each Large WECS shall be set back from Site boundaries as measured from the center of the Large WECS:
 - 1. One-thousand five hundred (1500) feet from:
 - any Hamlet district boundary line.
 - the property line of any school.
 - places of worship.
 - any public facility.
 - any public road and highway(centerline).
 - the nearest off-Site residence existing at the time of the application.
 - 2. One hundred (100) feet plus fall zone radius from state and federally identified wetlands. This distance may be adjusted to be greater distance at the discretion of the Planning Board, based on topography, land cover, land uses, state or federal requirements, and other factors such as the influence that a Large WECS has on any endangered species or the flight patterns of resident birds.
 - b. One hundred (100) feet plus the fall zone radius from:
 - the nearest farm building
 - utility lines.
 - c. Two hundred (200) feet plus the fall zone radius from on-site occupied structures (human and farm animal), and any historical site.

- d. Six hundred (600) feet from the nearest site boundary line or tax property boundary (non-residential).
 - e. The Planning Board may impose a setback that exceeds the other setbacks set out in this section if it deems that such greater setbacks are necessary to protect the public health, safety and welfare of the community.
15. Tower Structures
- a. The fall zones of a WECS shall not overlap one another.
 - b. Multiple towers may be sited on a contiguous property and on legally leased adjacent parcels.
 - c. Towers will only be of a mono tubular freestanding design with interior stairs accessed by a security door within the tower column. The use of guy wires is prohibited.
 - d. Nacelle will be of the latest upwind design accessed via interior stair only.
 - e. Wind turbine towers shall not have external ladders or climbing devices, fire suppression systems or extinguishers.
16. Wildlife Species and Habitat
- a. Development and operation of a Large WECS shall not have a significant adverse impact on endangered or threatened fish, wildlife, or plant species or their critical habitats or other significant habitats identified in the Town of Clarkson. Studies, plans and guidelines will be used to demonstrate criteria established by Federal or State regulatory agencies.
 - b. Design and layout of the facility shall not create artificial habitats which draw rodents or prey and entice raptors to frequent the site leading to increased bird strikes.

D. TRANSFER OF OWNERSHIP

No transfer of any Wind Energy Facility or Special Use 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), will occur without prior approval of the Town Board, which approval shall be granted upon written acceptance of the transferee of the obligations of the transferor under this section, and the transferee's demonstration, in the sole discretion of the Town Board, that it can meet the technical and financial obligations of the transferor. No transfer shall eliminate the liability of the transferor, nor of any other party, under this Section unless the entire interest of the transferor in all facilities in the Town is transferred and there are no outstanding obligations or violations.

XXX-8. SMALL WIND ENERGY CONVERSION SYSTEMS

A. GENERAL

1. The placement, construction, and major modification of all Small Wind Energy Conversion Systems (Small WECS) within the boundaries of the Town of Clarkson shall be permitted only by Special Use Permit.
2. Small Wind Energy Conversion Systems shall require a site plan review and approval by the Planning Board, a Special Permit issued by the Planning Board and a Building Permit issued by the Code Enforcement Officer per Article VI of the Town of Clarkson Zoning Code.
3. The Special Use Permit shall be valid initially for five (5) years. Renewal shall be in accordance with Section D below.
4. The applicant shall pay all costs associated with the Town of Clarkson's review and processing of the application. The applicant shall submit a deposit with the application in the amount as determined by resolution by the Town Board. The Town of Clarkson may require the applicant to enter into an escrow agreement to cover the engineering and legal costs of reviewing and processing the application. This agreement will include the cost of the review required by SEQRA.
5. If required by NYS Municipal Law, the application will be referred to the Monroe County Planning Department for review.
6. Small WECS are permitted in any zoning district.
7. The applicant is required to conform to all requirements of the Town of Clarkson Historical District.
8. The Small WECS shall be primarily used to reduce the on-site consumption of electricity of the residence and shall not exceed 110% of estimated annual consumption. At no time shall electricity be distributed across property lines except to tie into the electrical grid system. Small WECS shall be placed or located behind the front setback of the residence or 100 ft from the right-of-way, whichever is less.

