

TOWN OF PERRYSBURG

Local Law #2 of 2025

WIND ENERGY CONVERSION SYSTEMS

BE IT ENACTED BY THE TOWN OF PERRYSBURG, COUNTY CATTARAUGUS, STATE OF NEW YORK, THAT LOCAL LAW NO. 1 OF 2009 OF THE PERRYSBURG CODE IS HEREBY REPEALED AND REPLACED AS FOLLOWS:

A. Title

The Title of this Local Law #2 of 2025 is “Wind Energy Conversion Systems” for the Town of Perrysburg.

Purpose

The Town Board of the Town of Perrysburg adopts this Local Law to promote the effective and sufficient use of the Town’s wind energy resource through wind energy conversation systems (“WECS”), to regulate the placement of such systems so that the public health, safety and welfare will not be jeopardized, to provide tangible benefits to local residents, and to align with the Town's commitment to strengthening the community through ethically sustainable energy practices.

Definitions

Community Benefit Agreement (CBA): A legally binding agreement between a WECS developer and the Town of Perrysburg outlining specific benefits to be provided to the community.

Commercial or Industrial Wind Energy Conversion Systems (WECS) are systems designed to convert the kinetic energy of wind into electricity with a capacity greater than 100 kilowatts for the primary purpose of resale or off-site use. These systems typically consist of wind turbines, generators, and other components that work together to capture wind energy and transform it into a usable electrical output that can be fed into the power grid or used elsewhere.

Authority

The Town Board of the Town of Perrysburg adopts this Local Law under the authority granted by

- a. Article IX of the New York State Constitution,,Section 2 (c) (6)and(10)
- b. New York Statute of Local Governments, Section 10 (1),(6),(7)
- c. New York Municipal Home Rule Law Section 10(1),(i) and (i i)and Section 10

- (1)(a), (6), (11), (12), and (14)
- d. The supersession authority of New York Municipal Home Rule Law Section, 10(2)(d), (3)
 - e. New York Town Law Article 16, Zoning
 - f. New York Town Law Section 130 subsections (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 Section 64, Subsection (17-a) Protection of aesthetic interests, and (23) General powers.

B. Meteorological Evaluation Towers (MET's)

1. **Description** - A tower used at a potential project site which has equipment attached to it which is designed to assess wind resources. Generally a MET tower will have anemometers, directions vanes, temperature sensors, pressure sensors, and other measurement devices attached to it at various levels above the ground to collect information over a period of time.

A. Special Use Permit Required

1. No meteorological Evaluation Tower may be constructed and no existing structure shall be modified to serve as a Meteorological Tower without first obtaining a Special Use Permit from the Planning Board. In granting a Special Use Permit the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are related to the proposed use.
2. All Meteorological Towers shall conform to the standards contained in this section and in other sections of the Town of Perrysburg Zoning Ordinances. These standards shall be considered minimum requirements.
 - a. No Special Use Permit for a meteorological tower, or renewal or modification of such permit, shall be granted by the Planning Board unless it finds that such facility:
 01. Is necessary to meet current or expected demands for service.
 02. Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies.
 03. Is designed and constructed in a manner which minimizes visual impact to the maximum extent practical.

04. Complies with all other requirements of this Local Ordinance, unless they are expressly superseded herein.

05. Is the most appropriate site among those available within the area for the location of a meteorological tower.

B. Additional Requirements

1. Any sponsor proposing a meteorological tower must complete a notice of proposed construction or alteration form (FAA Form 7460-1) at least 45 days prior to the date of proposed construction or alteration is to begin.

2. FAA Advisory Circular 70/7460-1L sets forth standards for marking and lighting obstructions that have been deemed to be a hazard to navigable airspace.

3. Standards for voluntary marking of MET's, less than 200 feet above ground level (AGL), have been added to provide recommendations toward increasing conspicuity of these structures, particularly for low level agricultural flight operations. These standards include those for lighting and marking of the tower and associated guy wires identified in FAA regulations.

4. Sponsor will provide a detailed plan showing potential locations of utility scale turbines based on specifications in this code.

C. Applicability / Severability – No Wind Facility or Wind Energy Conversion System shall be constructed, reconstructed, modified or operated in the Town of Perrysburg, except in compliance with this Zoning Ordinance.

D. Applications for Commercial and industrial Wind Energy Conversion Systems – An application for Special Use Permit for a Wind Energy Facility or a single WECS shall include the following:

1. Name, address, phone number, and email of the applicant. If the applicant is represented by an agent, the application shall include the name, address, phone number, and email of the agent as well as an original signature of the applicant authorizing the representation.
2. Name, address, phone number, and email of the property owner. If the property owner is not the applicant, the application shall include proof of site control by recorded document establishing that applicant is authorized to utilize the property for the intended purpose.
3. Address, or other property identification, of each proposed WECS location, including Tax Map section, block and lot number, latitude and longitude coordinates.
4. A description of the project, including the number and maximum rated power output capacity of each WECS.

5. For each WECS proposed, a plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:
 - a. Property lines and physical dimensions of the Site.
 - b. Location, approximate dimensions and types of existing structures and uses on Site, public roads, and adjoining properties within a three-thousand-foot radius of the proposed WECS.
 - c. Location and ground elevation of each proposed WECS.
 - d. Location of all above and below ground utility lines on the Site, and all related transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.
 - e. Location and size of structures above 35 feet within a three-thousand-foot radius of any proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are considered structures.
 - f. Location of and measured distances (accurate GPS measurements may be utilized) of each proposed WECS tower from every setback required pursuant to this section.
 - g. To help demonstrate compliance with the setback requirements of this Article, circles drawn around each proposed tower site having a radius equal to:
 01. One and one-half times the total height of the proposed WECS
 02. Two times the total height of the proposed WECS
 03. Five times the total height of the proposed WECS
 04. One thousand feet
 05. Three thousand feet
 06. Five thousand feet
 07. One-half mile
 08. One mile
 - h. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.
 - i. The names and addresses of all property owners within a three-thousand-foot radius of each WECS, as shown on the assessment roll of the Town of Perrysburg, together with the current use of all such property.
6. Elevation drawing of the WECS showing total height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each WECS of the same type and total height.
7. Landscaping Plan: depicting vegetation and forest cover describing the area to be cleared of vegetation and forest cover and areas where vegetation and forest cover

shall be added, identified by species and size of specimens at installation, and their locations.

