

Wind

§14 Traffic Routes

- A. Construction of WECSs poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECSs or the associated 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 WECS related traffic during times of school bus activity; (3) minimizing wear and tear on local roads; and (4) minimizing impacts on local business operations. Wind Energy Permit conditions may limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public.
- B. The Applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a WECS. Any such project shall be conditioned upon the applicant entering into a Road Use Maintenance Agreement with the Town to address pre- and post-construction roads surveys and the restoration of all damage created by the applicant in connection with the project. A public improvement bond shall be posted prior to the issuance of any Wind Energy Permit in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads. Any bonds posted pursuant to this requirement shall include language stating that nonpayment is an act of default protected by the bond, requiring notice from the surety to the Town in the event of nonpayment, and providing the Town not less than thirty days to exercise its rights under the bond prior to cancellation.

§17 Abatement

A. If any WECS fails to generate electricity for a continuous period of one year the Town Board may determine that it is “non-functional or inoperative” and require the Owner (or the purpose of this Section 17 an Owner is the holder of the Wind Energy Permit) to remove said WECS at its own expense. Removal of the WECS shall include at least the entire above ground structure and connected facilities down to 4 feet below grade, including transmission equipment and fencing and such other associated parts as the Town Board may direct. This provision shall not apply if the Town finds that the Owner has been making good faith efforts to restore the WECS to an operable condition, or if the non-functional or inoperative condition is the result of a force majeure event beyond the Owner's control. Nothing in this provision shall limit the Town's ability to order a remedial action plan after hearing. The Town shall provide Owner with at least 15 days' notice of the hearing. The Owner may present evidence at the hearing on the functioning or operation of the system, or explanation for delay in repair during such period. At such hearing, in order to warrant decommissioning of the system or any part thereof, the Town must first find by a preponderance of the evidence submitted and presented, that the WECS or any part thereof has been non-functional or inoperative continuously for 12 months. The Town after such hearing may order the removal of the WECS system or any part thereof (down to 4 feet below grade) that it finds has been non-functional or inoperative. Upon any direction by the

Town Board to an Owner of a WECS to remove any system or part thereof and the failure of the Owner to comply with such directive or to substantially commence such removal within 30 days of the directive, then the Town may proceed against the Decommissioning Bond or Fund as established hereinafter in compliance with paragraph 17(3) hereof.

B. Generation of electricity (or lack thereof) by a WECS may be proven by reports or documents provided to the Public Service Commission, NYSERDA, New York Independent System Operator, or other reporting agencies or by lack of generation of revenues from the sale of energy. The Owner shall make available (subject to a non-disclosure agreement) to the Town Board all reports to and from the purchaser of energy from the Wind Energy Conversion Systems, if requested, and such other reports it finds necessary to prove the WECS is functioning. All such reports submitted by the Owner may be redacted as necessary to protect proprietary information.

C. Decommissioning Fund. The Owners shall continuously maintain a fund, letter of credit or bond payable to the Town, in a form and from a Provider approved by the Town for the removal of non-functional towers and appurtenant facilities, in an amount to be determined by the Town, for the period of the life of the facility. This Decommission Fund shall be adjusted every three years for changes in costs of decommissioning and ~~restoration~~, as well as adjusted for inflation. The Fund shall be issued or maintained by bank licensed and authorized to do business in the State of New York or such other financial institution so authorized and approved by the Town Board. All costs of the financial security shall be borne by the Owner. All decommissioning fund requirements ~~shall be fully funded before commencement of construction of any portion of WECS.~~ Any Wind Energy Permit issued shall restrict construction until the Fund has been approved and accepted by the Town Board. Any bonds posted pursuant to these requirements shall include language stating that nonpayment is an act of default protected by the bond, requiring notice from the surety to the Town in the event of nonpayment, and providing the Town not less than thirty days to exercise its rights under the bond prior to cancellation.

Article VI Miscellaneous

§29 Fees

A. Non-refundable Application Fees shall be as follows:

1. WECS Wind Energy Permit: \$200 per megawatt of rated maximum capacity;
2. Wind Measurement Towers Wind Energy Permit: \$200 per tower, and \$200 for any other structure or part thereof not a tower;
3. Small WECS Wind Energy Permit: \$150 per WECS;
4. Wind Measurement Tower or Wind Energy Permits renewals/extensions {16(D)}: \$200 per Permit/WECS;
5. The fee for an Article 5 Waiver application (shall be \$250.00).

