

# **Regulation of Wind Towers / Energy Conversion Systems**

## **Local Law #1 2006**

### **Article A; Introduction**

#### **Section I. Title**

This local Law shall be known as the “Town of Groveland Regulation of Wind Towers / Energy Conversion Systems Law”

#### **Section II. Purpose**

The purpose of this law is to provide a regulatory scheme for the construction and operation of Wind Energy Facilities in the Town of Groveland, subject to reasonable restrictions, which will preserve public health and safety.

#### **Section III. Findings**

The Town of Groveland finds that wind energy is an abundant, renewable and nonpolluting energy resource and that its conversion to electricity will reduce the dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Wind energy systems also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the state’s energy supply portfolio.

#### **Section IV. Authority**

The Town Board of the Town of Groveland enacts this Local Law under the authority granted by:

1. New York State Constitution Article IX, Section 2(c) (6) and (10).
2. Local Governments Law Section 10(1), (6) and (7).
3. Municipal Home Rule Law Section 10(1) (i) and (ii), 10(1)(a)(6), (11), (12) and (14)

#### **Section V. Interpretation**

Where the conditions imposed by any provision of this law, are either more restrictive than comparable conditions imposed by any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

### **Article B: Definitions**

For the purpose of this law, the following words and phrases shall have the meaning ascribed to them in this article. All other words used in this law carry their customary meaning.

1. **Enforcement Officer:** Any person appointed by the Town Board to represent them in particular matters pertaining to this local law.

2. **Wind Towers / Energy Conversion System (WECS):** Any tower, pole, or other structure, whether attached to a building, guyed, or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for producing electric power.
3. **Nacelle:** The portion of the wind turbine that connects the rotor to the support tower, and houses the generator, gearbox, drive train, and braking system.
4. **Tower Facility:** Site where one or more wind energy-deriving tower(s) or wind turbines will be located, including all accessory buildings, facilities, or equipment; which generate original power on site to be transferred to a transmission system for distribution to customers.
5. **View-Shed:** An area within range of vision in any direction from a particular site.
6. **Flicker Zone:** An area of shadow that will be experienced from movement of the blades.
7. **Rotor:** The blade assembly of the wind tower; generally includes 2 or 3 blades.
8. **Height of Tower:** Measured from the base of the tower, to the center of the rotor hub.
9. **Permanent Wind Measuring Tower:** A tower that has a foundation.
10. **Temporary Wind Measuring Tower:** A tower that has guyed wires without a foundation.

## **Article C: Administration and Enforcement**

### **Section 1: Planning Requirements**

1. The Town Planning Board is hereby authorized to approve, with conditions, or disapprove Wind Towers/Energy Conversion System(s) applications in accordance with this local law. The Planning Board (with permission of the Town Board) may hire a professional Engineer or consultant to assist in the review of an application at the applicant's expense.
2. An Environmental Assessment Form prepared in accordance with the State Environmental Quality Review Act, (SEQRA) Article 8 of the Environmental Conservation Law shall be submitted with any application.
3. The applicant must comply with all SEQRA requirements including preparation of a completed SEQRA Long Form Part 1. If during the SEQRA process it is determined that any part of the project is located in a wetland or crosses a stream, then the applicant will apply for a wetland and stream crossing permit as required by law. If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following studies, and information shall be included in the Draft Environmental Impact Statement (DEIS) prepared for a Wind Energy Facility or the following studies may be submitted with the application: Shadow

Flicker, Noise, Visual Impact, Electromagnetic Interference, and Emergency response.

4. All Wind Tower / Conversion Systems(s) will require a special use permit issued by the Planning/Zoning Board, and subject to site plan review under Section IV.41A of the Zoning Law of the Town of Groveland. Should any Conversion System(s) have more than one tower on the same tax parcel and be under construction in the same period, then the said towers will be treated as one single unit.
5. The permitted zoning districts: agricultural, agricultural/residential and commercial/industrial.
6. A public hearing shall be held by the Zoning Board within (62) sixty two days from the date any application is referred from the Planning Board for a Special Use Permit.
7. At least 10 days before the date of the public hearing, the Town Clerk shall transmit to the Zoning Board a copy of the application, with supporting documents and notice of the hearing. The Zoning Board shall render its decision within 62 days of the date the public hearing is closed.
8. An application to the Planning Board for a special use permit shall be submitted to the Town Clerk and shall be accompanied by five sets of preliminary site plans and other descriptive matter to, show clearly the intentions of the applicant. These documents shall become a part of the record to determine if the proposed special use meets the requirements of this local law.
9. During construction, applicant must follow the NYS Department of Agriculture and Markets Law; “guidelines reference to mitigation for wind power projects,” along with NYS DEC, Phase II water regulations.