8. Lighting Plan: showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure, but if such determination is not available at the time of the application, the application shall so state and such determination shall be submitted prior to final approval.
9. Decommissioning Plan: A decommissioning plan as specified in this Section.
10. Complaint Resolution Plan: A Complaint Resolution Plan to address complaints within 24 hours of receipt of notice thereof and to resolve any complaint in a diligent and timely manner under the circumstances.
11. Information relating to the construction/ installation of the Wind Energy Facility as follows:
 - a. A proposed construction schedule describing commencement and completion dates of the project and beginning and ending hours of daily construction
 - b. A description of the routes to be used by construction and delivery vehicles, the gross weights, and heights of those loaded vehicles.
12. Completed Part 1 of the Full Environmental Assessment Form (EAF).
13. For each proposed WECS, include make, model, picture, and manufacturer's specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
14. As part of the application, or as a supplement to the application, simultaneously submitted, the following: Each submittal shall contain a thorough analysis/explanation of the ability and means to comply with the "Standards for Commercial/Industrial WECS" Section of this code.
 - a. **Shadow Flicker:** The applicant shall submit a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may be present at locations of any residences, highways, parks or open recreation areas and detail measures that will be taken to mitigate or eliminate such interference and to comply with the requirements of this Section.
 - b. **Visual Impact:** Applications shall include a visual impact study of the proposed WECS as installed, which shall include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed Site from at least several locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual

prominence.

- c. Photographs and/or detailed drawings of each wind turbine model, including the tower and foundation.
- d. Visual Assessment, including a detailed or photographic simulation showing the site fully developed with all proposed wind turbines and accessory structures. The Planning Board shall determine which viewpoints the visual assessment shall include.
- e. **Fire Protection/Emergency Response Plan:** A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed Wind Energy Facility to address coordination with local emergency/fire protection providers during the construction and operation phase in the event of an emergency, fire or other hazard.
- f. **Noise Analysis/Study:** A noise analysis by a qualified acoustical consultant documenting the noise levels associated with each proposed WECS. The study shall document noise levels at property lines and at the property line of the nearest residences not on the site for each residence in a 360° circle of the site. The noise analysis shall be performed according to the International Standard For Acoustic Noise Measurement Techniques For Wind Generators (IEC 61400-11), or other procedure accepted by the Planning Board, and shall include both a dBA analysis and dBC analysis. The noise analysis/study shall demonstrate compliance with the noise provisions as set forth in the “Standards from Commercial/Industrial WECS” (H) Section of this Law.
- g. **Property Value Analysis:** Property value analysis prepared by a New York State licensed appraiser experienced in appraising rural properties of the type and nature typically found in the Town of Perrysburg evaluating the potential impact of the project on values of properties in the Town of Perrysburg, and in addition a proposed means to protect property owners from decrease in values caused by the establishment and operation of the proposed WECS, and to comply with the property value preservation subsection set forth in the “Standards for Commercial/Industrial WECS” Section of this code.
- h. **Electromagnetic Interference:** An assessment of potential electromagnetic interference with microwave, radio, television, satellite systems, personal communication systems and other wireless communication, including broadband, weather and other radar, identifying specific potential interference established systems.
- i. **Transportation Impacts:** An analysis of impacts on local transportation identifying impacts anticipated during construction, reconstruction, modification, or operation of each WECS. Transportation impacts to be considered shall include, at a minimum, potential damage to local road surfaces, roadbeds and associated structures, potential traffic tie-ups by haulers of WECS’ materials, impacts on school bus routes, and impacts of visitors to the WECS’ facilities. Local roads shall include all state highways, county highways, town highways, and hamlet streets and highways, which will be or may be used by the applicant.

- j. **Transportation Plan:** A transportation plan describing routes to be used in delivery of project components, equipment and building materials, and those to be used to provide access to the Site during and after construction. Such plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, and measures to restore damaged/disturbed access routes and all other infrastructure following construction. Roads shall include all state highways, county highways, town highways, and village/hamlet streets and highways, which will be or may be used by the applicant.
- k. **Ground Water Impacts:** An analysis of impacts on local ground water resources shall be prepared, regarding impacts anticipated during construction, reconstruction, modification, or operation decommissioning and post decommissioning of each WECS. A geotechnical report shall be provided and shall include: soil and geologic characteristics of the Site based on Site sampling and testing, a bedrock profile within one (1) mile of the Site, information on depth of well, average flow rate, and with permission by owner, test of water quality for all wells within two (2) miles of the Site, grading criteria for ground preparation, cuts and fills, soil compaction, and a slope stability analysis.
- l. An assessment of potential immediate and long-term impacts to local flora and fauna, micro and macro habitats, and ground and surface water related, but not limited to, excavation, blasting, clear-cutting and grading during the Site preparation phase.
- m. **Cultural, Historical and Archeological Resources Plan:** An analysis of impacts on cultural, historical and archeological resources addressing and assessing impacts anticipated during construction, reconstruction, modification or operation of each WECS. This assessment shall be conducted in accordance with standards of the New York State Office of Parks, Recreation and Historic Preservation.
- n. **Wildlife Impacts:** An analysis of impacts on local wildlife shall be prepared, addressing impacts anticipated during construction, reconstruction, modification, or operation of each WECS. Wildlife impacts to be considered shall include, at a minimum, anticipated impacts on flying creatures (birds, bats, insects), as well as wild creatures existing at ground level. An assessment of the impact of the proposed development on the local flora and fauna. The analysis will include migratory and resident avian species and bat species. The scope of such assessment shall take into consideration New York State Department of Environmental Conservation and the United States Fish and Wildlife Service studies, standards and recommendations and must at a minimum consist of pre-construction data of three years, and literature/ studies/survey for threatened and endangered and species of concern and migratory species that provide relevant information on critical flyways and migration routes, and shall describe the potential impacts of any proposed facilities on bird and bat species, and an avoidance or mitigation plan to address any impacts, as well as plans for three-year post-installation studies. The reports shall provide sufficient information to allow the Zoning Board to make a determination on any mitigation conditions or a denial of permits as provided in standards for Commercial/Industrial WECS Section.
- o. **Operation and Maintenance Plan:** An operation and maintenance plan

providing for regular periodic Wind Energy Facility schedules, any special maintenance requirements and procedures and notification requirements for restarts during icing events.