B. Wind Energy Permits; review, inspection, and approval fees. The Town believes the review of applications for Wind Energy Facilities and compliance monitoring of issued Wind Energy Permit requires specific third-party expertise. In addition to the permit fees for the WECS system as provided in 29(A) above, the Owner of the WECS shall pay the costs of such review as follows:

1. An outside consultant, approved by the Town, to review the plans submitted by the Applicant or its representative for compliance with this regulation and inspection of work, together with monitoring compliance with any issued permit for any WECS. All such expense shall be made by the Applicant, or Holder of such issued permit, if different, providing a cash advance payment to the Town Clerk prior to issuing such permit or such other form of advance payment as the Town Board may direct and approve.
2. Annual Report. The Owner shall file annually a report of all repair work to the WECS system, detailing any improvements, alterations or changes to any WECS or other structure of the systems or any of its components, together with a review fee of \$200.00 each WECS. The report shall be certified by a licensed engineer that such work has not change any permit condition. The Town, upon notice to the Owner, may refer the report to consultant if it reasonably believes that any work may change or adversely impact a permit condition. The Owner shall be responsible for any costs of any outside consultant, if necessary, to review the report.
3. Any costs associated with reviewing materials submitted by the Owner or the review of any condition of a permit, including, but not limited to, ensuring the system continues to be safe and compliant with the terms of such permit issued shall be expense of the owner of the system. Such expense shall be paid by the Applicant/Owner. Prior to incurring such costs, the Town agrees to provide the Applicant/Owner of the system with notice of such costs and reason for the same. The Applicant/owner may protest the costs by filing a protest with the Town Clerk within ten days of such notice. Said protest shall contain a statement of what is protested, and if a cost item is protested then an estimate from an independent person for the costs protested shall be included. Notwithstanding a protest the Town may engage a consultant to review any submission by the Applicant/Owner of the system prior to approving the submission and all such expense and costs shall be an expense of the project (Applicant/Owner of the system). If any such expense shall not be paid the same shall constitute a violation of the permit and be deemed an expense in decommissioning the system or any part thereof in question.
4. The permit fee for Town Board approval for cutting or clearing in green buffer area within a Site shall be \$100.00 per permit, no permit fee is necessary for maintaining agricultural uses within a green buffer zone.
5. Applications for approval of Transfer of ownership or control pursuant to

section S(G) shall be submitted to the Town Board together with information explaining the proposed change of control or the transfer. Such information shall include the names of the parties whose interest is being change or transferred together with their percentage of ownership being transferred and the names of each person, shareholder, member, partner or individual receiving such interest, together with a fee of \$500 and such consultant fees as the Town Board finds necessary to review any financial information submitted therewith. The Town Board reserve the right to request such other information it may reasonably request and finds necessary to complete it review of such application.

C. ~~Nothing in this Local Law shall be read as limiting the ability of the Town to enter into~~All projects subject to this Local Law shall have Host Community Agreements with ~~any Applicant to compensate the town~~ to compensate the town for expenses ~~incurred ot to be incurred by the town,~~ or impacts on the community, tangible or intangible. The Host Community Agreement shall be for a term equal to the life of the project until the project is decommissioned. The Town shall require any Applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA or any review process administered by the State of New York, together with any oversight costs required to monitor compliance with all permit conditions imposed upon the project. Notwithstanding anything to the contrary provided herein, any and all Town agreements or permit conditions pertaining to a WECS shall be filed with the Town and in place prior to the issuance of the Wind Energy Permit, unless the approval for such WECS permit expressly provides otherwise, including Host Community Agreement, a Road Use Maintenance Agreement, a Decommission Plan and proof of Funds or escrow accounts, if required, related to the WECS. Any bonds posted pursuant to these requirements shall include language stating that nonpayment is an act of default protected by the bond, requiring notice from the surety to the Town in the event of nonpayment, and providing the Town not less than thirty days to exercise its rights under the bond prior to cancellation.

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9. **Host Community Agreements and Other Agreements.**

a. ~~Nothing in All projects subject to this Local Law shall be read as limiting the ability of the Town to enter into~~ have a Host Community Agreements ~~with any Applicant to~~ compensate the Town for expenses to be incurred by the Town or impacts ~~on to~~ the community, tangible and intangible. The Host Community Agreement shall be for a term equal to the life of the project until the project is decommissioned. The Town shall require any Applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA or any review process administered by the State of New York, together with any oversight costs required to monitor compliance with all permit conditions imposed upon the project. Notwithstanding anything to the contrary provided herein, any and all Town agreements or permit conditions pertaining to a Tier 3 Solar Energy System shall be filed with the Town and in place prior to the issuance of the Solar Permit, unless the approval for such Tier Three Solar System permit expressly provides otherwise, including a Host Community Agreement, a Road Use Maintenance Agreement, a Decommission Plan, a bond to secure payments under the Road Use Maintenance Agreement and the Decommissioning Plan, and proof of funds or escrow accounts, if to the extent required. Any bonds posted pursuant to this Local Law shall include language stating that nonpayment is an act of default protected by the bond, requiring notice from the surety to the Town in the event of nonpayment, and providing the Town not less than thirty days to exercise its rights under the bond prior to cancellation.