B. APPLICATION

1. Applicants may request a pre-application meeting(s) with the Planning Board, Code Enforcement Officer and with any consultants retained by the Planning Board for review.
2. Upon submittal of an application the Planning Board shall, within thirty (30) days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this application is included in the application. No application shall be acted on by the Planning Board until the application is deemed complete by the Planning Board.
3. An Application for a Small WECS shall include the following:
 - a. Name, address and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
 - b. Name, address and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that:

1. The property owner is familiar with the proposed application.
2. The property owner authorizes the submission of the application.
- c. Provide a comprehensive description of the Small WECS, including location, total height of the tower, maximum rated capacity of the wind turbine and the utilities required.
- d. The Planning Board may require an instrument survey showing the location of the small WECS.
- e. The applicant shall include scaled engineering drawings (prepared by a licensed Professional Engineer, licensed Land Surveyor or Landscape Architect) which show details and dimensions of the following:
 1. Tower.
 2. Tower Guy wire and anchor details if any.
 3. Turbine.
 4. Foundation.
 5. Distance between ground and the lowest point of any rotor blade.
 6. Height and location of climbing pegs and ladders.
 7. Fencing and the color and finish of each major component.
 8. Details and dimensions of all proposed equipment, accessory structures, access roads and driveways.
- f. Applications shall include product information from the manufacturer of the proposed wind turbine or rotor blade, tower, supporting foundations, anchorage, inverter, structures and transmission lines as a composite.
- g. The application shall include a full SEQR Environmental Assessment Form (EAF) with Part 1 prepared by the applicant, which shall also include a Visual EAF Addendum (from SEQRA Part 617.20, Appendix B).
- h. If required by Section 283-a of New York Town Law or Section 305-a of New York Agricultural and Markets Law, the applicant shall submit an Agricultural Data Statement.
- i. The application shall include a written agreement in which the applicant agrees to pay for reasonable legal fees and consultant fees incurred by the Planning Board should they choose to employ a consultant to review the drawings, analyses, studies, reports and certifications submitted by the applicant. The applicant must also agree to pay for reasonable consultant fees incurred by the Planning Board should they choose to employ a consultant to assist with the SEQRA process. Any such agreement shall be subject to the review and approval of the Town Attorney or the Attorney advising the Planning Board.
- j. Applications shall include a written agreement in which the applicant agrees to provide and pay for a reasonable amount of pre-construction ambient noise level testing and post-construction sound pressure level testing and/or shadow flicker analysis when requested by the Planning Board. Testing may be requested at any time during the term of a Special Permit to ensure compliance or to resolve noise or visual complaints received from nearby property owners. Any such agreement shall be subject to the review and approval of the Town Attorney or the Attorney advising the Planning Board.

C. STANDARDS FOR SMALL WECS

1. The tower design must be certified by a Licensed Professional Engineer.
2. The tower height shall be no more than thirty five (35) feet.
3. Ground clearance of horizontal axis rotor blades shall not be less than fifteen (15) feet.
4. The use of guy wires is prohibited without a variance from the ZBA. In making a determination, Zoning Board of Appeals will apply the standards used for an area variance.
5. The proposed site shall include a fall zone radius of no less than 150% of tower height excluding the structure, if any, to which it is attached. The fall zone must be contained entirely inside the property line.
6. The system's sower, nacelle, and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporates non-reflective surfaces to minimize any visual disruption.
7. All WECSs shall be equipped with brake controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
8. All on-site electrical wires associated with the system shall be installed underground. This standard may be modified by the Planning Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
9. The statistical sound pressure level generated by a WECS shall not exceed 50dBA measured at the nearest residence property line located off the site. Sites can include more than one piece of property and the requirement shall apply to the combined properties.
10. No brand names, logo, antennas, or advertising shall be allowed on any part of the facility or 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 the system generator housing in an unobtrusive manner. However, permanent identification of manufacturer and responsible contact information in case of failure or malfunction will be mounted on the tower base.
11. The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county, and local agencies having jurisdiction and approval related to the completion of the WECS.

D. RENEWAL OF SPECIAL USE PERMITS FOR SMALL WECS

Three (3) Copies of the following information must be submitted to the Planning Board, and shall constitute a complete application for special permit renewal.

1. Special Use Permit Application Form. The application shall be marked "RENEWAL" by the applicant.
2. Special Use Permit Renewal Fee: The applicant shall pay a non-refundable renewal fee as established by the Town of Clarkson Town Board.
3. Renewal shall be every three (3) years
4. At the request of the Planning Board the applicant/owner shall make available (subject to a non-disclosure agreement) to the Town, all reports to and from the purchaser of energy from individual WECS as necessary to prove the WECS is

functioning. Requested reports may be edited as necessary to protect proprietary information.

5. Structural Integrity Certification: If the facility has been installed for longer than the manufacturer's warranty period, the renewal application shall include a certification that the facility was inspected for structural and mechanical integrity by a person certified by the Manufacturer, a licensed Professional Engineer.