- p. **Blade Throw Report:** A report from a New York State professional engineer that calculates the maximum distance that ice from the turbine blades and pieces of turbine blade may be thrown. (The basis of the calculation and all assumptions must be thoroughly explained and justified.) The frequency incidence of reported ice and blade throws and the conditions at the time of the ice and blade throw must be included, and the report must specifically address the climatic and weather conditions found in the Town of Perrysburg
- q. **Stray Voltage Report:** An assessment, pre- and post-installation, of possible stray voltage problems on the Site and neighboring properties within one (1) mile of the project boundary to show what properties need upgraded wiring and grounding.
- r. A health report utilizing available background health, including mental health, analysis for the Town, and the region including age, proliferation of known health disorders; effects of noise presence of WECS and flicker effect on people, as well as a proposed means of accessing a health background on individuals who wish to participate for determination of health effects if a WECS is constructed. A thorough analysis of the potential health effects including mental health related to Commercial/Industrial Wind Turbines, and a plan to mitigate each affects and to address them.
- s. An agriculture effect report, including impacts on all types of agricultural activities present in the Town of Perrysburg. The report shall address effect of wind turbulence and disruption on fruit production, effect on beef and dairy farms, grain farming and all other farming activities. The report must address insect and bee population effects, effects on orchard and crop pollination, micro-climate effects and impacts on orchard and crop growing seasons.
- t. A report/analysis of the effects on the economy of the Town, including income of residents and effects on other industries and jobs.
- u. A report and analysis on any effect on local airplane landing strips.
- v. A report and analysis on any outdoor activities common in the Town of Perrysburg, including hunting, fishing, hiking, biking, etc.
- w. A complete report on:
 - 01. The need for the project including demand analysis, limitations on transport of power to high demand areas.
 - 02. Other “clean” energy power projects in the western New York area and NW Pennsylvania area in comparison to other areas of the state.
 - 03. Increase expenses imposed upon the Town of Perrysburg as a result of the

proposed project.

04. All alternative sites identified by the applicant and its affected entities.
 05. Local power needs in the Town of Perrysburg and total power generated.
 06. Total disruption/burden placed upon the Town of Perrysburg for all power generation activities, including existing facilities and infrastructure. Compare to other areas of the State; use population/energy usage per capita verses total energy burden.
- x. For any requirement of a report, analysis or study, required pursuant to this Section (P) or required by any other provision of this ordinance, or by the Planning Board in its review process, the Planning Board may require an expanded or supplemental report or study by the applicant, or an independent study, analysis or report by a consultant of the Board's choosing. Applicant shall be responsible for the cost of any review/report study or analysis commissioned by the applicant, to be paid for from the escrow fund established pursuant to this Section.
 - y. The applicant shall, prior to the receipt of a Special Use Permit, provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner. Applicant shall also provide proof of complying with Public Service Commission power purchase requirements.
 - z. A statement, signed under penalties of perjury that the information contained in the application is true and accurate to the best of applicant's knowledge.
 - aa. Proof of continuous liability insurance in the Minimum amount of \$5,000,000 per occurrence with a total policy minimum of \$10,000,000 per year. This shall be submitted to the Town of Perrysburg indicating coverage for potential damages or injury to landowners and the public. A clause must be included in the insurance policy stating that the insurance company will notify the Town of Perrysburg Clerk of any lapse or change in the coverage within five days.
 - ab. Disclosure of Financial Interests. For any financial interest held by a Municipal Officer or his or her relative in any wind development company or its assets within three years prior to the date of an application for a permit under this local law, the Wind Company shall disclose the application the Municipal Officer or his or her relative, and the nature and scope of the financial interest of each person.
 - ac. All wind speed data obtained by applicant from any wind measurement tower in the Town, including explanation of methodology utilized to obtain measurements.
 - ad. The applicant shall fund an escrow as required by this Section to cover the amount by which the Town's cost to review the applicant's application, including the cost of any independent study, analysis or report and the cost of the Town Engineer exceed the application fees paid by the applicant. The applicant and the Town may enter into an agreement as to the amount of the escrow. If no agreement is reached prior to review, the fund shall be 1.5 percent of the total estimated cost of the project, including both "hard" and "soft" costs, approvals, etc. The amounts paid to the Town shall not

exceed this amount. This amount is determined to be the best estimate of all costs to the Town for its review process as set forth in this Section. The escrow shall be funded prior to review of the application. If at the end of the review process, and decision on the application by the Town Board, funds remain in the escrow fund, the balance shall be returned to the applicant together with an accounting of the expenditures incurred by the Town.

ae. Copies of all applications and proposed plans should be made available to the public within seven days of receipt by the Town of Perrysburg and placed in the Town Library and Town Clerk's office as well as on the Town of Perrysburg website.

E. Application Review Process.

- a. Community Benefits Agreement Required: Applicants shall submit a signed Community Benefits Agreement prior to final permit approval.
- b. Applicants may request a pre-application meeting with the Town Supervisor, Town Planning Board, Zoning Board of Appeals, Town Code Enforcement Officer and such consultants as the Supervisor shall determine. Such meeting shall be informal, and no party shall be bound by any statements made.
- c. An original executed and fifteen (15) copies of the application and a complete digital version shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. The Town Clerk shall forward copies to each member of the Code Enforcement Officer, Town Planning Board, Zoning Board of Appeals, Town Board and additional copies to such individuals as the Supervisor shall direct.
- d. The Code Enforcement Officer, in consultation with the Town Engineer and any other consultants deemed necessary, shall determine whether the application is complete. If the application is deemed incomplete, the Town Code/Zoning Enforcement Officer 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 WECS proposed is increased. When the application is complete, it shall be filed with the Town Clerk and the applicant shall be notified it has been accepted for filing.
- e. Upon filing of a complete application, the Code enforcement officer shall transmit the application to the Planning Board.
- f. In addition to the Planning Board public hearing requirement, the Town Board may in its discretion require the Applicant to conduct information sessions for the public benefit. The number of such sessions shall be at the discretion of the Town Board and notice shall be given to media in such a manner as the Town Board shall determine. During these sessions, the public will be afforded the opportunity to question the Applicant regarding the Project.
- g. In the event any hearing is adjourned by the Planning Board to hear additional comments, no further mailing shall be required. The Planning Board will publicize

notice of meetings.

- h. At the discretion of the Planning Board, the public hearing may be combined with public hearings on any Environmental Impact Statement. Notice for SEQRA public hearings must meet the specification set out in 6 N.Y.C.R.R. §617.12 (c).
- i. Notice of the project shall also be given, when applicable, to (1) the Cattaraugus County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to adjoining Towns where the project site is located within three thousand feet of the adjoining Town boundary.
- j. SEQRA Review. Applications for Commercial/Industrial WECS are deemed Type I projects under SEQRA. The Town may conduct its SEQRA review in conjunction with other agencies or communities, in which case the records of review by said agencies or communities shall be part of the record of the Town's proceedings. The applicant shall be responsible for the Town's legal and engineer's fees in connection with the SEQRA.
- k. After a thorough and detailed evaluation of the application in which the Town Board and Planning Board completes the required "hard look" of all materials and public input and 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 Town Board shall approve, approve with conditions, or deny the application(s). The Town Board shall issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated.
- l. If approved, the Code enforcement officer will issue, to the applicant, a Special Use Permit for each WECS for the purpose of construction and continued operation based on satisfaction of all conditions for said Permit. This authorizes the Code Enforcement Officer/Building Inspector to issue a building permit for each approved WECS, upon compliance with the Uniform Fire Prevention and Building Code and the other conditions of this Local Law.
- m. The decision of the Town Board with Planning Board recommendation shall be filed within five business days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.
- n. If any approved WECS is not substantially commenced within one year of issuance of the permit, the special use permit shall expire.

