

TOWN OF SHELDON

LOCAL LAW NO.1-2003 REGULATION OF WIND ENERGY CONVERSION SYSTEMS

PROPOSED LOCAL LAW NO. 1 OF 2003
TOWN OF SHELDON

Local Law of the Town of Sheldon regulating Wind Energy Conversion Systems.

Being enacted by the Town Board of the Town of Sheldon as follows:

1. TITLE

This Local Law shall be known as the Town of Sheldon Local Law regulating Wind Energy Conversion Systems (WECS).

2. LEGISLATION

This Local Law shall read as follows:

I. PURPOSE

The Town of Sheldon promotes the effective and efficient use of wind energy conversion systems (WECS) with the minimum regulations on the siting, design and installation of conversion systems so that the public health, safety and welfare of neighboring property owners or occupants will not be jeopardized. In no case shall the provisions of this local law guarantee the wind rights or establish access to the wind.

II. DEFINITIONS

1. "Wind energy conversion system (WECS)" is any device such as a wind charger, windmill or wind turbine which is designed to convert wind energy to a form of usable energy.
2. "Manual and automatic controls" give protection to power grids and limit rotation of the blades to below the designed limits of the conversion system.

III. PERMITS

1. Special Permit Required

It shall be unlawful to construct, erect, install, alter or locate any

conversion systems within the Town of Sheldon, unless a special use permit has been obtained pursuant to this local law and the procedure for obtaining approval of a special use permit shall be governed according to the terms and conditions of Section 274-b of the Town Law of the State of New York. All applications for the special use permit shall be deemed a type I action under the New York State Environmental Quality Review Act. The permit shall be both a construction and an operational permit. A conversion system permit may be suspended and subsequently revoked at any time the conversion system does not comply with the rules and regulations set forth in this Local Law. The holder of the Special Use permit shall be given a reasonable opportunity to comply with the Rules and Regulations set forth in this Local Law before the permit is revoked and in the event of any questions as to the interpretation of the Rules and Regulations and/or compliance with the same the holder of the permit may appeal to the Town Zoning Board of Appeals to determine interpretation and/or compliance.

2. Application Materials

Application for a permit required by this local law shall be made on forms provided by the Town Clerk and shall contain or be accompanied by the following information:

- a. The applicant's and property owner's name, address and phone number;
- b. Plot plan showing property lines, easements, setback lines and layout of all structures on the lot;
- c. Plot plan to show location of the conversion system pole or tower, guy lines where required, guy line anchor bases and their distance from all property lines;
- d. A fee of \$100.00 for each WECS and the Town Board from time to time may change this fee by Resolution. Applicants shall also agree to pay any and all costs of the Town to review this application and the proposed draft E.I.S. including engineering fees, inspections and Town Attorney fees for review through the Life of the Application and Permit.
- e. A proposed real property Tax agreement pursuant to §487 of the New York State Real Property Tax Law providing for an

agreed assessment for the Town, County and School Tax Bills covering the system.

- f. A grading, soil erosion, sedimentation control plan, for both the construction and operating periods, shall be submitted by a licensed professional engineer.
- g. A visual simulation of the proposed WECS and/or at the discretion of the Town Board a balloon flotation at the height of each designated WECS.
- h. A reclamation plan which stipulates how the site will be restored to its natural state after it ceases to be operational. A bond must be posted in an amount equal to the costs associated with the reclamation plan and the removal of abandoned or unused systems.
- i. A bond in the amount of One Million dollars to cover damage to any Town property. The bond shall remain in full force and effect during the construction phase of any and all conversion systems covered under the Special Use Permit and the Town Board in its sole and absolute discretion may likewise require that the Bond remain in full force and effect during the operational stage of the conversion systems.

IV.

INSTALLATION

1. The safety of the design of all conversion system towers shall be certified by a licensed professional engineer experienced in WECS. The standard for certification shall be good engineering practices and shall conform to New York State and Wyoming County's officially adopted building and electrical codes.
2. All WECS shall be equipped with manual and automatic overspeed controls to limit rotation of blades to a speed below the designed limits of the conversion system. A licensed professional engineer shall certify that the rotor and overspeed control design and fabrication conforms with good engineering practices. No changes or alterations from the certified design shall be permitted unless accompanied by a licensed professional engineer's statement of certification.
3. All electrical compartments, storage facilities, wire conduit and interconnections with utility companies shall conform to national, state, county, and local codes. To minimize fire hazard, all electrical

wiring shall be placed underground in conformance with all applicable codes. All electric lines shall be placed in Schedule 80 vinyl/plastic pipe or cement and marked by plastic pipe at all property lines.