XXX-9. MEDIUM WIND ENERGY CONVERSION SYSTEMS

A. GENERAL

1. Medium WECS shall require a site plan review and approval by the Planning Board, a building Permit issued by the Code Enforcement Officer per Article VI of the Town of Clarkson Zoning Code.
2. The applicant shall pay all costs associated with the Town of Clarkson's review and processing of the application. The applicant shall submit a deposit with the application in the amount as determined by resolution by the Town Board. The Town of Clarkson may require the applicant to enter into an escrow agreement to cover the engineering and legal costs of reviewing and processing the application. This agreement will include the cost of the review required by SEQRA.
3. If required by NYS Municipal Law, the application will be referred to the Monroe County Planning Department for review.
4. Medium WECS are permitted in the RS-20 (proposed Residential Agricultural (RA), Suburban Residential (RS)).
5. The minimum lot size shall be no less than seven (7) acres in area.

B. APPLICATION

1. Applicants may request a pre-application meeting(s) with the Planning Board, Code Enforcement Officer and with any consultants retained by the Planning Board for concept review.
2. Upon submittal of an application the Planning Board shall, within 30 days of receipt, or such longer time if agreed to by the applicant determine if all information required under this application is included in the application. No application shall be acted on by the Planning Board until the application is deemed complete by the Planning Board.
3. An application for a Medium WECS shall include the following:
 - a. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
 - b. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner confirming that:
 1. The property owner is familiar with the proposed application
 2. The property owner authorizes the submission of the application

- c. Address or other property identification of each proposed tower location, including tax map section, block and lot number.
- d. Provide a comprehensive description of Medium WECS, including location, total height of the tower, maximum rated capacity of the wind turbine and the utilities required.
- e. The Planning Board may require additional information, if necessary to complete its review.
 - 1. Title block showing the drawing title, date of preparation, name and address of applicant, name and address of a the person or firm preparing the drawing, and the signature and seal of a licensed Professional Engineer and licensed Land Surveyor.
 - 2. Site location map, including north arrow and bar scale.
 - 3. Boundaries and physical dimensions of the site in sufficient scale to verify setbacks.
 - 4. Existing watercourses and bodies of water, including any state and federal wetlands.
 - 5. Public and private roads within one hundred (100) feet of the site boundaries.
 - 6. Existing residential and non-residential structures and driveways located on-site.
 - 7. Existing residential and non-residential structures located off-site and within five hundred (500) feet of the site boundaries.
 - 8. Location of the proposed tower, equipment, foundations, guy points, substations, accessory structures, fences and any other amenities.
 - 9. Existing and proposed above ground and underground utilities located on the site.
 - 10. Shall present construction plan detailing access routes, on site disturbance of landscape, trees, soils and restoration thereof at completion of facility erection period.
 - 11. A circle drawn to scale around the tower which includes the fall zone equal to 150% of rotor blade height at apex.
- f. The applicant shall include scaled engineering drawings certified by a licensed Professional Engineer which show details and dimensions of the following:
 - 1. Tower
 - 2. Turbine
 - 3. Foundation
 - 4. Distance between ground and the lowest point of any rotor blade.
 - 5. Height and location of climbing pegs and ladders.
 - 6. Fencing and the color and finish of each major component.
 - 7. Details and dimensions of all proposed equipment, accessory structures, access roads and driveways.
- g. Applications shall include product information from the manufacture of the proposed wind turbine or rotor blade, tower, supporting foundations, anchorage, inverter, structures and transmission lines as a composite.

- h. The Application shall include a Full SEQR Environmental Assessment Form (EAF) with Part 1 prepared by the applicant and also a Visual EAF Addendum (from SEQRA Part 617.20, Appendix B).
- i. If required by Section 283-a of New York Town Law or Section 305-a of New York Agricultural and Markets Law, the applicant shall submit an Agricultural Data Statement.
- j. Applications shall include a proposed written agreement between the developer and the Town in which the applicant agrees to remove the facility and to restore the site when the facility reaches the end of its design life, if the facility ceases to operate for more than six (6) consecutive months, or if directed by the Town of Clarkson due to non-compliance.

The agreement must include the following:

- 1. All work will be arranged and paid for by the applicant.
- 2. A description of how the facility will be removed
- 3. A description of how the site will be restored.
- 4. Specify the estimated cost for removal and restoration.
- 5. Specify the source and/or method of funding that will be available for removal and restoration.

Any such agreement shall be subject to the review and approval of the Town Attorney or the attorney advising the Planning Board and approved by resolution of the Town Board.