F. Standards for Commercial/Industrial WECS - The following restrictions on location, standards and conditions shall apply to all Commercial/Industrial WECS. Applications must demonstrate compliance with these standards.

- 1. Restricted areas:
 - a. Areas Zoned VB (Village Business) VR 7.2 (Village Residential 7.2) SR 20, SR 30 (Suburban Residential) These districts are very generally very small lots.

2. Setbacks. No Commercial/Industrial Wind Energy Systems shall be allowed within the following setbacks. If more than one setback applies, the most restrictive setback shall prevail.
 - a. From restricted areas: A minimum of 2500 feet from any Residential (SR) Commercial /Business (VB) (c) removed} District boundary line.
 - b. From structures: A minimum of 2000 feet or 2.5 times the total WECS height from any building, whichever is greater.
 - c. From property lines: A minimum 1500 feet or 3.25 times the total WECS height from any property line excluding adjoining lot lines of the project participants.
 - d. From public road and highways: A minimum 1500 feet or 3.25 times the total WECS height from any public road and highway right of way, whichever is greater.
 - e. From aboveground transmission lines, greater than 12 kilovolts: A minimum 3.25 times the total WECS height from any above-ground transmission line greater than 12 kilovolts.
 - f. From residences: 2000 feet.
 - g. From another Commercial/Industrial WECS turbine: A minimum of 2000 feet.
3. All power transmission lines from the tower to any building or other structure shall be located underground.
4. Transmission Infrastructure Requirements:
 - a. Local Grid Integration: All WECS projects must include infrastructure plans that demonstrate the capability to connect and transmit generated electricity to the local town grid.
 - b. Infrastructure Standards: Transmission infrastructure must meet or exceed the standards set forth by the New York State Public Service Commission and all local utility providers.
 - c. Approval: Infrastructure plans must be reviewed and approved by the Town's Planning Board in consultation with relevant utility companies.
5. Community Benefits Requirements:
 - a. Power Distribution to Residents: WECS Developers are required to allocate a minimum percentage of the annual electricity generated directly to local residents at a reduced rate or through direct energy credits as specified by the CBA.
 - i. WECS Output and Distribution: Any WECS permitted under this law shall be designed and operated to provide a portion of its generated electricity to be directly distributed to town residents. The exact percentage of the WECS output to be allocated to the community shall be determined by the Town Board, taking into account the capacity of the WECS, the

energy needs of the community, and the feasibility of distribution infrastructure.

- ii. **Energy Credit System:** The Town shall establish an Energy Credit System to track the portion of WECS electricity provided to residents. Residents who utilize this energy credit system shall receive a credit on their electric bills, equivalent to the value of the WECS electricity consumed. The Town Board shall set the specific terms and conditions of the Energy Credit System, including how credits are calculated, how they are applied, and any administrative fees.
 - iii. **Alternative Distribution Mechanisms:** In addition to direct distribution and energy credits, the Town Board may explore other mechanisms for community benefit, such as community solar projects or other innovative ways to make WECS energy accessible to residents.
 - b. **Community Benefits Agreement (CBA):** Developers must enter into a CBA with the Town of Perrysburg prior to project approval, detailing:
 - i. **Benefits Distribution:** Mechanisms for distributing benefits, such as reduced energy rates, energy credits, power distribution options to residents, and community benefit funds.
 - ii. **Duration:** The time frame over which benefits will be provided, which shall not be any less than the number of years specified by the CBA.
 - iii. **Monitoring and Reporting:** Procedures for regular reporting on benefit distribution and project performance.
 - c. **Enforcement:** Failure to comply with the CBA terms will result in penalties, including fines or revocation of operating permits.
- 6. No television, radio or other communication antennas may be affixed or otherwise made part of any Commercial/Industrial WECS, except pursuant to the Town Site Plan Review and Subdivision ordinance. Applications may be jointly submitted for WECS under this ordinance and telecommunications facilities under the Site Plan and Subdivision ordinance.
 - 7. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.
 - 8. **Lighting of tower.** No tower shall be lit except to comply with FAA requirements. Motion-sensitive on-demand lighting is required. Minimum-security lighting for ground level facilities shall be allowed as approved on the Site plan.
 - 9. All applicants shall use measures to reduce the visual impact of WECS to the extent possible. All structures in a project shall be finished in a single, non-reflective, matte

finished color. Individual WECS shall be constructed using wind turbines whose appearance, with respect to one another, so as to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.

10. No 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 will produce electromagnetic interference with signal transmission or reception. No WECS 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 link's operation. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference up to and including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the Special Use Permit for the specific WECS causing the interference.
11. All solid waste and hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all applicable rules and regulations.
12. WECSs shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided. The use of previously developed areas will be given priority wherever possible. All top soil disturbed during construction, reconstruction or modification of each WECS will be stockpiled and returned to the site upon completion of the activity, which disturbed the soil.
13. WECSs shall be located in a manner that minimizes significant negative impacts on animal species in the vicinity, particularly bird and bat species, including those that may be listed by the U.S. Fish & Wildlife Service as threatened or endangered. When the Zoning Board of Appeals determines that significant negative impacts have not or cannot be sufficiently mitigated by a proposed WECS, no permit may be issued.
14. WECSs shall be located in a manner consistent with all applicable state and Federal wetlands laws and regulations.
15. Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations.
16. For all aspects of the application and operations of WECS, the New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects in effect, as of the date of the application, and any other agricultural effects identified shall be mitigated shall be adhered to, both inside and outside of agricultural districts.
17. The maximum total height of any WECS shall be determined by application of all parts of this Section to the application. The minimum feasible height shall be the maximum height of any WECS, and applicant shall justify any requested maximum height and demonstrate to the Planning Board's satisfaction the reason why a lower height is not feasible. Notwithstanding the forgoing, no wind tower total height shall

exceed 500 feet.