## **Section 2: Enforcement Requirements**

1. The code enforcement officer and / or building inspector of the town are hereby designated, unless otherwise designated by the Town, as the officer (s) charged with the enforcement of this chapter and is hereinafter referred to as the enforcement officer.
2. The enforcement officer shall enter the premises of any private property with the consent of the owner or upon a proper court order, or may make an evaluation from any public way.

## **Section 3: Notice of Violation; Issuance of Summons**

1. Whenever the enforcement officer determines that there is a violation of any provision of this chapter, he/she shall give notice of such violation to the person, persons or entities responsible therefore under this chapter.

2. Such notice shall be in writing and shall include a concise statement of the reason for the issuance.
3. Such notice shall be deemed to be properly and sufficiently served if a copy thereof is sent by mail to the last known address of the person or entity upon which the same is served, as shown by the most recent tax lists of the municipality or a copy thereof handed to such person or persons, or copy thereof left at the usual place of residence or business of such person or entities.

#### **Section 4: Penalties**

1. Any Tower owner who shall violate any of the provisions of this local law shall be guilty of an unclassified misdemeanor and subject to a mandatory fine not to exceed two hundred fifty dollars (\$ 250.00) for the first violation and five hundred dollars (\$ 500.00) for each offense thereafter and up to fifteen (15) days in jail.
2. Every person shall be deemed guilty of a separate offense for each day such violation, disobedience, omission, neglect or refusal shall continue.

#### **Article D: Application Requirements**

##### **Section 1**

1. The application must include; name of the project, boundary lines of parcel that project will be located on, a location map showing proposed site's location, date, north arrow, and scale of the plan.
2. The application must include name, phone, and address of the owner of the parcel where development is proposed, developer, and seal of engineer, architect, or surveyor preparing the plan.
3. The application must include; name and address of all owners of record of abutting parcels and those within five hundred (500) feet of the property lines of parcel and show evidence that said owners have been notified by certified mail, returned receipt requested by applicant at the time the development is proposed.
4. Application must include; a map showing existing and proposed topography at established United States Geological Survey (USGS) standard intervals.
5. Application must include an equipment list with the weight of materials being hauled, to decide if a road bond would be required during construction period. This shall be determined at the Town Board level.

## Section 2

No Special Use permit shall be granted until a Site Plan approval is complete for wind power electricity generation and/or transmission facilities unless it is determined by the Planning Board that the proposed use meets all of the following criteria. The burden of proof is with the applicant.

1. No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the links operation.
2. No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication system would produce electromagnetic interference with signal transmission or reception.
3. Use of nighttime and daytime condition lighting, must meet the requirements of the Federal Aviation Administration.
4. Individual wind turbine towers shall be located with relation to property lines so that the level of noise during wind turbine operation shall not exceed 50 dbA measured at residential structures on parcels owned by persons not having a lease or noise easement, with the project developer or owner. The proof is with the applicant.
5. Prior to issuance of a Building Permit, the applicant shall provide the Town proof in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation and transmission facility. Continuous insurance coverage shall be in effect until the tower is removed.
6. A landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features including size and type of plant material and erosion control measures.
7. A map showing all existing lot lines, easements and right of ways, and a sketch plan showing proposed road access including provisions for paving, if any, proposed transmission lines and accessory facilities, and location of all existing and proposed utility systems to the facility. The proposed site must be staked out.
8. Documentation of the proposed intent and capacity of energy generation as well as a justification for the height of any wind energy deriving tower and justification for any clearing required.
9. Elevation map showing the wind energy-deriving tower's height and design. This must include a cross section of the structure and components of the nacelle. The

wind energy deriving tower's compliance with applicable structural standards and the wind energy deriving tower's abilities in terms of producing energy.

10. Description of the applicant's long range plans which project market demand and long range facility expansion needs within the Town.
11. A description of the general geographic areas that would be acceptable for wind projects within the Town of Groveland; furthermore, demonstration that the proposed site is the most appropriate site within the immediate area for the location of the wind energy deriving tower facility.
12. Digital elevation model-based project visibility map showing the impact of visibility of the project from other locations, to a distance radius of three (3) miles from the center of the project. The base map used shall be a published topographic map showing natural, structural, and built features.
13. A map is required to show flicker zone of proposed wind towers.

### **Section 3**

The Planning Board acknowledges that prior to construction of a Wind Energy Conversion System; a wind site assessment is conducted to determine the wind speeds and the feasibility of using particular Sites. Installation of Wind Measurement Towers, also known as anemometer (Met) towers, shall be permitted as a special use in the same zones as a WECS.

### **Section 4**

Applications for Wind Measurement Towers shall include:

1. Name, address, telephone number of the applicant. If an agent represents the applicant, the application shall include the name, address and telephone number of the agent as well as original signature of the applicant authorizing the representation.
2. 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 (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
3. Address of each proposed tower Site, including Tax Map section, block and lot number.
4. Site Plan.
5. Decommissioning Plan, including a security bond or cash for removal.