4. A visible warning sign of "High Voltage" will be placed at the base of all WECS. The letters on the sign shall be a minimum of six (6) inches in height.
5. All towers or poles must be unclimbable by design or protected by anti-climbing devices such as:
 - a. Fences with locking portals at least six (6) feet high;
 - b. Anti-climbing devices twelve (12) feet from the base of pole;
 - c. Anchor points for guy wires supporting a tower shall be enclosed by a six(6)-foot-high fence or shall be located within the confines of a yard which is completely fenced.
6. The compatibility of the tower structure with the rotors and other components of the WECS shall be certified by a licensed professional engineer.
7. The lowest point of the blade shall be a minimum of thirty (30) feet above the ground.
8. A WECS is prohibited upon the roof of any structure unless the structure has been approved for installation of a conversion system by a structural engineer certified by the State of New York.
9. No WECS shall be located within a required setback area in any zoning district.
10. All WECS towers, poles, or structures may exceed the height limitations of a zoning district in which located, but shall be a distance from the base of the structure to all property lines that is at least one and one-half (1 ½) times the height of the structure as measured from the base to the highest reach of its blade. All WECS shall be at least 750 feet from existing homes. As a result, should the structure collapse or topple, it shall fall wholly within the property on which it is located. The Town Board shall have the authority to grant variances as to this distance requirement when there is conversion development on contiguous parcels and/or the Town Board has sufficient information in the form of engineering data submitted by the applicant to permit the distance variance. The decision as to the variance, if any, shall be in the sole and absolute discretion of the Town Board and not subject to review or appeal.

11. It shall be the responsibility of the property owner and/or the applicant to contact the Federal Communications Commission (FCC) and Federal Aviation Agency (FAA) regarding additional permits necessary or any other applicable regulations for installation of conversion systems. Proof of compliance with FCC and FAA regulations shall be submitted prior to the issuance of a Special Permit by the Town Board.

12. The licensed professional engineer shall certify that the construction and installation of the conversion system meets or exceeds the manufacturer's construction and installation standards.

13. No WECS tower shall be constructed at a distance closer than one and a half times the height of the tower laterally of an overhead electrical power line (excluding secondary electrical service lines or "service drops"). The set back from underground electrical and gas distribution lines shall be at least one and a half times the height of the tower.

14. Construction standards shall be followed to avoid soil erosion and runoff particularly on steep slope areas (defined as lands with slopes of 15 percent or more). Engineering reports shall be submitted that show that runoff volumes and velocity shall be no higher after development than before development. Erosion and sediment control measures during the construction permit shall be required.

V. MAINTENANCE AND OPERATION

1. All WECS must be maintained and kept in good working order or shall be removed by the applicant or WECS operator according to Section X.

2. If the Town Board; or its consultant find that the WECS causes interference with microwave transmissions, residential television interference or radio reception, permittee must make any necessary modification to correct the cause.

VI. NOISE LEVELS

The noise levels measured at the property line of the property on which the conversion system has been installed shall not exceed fifty (50) decibels and in no event shall the conversion system create a nuisance. The Town Board shall have the authority to grant a variance as to the property line noise level where contiguous parcels are being used for conversion systems. This decision shall be in the

sole and absolute discretion of the Town Board and not subject to review or appeal.

VII. LOCATION

1. WECS must be set back one-and-one-half ($1\frac{1}{2}$) times the height of the tower or a minimum of seven hundred and fifty feet (750), whichever is greater from residences, any other habitable structure, any public highway, road or lot line.

2. WECS access roads and driveways that will enter any public road shall only be located with the approval of the Town of Sheldon Highway Department Superintendent.

VIII. DESIGN STANDARDS

1. Signs. One project identification sign, not to exceed thirty-two (32) square feet in area, shall be allowed. There shall be no logo or advertising associated with any WECS installation. No signs except the warning sign referred to in Section IV. 4, above, and the manufacturer's name shall be permitted.

2. Colors and surface treatment of the WECS and supporting structures shall be nonreflective, minimize visual disruption, and blend with the surroundings.

3. Lighting. WECS shall be equipped with air traffic warning lights and shall have prominent markings according to FAA standards. No additional lighting, except as required by the FAA, shall be allowed.

4. Turbines shall have a uniform design, layout pattern, color, and blade rotation direction. Tubular, as opposed to lattice, towers are preferred.

5. Removal of trees and other vegetation on the project site shall affect the minimum area and number of trees possible to minimize soil erosion.

6. No cluster of WECS shall include more than 10 towers per special use permit application. The Town Board shall have the authority to permit additional towers, but the decision as to additional towers shall be in the sole and absolute discretion of the Town Board and subject to public hearing required by Section 274-b of the New York State Town Law.

IX. INTERPRETATION

It is not the intention of this Section to interfere with, abrogate, or annul any covenant or other agreement between any parties; provided,

however, where this Section imposes a greater restriction upon the use of premises for wind systems or towers than are imposed or required by other laws, rules, regulations or permits, or by covenants or agreements, the more restrictive provisions shall govern.

X. ABANDONED TOWERS; REMOVAL

Any WECS or tower which is not used in operation for twelve (12) consecutive months shall be deemed abandoned and shall be removed by the WECS operator. The holder of the permit may request the Town Board to delay the designation of abandonment by submitting satisfactory proof to the Town Board that the Tower has not been abandoned and a date as to when the same will be operable. The Decision to delay a designation of abandonment shall be in the sole and absolute discretion of the Town Board and not subject to review or appeal.

XI. SEPARABILITY

If any section, subdivision, paragraph, subparagraph, sentence, clause, or phrase of this Section is for any reason held to be invalid or unenforceable as to any person or circumstance, the application of such section, subdivision, paragraph, subparagraph, sentence, clause, or phrase to persons or circumstances other than those as to which it shall be held invalid or unenforceable.