18. Construction of the WECS shall be limited to the hours of 7 AM to 7 PM Monday through Saturday, unless a different schedule is approved by the Planning Board.
19. If it is determined that a WECS is causing stray voltage issues, the operator shall take the necessary corrective action to eliminate these problems up to and including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy stray voltage issues is grounds for suspension or revocation of the Special use Permit for the specific WECS causing the problems.
20. WECSs shall be located in a manner that minimizes significant negative impacts on the historical and cultural aspects of the community. This shall be done in coordination with the New York State Office of Parks, Recreation and Historic Preservation. In addition, the review of NY's Department of State guidelines for Scenic Areas of Statewide Significance shall be respected.
21. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
22. Fencing may be required, as determined by the Planning Board.
23. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. 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 week coverage. The Zoning Board of Appeals may require additional signs based on safety needs.
24. No climbing pegs or tower ladders shall be located closer than fifteen (15) feet to the ground level at the base of the tower structure.
25. The minimum distance between the ground and any part of the rotor or blade system shall be thirty (30) feet.
26. WECSs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked.
27. The owner and/or operator of a WECS that has received approval under this section and for which a permit has been issued shall file with the Town Clerk on an annual basis an Operation and Maintenance Compliance report detailing the operation and maintenance activities over the previous year and certifying full compliance with the Operation and Maintenance Plan. The annual report shall include a noise analysis by a qualified acoustical consultant performed according to the International Standard for Acoustic Noise Measurement Techniques For Wind Generators (IEC 61400-11) or such other procedure as accepted by the Planning Board during the permit review process which certifies to the Town that the noise level of the WECS is in full compliance with the provisions of this Section and the permit as issued.
28. Traffic Routes.

- a. Construction and delivery vehicles for WECSs and/or associated facilities shall use only traffic routes established as part of the application review process.
- b. The applicant is responsible for remediation of damaged roads and infrastructure upon completion of the installation and/or maintenance of a WECS. The applicant shall comply in all requirements of any Town of Perrysburg Infrastructure, Preservation or Protection Law.
- c. In addition to complying with any Town of Perrysburg Infrastructure Preservation or Protection Law, Prior to placing the Wind Energy Facility in operation, and for the life of the project, the applicant shall repair or reconstruct all state highways, county highways, town highways and hamlet streets and highways damaged by the applicant to the standards set forth by the Cattaraugus County Highway Department regardless of the condition of such highways, roads and streets prior to the commencement of construction by the applicant.

29. Noise Standards for Wind Energy Systems.

Noise standards are based on:

- a. Growing evidence of “turbine syndrome” caused by low frequency noise,
- b. Noise produced at high elevations causing it to carry long distances.
- c. Constant noise output often with an annoying woofing sound.
- d. Infrasound travels through both air and ground for long distances.

Sound Pressure Level Limits Measured in dB(A)s

Residential Districts 45

- a. These levels may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes, in any one day.
- b. Sound pressure levels shall be measured at all major lot lines, at a height of at least four (4) feet above the ground surface. Noise shall be measured with an approved sound level meter using procedures meeting the current standards of the American National Standards Institute, (ANSI) and approved by the Town of Perrysburg.
- c. Noise below the 20 Hz level (Infrasound) is not permitted. WECS must be certified that they are designed to not produce infrasound. The Town will determine procedures to measure infrasound based on current ANSI standards. Any WECS suspected of producing infrasound will be shut down, except for Town approved noise testing. Testing will occur inside and outside of buildings.
- d. In the event, audible noise due to Wind Energy Facility operations contains a steady or pure tone, or an intermittent or reoccurring tone, such as a whine, screech, or hum, the tones shall be eliminated.
- e. Noise testing may be requested by the Code Enforcement Officer in response to

complaints or reasonable suspicion of violation of permit requirements. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Special Use Permit and this Zoning Ordinance and shall include an evaluation of any complaints received by the Town. The Town may conduct, or have conducted, such testing as it determines in addition to the applicant/operator. Such testing shall be paid for by the WECS applicant/operator. The applicant/operator shall cooperate with any Town testing of noise levels, including providing access to all sites for that purpose.

30. Economic Effects. WECS shall be sited and constructed so as to minimize any adverse economic effects on the Town, its residents and its economic activities, including agricultural activities in accordance with conditions established by the Planning Board.
31. Health Effects. WECS shall not adversely affect the health, including mental health of the residents of the Town of Perrysburg. All available material and studies as well as baseline health reports of willing residents must be contained in a Health Maintenance Plan for any WECS project. Pre-construction, health exams shall be provided to willing residents. Reports of residents' exams shall be sealed or maintained in the possession of residents or their physicians unless they are made available by residents in accordance with HIPAA procedures.
32. No WECS shall be located in the Town of Perrysburg which, after all data, required reports and studies are considered, it is determined by the Planning Board, will cause unacceptable interference with or danger to bird or bat populations, or to migration routes.
 - a. When a WECS has been constructed in the Town of Perrysburg, the applicant/owner/operator shall inventory all bird or bat kill and report the same to the Town on a monthly basis. The applicant/owner/operator shall also provide access to the site and surrounding area to the Town's designated representative to inventory killed birds or bats on a daily basis, if requested.
 - b. If a tower or towers in a WECS are determined to cause excessive numbers of bird or bat kill after consultation with the Department of Environmental Conservation and other involved agencies, remedial action shall be required up to and including suspension or revocation of a permit or any part thereof.
33. Real Property Value Protection Plan. The WECS owner(s) ("applicant") shall assure the Town of Perrysburg that there will be no loss in real property value within two miles of each wind turbine within their WECS. To legally support this claim, the applicant shall consent in writing to a Real Property Value Protection Agreement ("Agreement") as a condition of approval for the WECS. This Agreement shall provide assurance to non-participating real property owners (i.e. those with no turbines on their property) near the WECS, that they have some protection from WECS-related real property values losses.

The applicant shall agree to guarantee the property values of all real property partially or fully within two miles of the WECS. Any real property owner(s) included in that area who believe that their property may have been devalued due to the WECS, may

elect to exercise the following option:

- a. All appraiser costs are paid by the applicant, from an Escrow Account. Applicant and the property owner shall each select a licensed appraiser. Each appraiser shall provide a detailed written explanation of the reduction, if any, in value to the real property ("Diminution Value"), caused by the proximity to the WECS. This shall be determined by calculating the difference between the current Fair Market Value (FMV) of the real property and what the FMV would have been at the time of exercising this option, assuming no WECS was proposed or constructed.
 01. If the higher of the Diminution Valuations submitted is equal to or less than 25% more than the other, the two values shall be averaged ("Average Diminution Value": ADV).
 02. If the higher of the Diminution Valuations submitted is more than 25% higher than the other, then the two appraisers will select a third licensed appraiser, who shall present to applicant and property owner a written appraisal report as to the Diminution Value for the real property. The parties agree that the resulting average of the two highest Diminution Valuations shall constitute the ADV.
 03. In either case, the property owner may elect to receive payment from applicant of the ADV. Applicant is required to make this payment within 60 days of receiving said written election from property owner, to have such payment made.
- b. Other Agreement Conditions.
 01. If a property owner wants to exercise this option, they must do so within 10 years of the WECS receiving final approval from the Town of Perrysburg.
 02. A property owner may elect to exercise this option only once.
 03. The applicant and the property owner may accept mutually agreeable modifications of this Agreement, although the applicant is not allowed to put other conditions on a financial settlement (e.g. confidentiality). If the property owner accepts some payment for property value loss, based on an alternative method that is considered an exercise of this option.
 04. This Agreement applies to the property owner of record as of the date of the issuance of the permit, and is not transferrable to subsequent owners.
 05. The property owner of record as of the date of the issuance of the WECS permit must reasonably maintain the property from that time, until they choose to elect this option.
 06. The property owner must permit full access to the property by the appraisers, as needed to perform the appraisals.
 07. The property owner must inform the appraisers of all known defects of the property as may be required by law, as well as all consequential

modifications or changes to the property subsequent to the date of the WECS application.