- k. The application shall include a written agreement in which the applicant agrees to pay for reasonable consultant and legal fees incurred by the Planning Board should they chose to employ a consultant to review the drawings, analyses, studies, reports and certifications submitted by the applicant. The applicant must also agree to pay for reasonable consultant fees incurred by the Planning Board should they choose to employ a consultant to assist with the SEQRA process. Any such agreement shall be subject to the review and approval of the Town Attorney or the Attorney advising the Planning Board.
- l. Applications shall include a written agreement in which the applicant agrees to provide and pay for a reasonable amount of sound pressure level testing and or shadow flicker analysis when requested by the Planning Board. Testing may be requested at any time during the term of a special permit to ensure compliance or to resolve noise or visual complaints received from nearby property owners. Any such agreement shall be subject to the review and approval of the Town Attorney or the Attorney advising the Planning Board.

C. STANDARDS FOR MEDIUM WIND ENERGY CONVERSION SYSTEMS

- 1. The Tower Design must be certified by a licensed Professional Engineer.
- 2. The Tower Height shall comply with all applicable Federal Aviation Administration requirements.
- 3. Ground clearance of horizontal axis rotor blades shall not be less than twenty-five (25) feet.

4. Rooftop and tower systems supported in part or in whole by a non-residential structure shall be evaluated for the stress and loads developed by a Medium WECS and certified by a licensed Professional Engineer.
5. Wind turbine towers and any guy wire systems shall not be climbable for the first twelve (12) feet above ground level.
6. The proposed site shall include a fall zone radius of no less than 150% of total tower height.
 - The fall zone shall not:
 1. Include public or private roads.
 2. Be closer than fifty(50) feet from the site property line.
 3. Be located on or across any above ground electrical transmission or distribution lines.
7. 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. Security lighting shall be designed to minimize light pollution, including the use of light hoods, low glare fixtures, and directing lights at the ground.
8. The system's tower, nacelle, and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporates non-reflective surfaces to minimize any visual disruption.

9. All Horizontal Axis WECS shall be equipped with electro-magnetic and manual brake controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor and over stress the tower and components. Vertical axis wind turbines shall be controlled to prevent overspeed, and exceeding the design limits of the rotor, support structure, and other components.
10. All on-site electrical wires associated with the system shall be installed underground, whether net-metered or a stand alone system, except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Planning Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
11. The statistical sound pressure level generated by a WECS shall not exceed 50dBA measured at the off-site property line and a Medium WECS shall not operate at an impulsive sound below 20 Hz at the off-site boundary line.

12. If it is determined that a Medium WECS is causing electromagnetic interference, the operator shall take necessary corrective action to eliminate this interference, including relocation or removal of the facilities, or resolution of the issue with the impacted parties.
13. No brand names, logo, antennas, or advertising shall be allowed on any part of the facility or 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 the system generator housing in an unobtrusive manner.

- However, permanent identification of manufacturer and responsible contact information in case of failure or malfunction will be mounted on the tower base.
14. Access roads required for construction shall be adequate to support weight of trucks, erection cranes, facility sections and heavy construction equipment. The applicant is responsible for remediation of damaged roads during construction and upon completion of the installation or maintenance of a WECS.
 15. The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county, and local agencies having jurisdiction and approval related to the completion of the WECS.

XXX-10 Enforcement; Penalties; Abatement; Limitations; Bonds; Funds and Remedies for Violations for all WECS

A. ENFORCEMENT

In addition to the Code Enforcement Officer, the Town Board may, by resolution, appoint such town staff or outside consultants as it sees fit to enforce this section.

B. PENALTIES

Any person owning, controlling, or managing any building, structure, or land who shall construct, operate or maintain a wind energy conversion facility in violation of this Chapter or in noncompliance with the terms and conditions of any permit issued pursuant to this Chapter, or any order of the code enforcement officer, and any person who shall assist in so doing, shall be guilty of an offense and subjected to:

1. For a first offense, a fine of not more than \$350 or imprisonment for a period of not more than fifteen (15) days, or subject to both such fine and imprisonment.
2. For a second offense (both within a period of five (5) years), a fine of not less than \$350 or more than \$700 or imprisonment for a period not to exceed six months, or subject to both such fine and imprisonment.
3. For a third offense (all within a period of five years), a fine of not less than \$700 or more than \$1000 or imprisonment not to exceed six months, or subject to both such fine and imprisonment.
4. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amount set forth herein for each violation and each week said violation continues shall be deemed a separate violation.
5. If multiple units in one facility have the same, or similar violations, each shall be considered as a separate and distinct violation.
6. In case of any violation or threatened violation of any of the provisions of this Chapter, including the terms and conditions imposed by any permit issued pursuant to this section, in addition to other remedies and penalties herein provided, the Town of Clarkson may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving, and or use, and to restrain, correct, or abate such violation, to prevent the illegal act.