## **Section 5**

Standard for Wind Measurement Towers:

1. The distance between a Wind Measurement Tower and the property line shall be at least the Height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties.
2. Special use permits for Wind Measurement Towers may be issued up to (2) two years. Permits may be renewed if the Facility complies with the conditions of the special use permit.

## **Section 6**

No special use permit shall be granted unless it is determined by the Zoning Board that the proposed use meets all of the following criteria. If the following criteria cannot be met then applicant may apply for a variance in conjunction with the special use permit. The burden of proof is with the applicant.

1. Tower is to be set back from existing roads, power transmission lines, property lines, and existing structures, by a distance equal to 150% of the combined height of the tower, and the radius of the rotor.
2. The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings.
3. The proposed use shall not conflict with any master plan or part thereof.
4. A special use permit shall not be issued for a use on a property where there is an existing violation of this local law.
5. No wind turbine shall be permitted that lacks an automatic braking system, governing, or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure on the tower structure, rotor blades, and turbine components.
6. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
7. All power transmission lines from the wind generation facilities to on-site substations shall be underground.
8. Procedures acceptable to the Planning Board for emergency shutdown of power generation units shall be established and posted prominently and permanently on at least one location on the road frontage of each tower facility.
9. Color of tower and blades shall be painted white or gray or another unobtrusive color. No advertising or commercial logos or insignias except for the manufacturer's logo will be advertised on the structures.

## **Section 7**

Wind energy deriving towers and related structures emergency shutdown and site security plan. Burden of proof is with the applicant.

1. Applicant shall post an emergency telephone number so that the appropriate people may be contacted should any wind energy-deriving tower need immediate attention.
2. No unsecured climbing devices of any kind shall be attached to the wind turbine tower closer than fifteen (15) feet from the ground and shall be equipped with an anti-climbing device.
3. Towers shall be enclosed by security fencing not less than 6 feet in height and shall be equipped with anti-climbing device. The Planning Board may waive such requirements as it deems appropriate.
4. Wind Tower/Energy Conversion Systems shall meet New York State Standard Interconnection Requirements. (SIR)
5. Any Tower, all guy wires and fencing capable of conducting electricity shall be adequately grounded and maintained yearly and certified by a recognized electrical inspector.
6. At least one high voltage sign shall be posted at eye level on each tower and fencing around the facility one hundred (100) feet intervals.

## **Section 8**

Removal, Decommissioning, or Shutdown

1. If Any Wind Tower / Energy Conservation System becomes inoperative or nonfunctional for continuous period of 12 months it shall be considered abandoned, the Applicant shall remove the wind energy facilities, including all wind turbines and any accessory uses, at their expense within 90 days of receipt of notifying the owner of such abandonment. Failure to remove an abandoned system within 90 days shall be grounds to remove it at the owner's expense. The Code Enforcement Officer can grant a reasonable extension. A condition of the application approval will be the posting of a surety bond to secure compliance with this section; done at the Town Board level. Surety bond is subject to revision in 5-year increments to allow for inflation.
2. The applicant shall submit to the Planning Board a letter of intent committing the tower owner and his/her successors in interest, to notify the building inspector within thirty (30) days of the discontinuance of use of the Wind Tower/Energy Conversion System. This letter shall be filed with the building inspector prior to the issuance of a building permit. The owner shall remove the obsolete or unused wind turbines and accessory structures from any site and restore the site to pre-construction conditions within 90 days of such notification. The Code



Enforcement Officer can grant a reasonable extension. Failure to notify and or remove the obsolete or unused tower in accordance with these regulations shall be a violation of this local law and the cost of removing the wind energy deriving towers and accessory structures shall be placed as a lien on the property owner's tax bill.

3. Prior to the granting of a permit for project development, the owner or operator shall formulate a decommissioning plan cooperatively with the Town of Groveland.

## **Section 9**

### Resale of Wind Towers / Energy Conversion Systems

1. All previously approved agreements; regulations and requirements remain in effect. The subsequent owners bear the burden of compliance with all Town of Groveland regulations and requirements enabling the issuance of this permit.
2. The owner or operator of wind energy facilities shall maintain a current general liability policy covering bodily injury and property damage with limits typical for power generating facilities.

## **Section 10**

### Annual Operating Report

1. The owner or operator shall submit an annual operation report to the Town of Groveland by January 30<sup>th</sup> of each year, changes in technical aspects of operations on the site, status of all individual wind power facilities, and changes in business arrangements of the owner or operator.

## **Article E**

### Severability

If any clause, sentence, paragraph, section or article of this local law shall be adjudicated by any court of competent jurisdiction to be invalid such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered.

## **Article F**

This law shall be effective upon filing with the Secretary of State.

Effective 10/25/2006