08. This Agreement will be guaranteed by the applicant (and all its successors and assigns), for 10 years following the WECS receiving final approval from the Town of Perrysburg, by providing a bond (or other surety), in an amount determined to be acceptable by the Town.
 09. Payment by the applicant not made within 60 days will accrue an interest penalty. This will be 12 percent annually, from the date of the written election from property owner.
 10. For any litigation regarding this matter, all reasonable legal fees and court costs will be paid by the applicant.
 11. Upon application, applicant shall provide a performance bond (or equivalent) in an amount determined by the Town of Perrysburg and held by the Town of Perrysburg. This surety account will ensure execution of all aspects of this Agreement (including compensation of eligible property owners in the case of default by applicant). Failure to maintain this surety account shall be cause for revocation or suspension of the WECS Permit.
34. Any other standard or requirement established by the Planning Board as set forth as a condition of approval of an application shall apply.

G. Decommissioning and Site Restoration Plan and Requirements - An application for a Wind Energy Facility permit shall include a decommissioning and site restoration plan containing the information and meeting the requirements in this section.

1. If any WECS remains non-functional or inoperative for a continuous period of 180 days, the applicant shall, without any further action by the Town, remove said system at its own expense in accordance with the provisions of subsection C of this Section. This provision shall not apply 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.
2. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA or by lack of income generation. The applicant shall make available to the Town all reports from the purchaser of energy from individual WECS. Upon request of the Town, the Town may also require periodic documentation reporting the power output generated by the WECS.
3. The plan shall provide for the removal from the Project Parcels, and lawful disposal or disposition of, all Wind Turbines and other structures, hazardous materials, electrical facilities, and all foundations to a depth of not less than 60 inches below grade. The plan shall provide for the removal of all access roads that the owner of the Project Parcels wants removed. The plan shall provide for the restoration of the Project Parcels to similar condition to that which existed before construction of the WECS.

4. The plan shall provide for the decommissioning of the site upon the expiration or revocation of the WECS permit, or upon the non-functioning of the WECS.
5. The Plan shall include:
 - a. the estimated decommissioning cost in current dollars;
 - b. how said estimate was determined;
 - c. the method of ensuring that funds will be available for decommissioning and restoration; and the method that will be used to keep the decommissioning costs current, by adjusted annually based on a suitable index such as the “RS Means Heavy Construction Cost Data” index.
6. The plan shall include provisions for financial security to secure completion of decommissioning (removal of non-functional towers and appurtenant facilities) and site restoration. The applicant, or successors, shall continuously maintain a fund in an amount to be determined by the Town for the period of the life of the facility. This fund shall be no less than 125% of the estimated cost of full decommissioning and restoration in the form of a cash deposit with the Town in the amount of 25% of such fund and the balance of such fund in the form of an irrevocable bond in form and content as approved by the Town Board. All decommissioning funding requirements shall be met prior to commencement of construction.
7. The plan shall include written non-revocable authorization from the permit holder and the owners of all Parcels within the project for the Town to access the Parcels and implement the decommissioning and site restoration plan, in the event the permit holder fails to implement the plan. The written authorization shall be in a form approved by the Town and shall be binding on the heirs, assigns and distributes of the owner(s), and shall be recorded in the Office of the Cattaraugus County Clerk.
8. Use of Decommissioning Fund.
 - a. Any non-functional WECS or any WECS for which the special use permit has been revoked, shall be removed from the site and the site restored in accordance with the approved decommissioning and site restoration by the applicant or owner of the WECS within 180 days of the date on which the facility becomes non-functional or of the revocation of the special use permit.
 - b. If removal of the WECS is required and the applicant, permittee, or successors fails to remove the WECS and restore the site in accordance with the approved decommissioning and site restoration plan, the permittee, by accepting the permit, authorizes the Town Board to contract for such removal and restoration and to pay for the removal and restoration from the posted decommissioning and site restoration fund.
 - c. If the fund is not sufficient, the Town shall charge the permit holder for the costs over and above the amount of the fund.

H. Limitations on Approvals; Easements on Town Property.

1. Nothing in this Zoning Ordinance shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the Wind Energy Facility. Nothing in this Zoning Ordinance shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility.
2. Notwithstanding anything to the contrary contained in this Zoning Ordinance or any other local law, ordinance, rule or regulation of the Town of Perrysburg, Building Permits shall not be issued for new construction on the same parcel as a permitted WECS when the proposed construction is located within a setback required by this Section. No property or lot upon which a WECS has been permitted shall be further subdivided in a manner that would result in a reduction of the setbacks required by this Section and/or as set forth in the permit.

I. Permit Enforcement Revocation.

1. Testing fund. A Special Use Permit shall contain a requirement that the applicant perform periodic noise testing by a qualified acoustical measurement consultant, which shall be included in the annual Operation Maintenance and Compliance report required under this Section, and may be required more frequently upon request of the Code Enforcement Officer in response to complaints or reasonable suspicion of violation of permit requirements. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Special Use Permit and this Zoning Ordinance and shall include an evaluation of any complaints received by the Town. The Town may, if the Code Enforcement Officer so determines, conduct or have conducted, such testing as it determines in addition to the applicant/operator. Such testing shall be paid for by the applicant.
2. Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions and requirements of this Section. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition or any provision of this Section, the owner, or operator shall immediately notify the Code Enforcement Officer. Upon such notice, or if the Code Enforcement Officer determines that a violation exists, he shall determine the severity of the non-compliance. If he determines the violation to be a threat to the life, safety, health or immediate well-being of the public, he may order the WECS to be shut down. Upon notification of a violation, the applicant/owner/operator shall submit a remediation plan in writing within 10 days outlining the steps to be taken to remedy the violation. If no plan is submitted, or if remediation is not completed within 90 days of notice, or at any other time the Code Enforcement Officer deems appropriate, the Code Enforcement Officer shall notify the Town Board.
3. Notwithstanding any other enforcement provision under this Section, if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Zoning Board may, after a public hearing at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into

compliance, (1) order either remedial action within a particular timeframe, or (2) order suspension of the permit until compliance is achieved, or (3) order revocation of the Wind Energy Permit for the WECS and require the removal of the WECS within 180 days. If the WECS is not removed, the Town shall have the right to use the security posted as part of the Decommission Plan to remove the WECS.