C. ABATEMENT

1. Public Nuisance

Every unsafe, incomplete, abandoned, or inoperable Wind Energy Facility is hereby declared a public nuisance which shall be subjected to abatement by repair, rehabilitation, demolition, or removal.

2. Inoperable:

- a. Non-function or lack of operation may be proven by reports to the Public Service Commission, New York State Energy Research and Development Authority (NYSERDA), by lack of income generation or physical damage. The applicant/owner shall make available (subject to a non-disclosure agreement) to the Town, all reports to and from the purchaser of energy from individual WECS, if requested as necessary to prove the WECS is functioning. Requested reports may be edited as necessary to protect proprietary information.
- b. Safety issues deemed to be of an imminent threat to the health, safety and/or welfare of any person affected by a WECS as determined by the Code Enforcement Officer shall require the immediate shut down of the WECS, an immediate corrective action shall be taken and the imminent threat fully mitigated.

3. If any WECS remains non-functional or inoperative for a continuous period of six months, the applicant agrees that, without any further action by the Town Board, it shall remove said system and return the land to pre-existing conditions at its own expense. Removal of the system shall include but not limited to:

- a. All above ground structures including support buildings, transmission equipment, and fencing from the property.
- b. Removal of the concrete base of a wind turbine to a depth of not less than five (5) feet below grade elevation.
- c. All agricultural areas shall be restored to as close to pre-construction conditions as possible and shall be in compliance with NYS Dept. of Agriculture and Markets guidelines. A remediation plan shall be put in place to identify and correct any remaining or recurring impacts derived from a WECS.

4. This provision may be waived at the discretion of the Town Board if the applicant demonstrates to the Town that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after a public hearing.

5. Notwithstanding any other abatement provisions, if the WECS is not repaired, made operational, or brought into permit compliance after said notice, and after a public meeting at which time the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, the Town may:

- a. Order either remedial action within a particular timeframe.
- b. Or order revocation of the Special Use Permit for the WECS and order removal of the WECS within Ninety (90) days. If the WECS is not removed, the Town Board shall have the right to use the security posted as part of the decommissioning plan to remove the WECS.

D. LIMITATIONS ON APPROVALS; EASEMENTS ON TOWN PROPERTY

1. Nothing in this Chapter shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on the site or any other property to reduce turbulence and increase wind flow to the WECS. Nothing in this Chapter 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 WECS. It shall be the sole responsibility of the WECS operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.
2. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Town Board deems appropriate, as long as said agreements are not otherwise prohibited by state law.

E. DECOMMISSIONING BOND OR FUND

1. The Applicant, developer, successors, property owner, heirs, or assigns, private or court appointed and of record shall continuously maintain a fund or bond payable to the Town of Clarkson for the removal of non-functioning towers, accessory facilities, and land restoration in an amount and frequency of review to be determined by the Town Board for the period of the life of the facility. This fund may consist of a letter of credit from a financial institution. The provisions and adequacy of such bond, fund or letter of credit shall be approved by the Town Board after review and approval of the Town Attorney or attorney representing the Town Board. All cost of the financial security shall be borne by the applicant, developer, successors, property owner, heirs, or assigns, private or court appointed and of record.
2. Any cost incurred by the Town that exceeds the amount of such financial surety or is not covered by said surety shall be the complete and sole responsibility of the applicant. If the applicant is insolvent and such costs cannot be practicably collected from said applicant, then such costs shall become a lien upon the property in which the costs were incurred. The lien shall thereafter be assessed on the next succeeding year's tax bill for such parcel and collected in accordance with normal tax foreclosure proceedings if such tax bill remains unpaid thereafter.
3. Upon completion of all such removal activities by the Town, any remaining portion of the posted surety shall be returned to the applicant.

F. TESTING FUND

A Special Use Permit shall contain a requirement that the applicant fund periodic noise and/or shadow flicker testing by a qualified independent third-party measurement consultant, which may be required as often as every two years, or more frequently upon request of the Town in response to complaints by neighbors. The scope of the testing shall be to demonstrate compliance with the terms and conditions of the Special Use Permit or site plan and shall also include an evaluation of any complaints received by the Town. The applicant shall have ninety (90) days after written notice from the Town Board, to cure any deficiency. An extension of the 90 day period may be considered by the Town Board, but the total period may not exceed one hundred eighty (180) days.

G. Severability.

If any part or provision of this Chapter or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this article or the application thereof to other persons or circumstances and the town board hereby declares that it would have enacted this Chapter or the remainder thereof had the invalidity of such provision or application thereof been apparent.

Note: "XXX" is the Chapter Number which will be assigned by General Code when this is inserted into the Clarkson Code Book