J. Fees.

1. Non-refundable Application Fees for WECS, Wind Measurement Towers, and Small WECS shall be established by the Town Board and reviewed periodically. The fee may be changed by resolution of the Town Board.
 - a. Until established, the fee shall be \$1,000.00 per megawatt of rated maximum capacity submitted with the application.
2. Reimbursement of Expenses Related to WECS Project: The Town Board of the Town of Perrysburg has determined that the review of building and electrical permits for WECS requires specific expertise for those facilities.
 - a. Accordingly, for such facilities (WECS), an administrative fee of \$500.00 per permit request shall be charged for administrative costs. (Note each WECS is required to have a permit, so the fee is based on number of proposed WECS $\$500.00 \times \text{Number of WECS} = \text{Administrative fee}$)
 - b. In addition, the amount charged to the Town by the outside consultant(s) hired by the Town to review the plans and inspect the work. The Town and the applicant will enter into an agreement for an inspection and/or certification procedure for these unique facilities, and the applicant will be required to deposit the sum of \$100,000.00 in an escrow account with the Town which the Town may use to pay for any expenses it incurs related to this project. The fees established herein may be amended from time to time by resolution of the Town Board.
3. Nothing in this Local ordinance shall be read as limiting the ability of the Town to enter into Host Community agreements with any applicant to compensate the town for expenses or impacts on the community. 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.

K. Project Management and Oversight.

1. Upon approval by the Planning Board of a WECS Special Use Permit application, and as a condition to the issuance of a WECS Special Use Permit, the applicant shall designate a field representative and site manager who will be responsible for overseeing compliance with the conditions of the Permit. Such representative and site manager shall be in place for as long as the WECS is in place. This person will have the authority to make management and technical decisions as situations demand. The applicant shall provide and update, at all times, the names, addresses, daytime telephone numbers and emergency telephone numbers of field representative and site manager to the Town Code Enforcement Officer and the Town Supervisor. The applicant shall also provide contact information for all entities providing operation, maintenance and monitoring services.

2. As a condition to the issuance of a WECS Special Use Permit, the services of an engineering firm will be retained by the Town of Perrysburg during the construction phase of the WECS project.
3. Prior to commencing construction, the applicant shall pay the Town a project inspection fee in the amount of 3 percent of the estimated cost of construction, including all materials, contracts and labor. Said amount is determined to be the reasonable cost to the Town to provide for such inspection. If the cost to the Town is less than that amount, the balance shall be refunded to the applicant upon completion of the construction, issuance of a Certificate of Occupancy and approval of all State and Federal agencies.
4. The engineering firm will oversee all aspects of construction and will be included in all design, construction, and planning meetings and shall be provided with all technical information, specifications and drawings. A representative of the engineering firm shall be on-site at all times during the construction phase. The firm will also monitor road and infrastructure use and determine any damages to same.
5. The engineering firm's duties shall include coordination with the Code Enforcement Officer for enforcement actions and project specification compliance and they will be confirming that all project specifications are implemented. The engineering firm's representative may recommend that the Code Enforcement Officer issue a "stop work order" for issues including but not limited to: (a) safety, (b) developer compliance issues, and (c) insufficient project documentation.
6. The applicant shall file daily, weekly and monthly construction plans and will follow the planned work schedule as much as possible. When daily, weekly, or monthly schedules are not completed as planned, updated schedules shall be developed and given to the engineering firm representative prior to starting the revised schedule.
7. The applicant shall provide the engineering firm representative and the Code Enforcement Officer with "As Built" Drawings within (1) one week of completion of each portion of the construction phase or as requested by the engineering firm representative, or code enforcement officer.
8. All up-grades or changes to the WECS project, as permitted, shall be reviewed and approved by the engineering firm and Code Enforcement Officer prior to the implementation of such upgrades or changes. No changes to basic design, height or location will be permitted unless approved as an amendment to the application by the Planning Board.
9. A final Maintenance Plan shall be provided to and approved by the Code Enforcement Officer, with input from the engineering firm prior to issuance of a Certificate of Occupancy, including but not limited to:
 - a. List of all items requiring regular maintenance.
 - b. Duration of accumulated time between scheduled maintenance.
 - c. Work to be completed during the maintenance operation.

- d. Person responsible for the maintenance.
 - e. Process applicant uses to ensure maintenance is carried out appropriately.
10. All performance data routinely monitored during turbine operation shall be provided to the Code Enforcement Officer. Data shall include but not limited to:
- a. Vibration levels.
 - b. Noise levels.
 - c. Rotational Speeds.
 - d. Kilowatt hours of production.
11. All performance data and maintenance reports shall be filed with the Code Enforcement Officer monthly, or more frequently as required.
12. In the event of an accident, the Town Code Enforcement Officer shall have the authority to shut down all of the affected turbines until a thorough investigation has taken place, a cause has been determined and steps have been taken to ensure the problem will not reoccur, as evidenced by a report satisfactory to the Code Enforcement Officer.

L. Enforcement; Penalties and Remedies for Violations.

- 1. This Local ordinance shall be enforced by the Town Code Enforcement Officer.
- 2. Any person owning, controlling or managing any building, structure or land who shall undertake a Wind Energy Facility in violation of this Local code or, operates such facility in noncompliance with the terms and conditions of any permit issued pursuant to this Local code, shall be guilty of a violation and subject to the penalties of the Town of Perrysburg Zoning Ordinance
- 3. The Code Enforcement Officer may, after notice of violation, enter into a Consent Order with the applicant/owner/operator, to remedy the violation with specifications to be taken and an agreed schedule.
- 4. Special Proceeding: In addition to any other remedy, the Town Board may institute an action or proceeding in equity, correct or abate any unlawful construction, erection, structural alteration, reconstruction, modification and/or use of a Wind Energy Facility and shall be entitled to injunctive relief, including a Temporary Restraining Order and a Temporary Injunction as the Court deems appropriate.

M. Miscellaneous.

- 1. Nothing in this Zoning Ordinance, including the approval by the Planning Board and issuance of the permit by the Town, shall eliminate any property or rights of property owners or residents to enforce their legal remedies including, but not limited to, actions in law or equity in the nature of nuisance proceedings, or tort or negligence

proceedings.

2. The Town reserves its right to opt out of the tax exemption provisions of Real Property Tax Law §487, pursuant to the authority granted by Subsection (8) of said law or by any other provision of law.

Non-Commercial Wind Energy Conversion Systems

These regulations provide standards for Non-Commercial Wind Energy Conversion Systems (WECS) that are designed for on-site home, farm and small commercial use, and that are primarily used to reduce on-site consumption of utility power. The intent is to ensure that development of these facilities will have a minimal impact on adjacent properties and to protect the health, safety and welfare of residents of the Town.

A. Application Process

1. Prior to construction of any non-commercial WECS, the project proponent shall first obtain a Special Use Permit and Site Plan Approval from the Town of Perrysburg Zoning Board, and a Building Permit from the Town's Code Enforcement Officer.
2. All applications for a non-commercial WECS shall include the following information:
 - a. Name and address of the applicant
 - b. Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.
 - c. A site plan drawn in sufficient detail to show the following:
 01. Location of the tower on the site and the tower height, including blades, rotor diameter and ground clearance.
 02. Property lot lines and the location and dimensions of all existing structures and uses on site within 300 feet of the Wind Energy Conversion Systems.
 03. Dimensional representation of the various structural components of the tower construction including the base and footing.
 04. Certification by a licensed New York State Professional Engineer that the towers design is sufficient to withstand wind loading requirements for structures as established by the New York State Uniform Building and Fire Prevention Code.
 - d. Evidence that the proposed tower height does not exceed the height recommended by the manufacture or distributor of the system, provided by a licensed New York State Professional Engineer.
 - e. Turbine information: Specific information on the type, size, height, rotor

material, rated power output, performance, safety, and noise characteristics of the residential wind turbine and tower.

- f. Photographs or detailed drawings of the wind turbine model, including the tower and foundation.
- g. Grading plan and erosion and sedimentation control plan
- h. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Electrical Code adopted by New York State.
- i. Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity from the grid.
- j. Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.
- k. Completed Environmental Assessment Form.
- l. Such additional information as may be reasonably requested by the Zoning Board for a complete understanding of the proposed project.

B. Criteria for Approval

The Zoning Board of Appeals shall use the following criteria to evaluate all Non-Commercial Wind Energy Conversion Systems:

1. **Minimum Lot Size** - A non-commercial WECS shall be located on a lot that is a minimum of one acre in size.
2. Only one non-commercial WECS shall be allowed per lot. The system shall be primarily used to reduce the on-site consumption of electricity and at no times shall electricity be distributed off-grid across property lines.
3. **Setbacks** -The non-commercial WECS shall be set back a minimum of 1.5 times the total height of the WECS from:
 - a. Any year-round residence in existence at the time the application is made.
 - b. Property lines of the site on which the structure is located.
 - c. The right of way of public roads
4. **Maximum height:** The maximum overall height of any non-commercial wind energy conversion system shall be 150 feet.

5. The maximum turbine output shall not exceed 100 kW per hour.
6. The WECS 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. **Lighting:** Exterior lighting on any structure associated with the system shall not be allowed, except lighting that is specifically required by the Federal Aviation Administration (FAA).
8. **Signage:** No advertising sign or logo shall be placed or painted on any turbine or tower. The Zoning Board may allow the placement of the manufacturer's logo on a ground level structure in an unobtrusive manner.
9. **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 related to the construction of the non-commercial Wind Energy Conversion System. If all such approvals have not been received at the time that the Zoning Board considers the application for Special Use Permit, receipt of these other agency approvals shall be a condition to be completed prior to the issuance of a Building Permit.
10. **Safety and security requirements:** The applicant shall adhere to the following safety and security requirements.
 - a. **Safety shutdown:** Each wind turbine shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
 - b. **Grounding:** All structures which may be charged with lightning shall be grounded according to applicable electrical code.
 - c. **Wiring:** All wiring associated with the wind energy facility shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers or lines. This standard may be modified by the Zoning Board if the terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
 - d. **Ground clearance:** The blade tip of any wind turbine shall, at its lowest point, have ground clearance of not less than 30 feet.
 - e. **Climb ability:** Wind turbine towers shall not be climbable up to 15 feet above ground level and/or other appropriate method of access control shall be provided.
 - f. **Anchor points for guy wires:** Anchor points for any guy wires for a system tower shall be located on the property that the system is located on and not on or across any above ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence 6 feet high or sheathed in bright orange or yellow covering from ground to eight feet above the ground.

The minimum setback for the guy wire anchors shall be 10 feet from the property boundary.

- g. **Signage:** Appropriate warning signage shall be placed on wind turbine towers, and electrical equipment. Signage shall also include one (1) twenty- four-hour emergency contact numbers to the owner of the wind turbine as well as signage warning of electrical shock or high voltage and harm from revolving machinery.

11. Noise Standard

- a. **Audible noise standard:** Must comply with article 10 section 10.2f noise standards of this code.
- b. **Low frequency noise:** A noncommercial wind energy facility shall not be operated so that impulsive sound below 20 Hz adversely affects the habitability or use of any dwelling unit, hospital, school, library, nursing home, or other sensitive noise receptor.

- 12. **Interference with television, microwave and radio reception** - The noncommercial wind energy conversion energy system shall be operated such that no disruptive electromagnetic interference is caused. If it is demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.

- 13. **Erosion Control** - Prior to granting a special use Permit for a non-commercial WECS, the Zoning Board shall determine that the Erosion and Sedimentation Control Plan is adequate.

C. Abandonment of Use

- 1. All non-commercial WECSs shall be maintained in good condition and in accordance with all requirements of this section. The Code Enforcement Officer shall inspect each non-commercial WECS annually to insure compliance with this provision. If this inspection shows that the structure is unsafe, then the owner will be given an opportunity to bring the structure into compliance. If the structure is deemed unsafe and the owner does not bring the structure into compliance within a reasonable period of time, the tower shall be dismantled and removed from the property at the owner's expense. The Town reserves the right to dismantle the structure and to charge back the cost of this removal to the property owner. If unpaid this will be added as a charge to the tax levy of the property.
- 2. Failure to abide by and faithfully comply with the standards of this section and with any and all conditions that may be attached to the granting of the Special Use Permit shall constitute grounds for the revocation of the permit, after a public hearing by the Zoning Board of Appeals.

- D. **Assessment** - A non-commercial wind energy conversion system may be subject to assessment by the Town of Perrysburg.

- E. Zoning Board Action** - The Zoning Board may grant the Special Use Permit, deny the Special Use Permit, or grant the Special Use Permit with written stated conditions. Denial of the Special Use Permit shall be by written decision based upon substantial evidence submitted to the Board. Upon issuance of the Special Use Permit, the applicant shall obtain a building permit for each tower.
- F. Amendments to Approval** - Any changes or alterations to the wind energy conversion system, after approval of the Special Use Permit and Site Plan, shall require amendment to the Special Use Permit. Such amendment shall be subject to all the requirements of this section.