

LEGAL NOTICE
PUBLIC HEARING
City of Oneida

PLEASE TAKE NOTICE that a **PUBLIC HEARING** will be held at 6:30 pm on Tuesday, November 15, 2022, Common Council Chambers, 109 N. Main Street, Oneida, NY on a proposed Local Law to amend Chapter 190 titled "Zoning" and Chapter 143, titled "Site Plan Review" of the Code of the City of Oneida to include wind energy regulations.

PLEASE TAKE FURTHER NOTICE that the complete text of the Proposed Local Law may be viewed on the City's website www.oneidacityny.gov under Legal Notices and in the City Clerk's lobby.

PLEASE TAKE FURTHER NOTICE that any or all persons opposing said proposed Local Law may file a written notice thereto, with the City Clerk before such hearing or attend said hearing at the time and place specified.

PLEASE TAKE FURTHER NOTICE that any persons with special needs should contact the City Clerk one week prior to the hearing.

CITY OF ONEIDA

PROPOSED LOCAL LAW

A LOCAL LAW AMENDING CHAPTERS 190, TITLED "ZONING," AND 143, TITLED "SITE PLAN REVIEW," OF
THE CITY OF ONEIDA CODE TO INCLUDE WIND ENERGY REGULATIONS.

Be it enacted by the Common Council of the City of Oneida, as follows:

Section 1.

So that a new Section 190-26.2, titled "Wind Energy," shall be added to Chapter 190 of the Oneida City Code, titled "Zoning," which shall read, in its entirety, as follows:

"190-26.2 Wind Energy.

Purpose.

The City of Oneida has determined that a comprehensive local law regulating the development of Wind Energy Conversion Systems is necessary to protect the interests of the City and its residents. The City adopts this article to promote the effective and efficient use of the City's wind energy resource through Wind Energy Conversion Systems and to regulate the placement of such systems so that public health, safety, and welfare will not be jeopardized and that the Wind Energy Conversion Systems will not have a significant adverse impact on the aesthetic qualities of the City.

Definitions.

COMMERCIAL WIND ENERGY SYSTEM — A Wind Energy Conversion System consisting of one wind turbine, one tower, and associated control or conversion electronics that has a rated capacity greater than 250 kilowatts and a total height of more than 150 feet and is intended to solely supply electrical power into a power grid for sale.

NONCOMMERCIAL WIND ENERGY SYSTEM — A Wind Energy Conversion System consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity of not more than 250 kilowatts and a total height of less than 150 feet.

TOTAL HEIGHT or MAXIMUM OVERALL HEIGHT — The height of the Wind Energy Conversion System measured from the ground elevation to the top of the tip of the blade in the vertical position.

TOWER — The support structure, including guyed, monopole, and lattice types, upon which a wind turbine or other mechanical device is mounted.

TOWER HEIGHT — The height above grade of the uppermost fixed portion of the Tower, excluding the length of any axial rotating turbine blades.

WIND ENERGY CONVERSION SYSTEMS (WECS) — One or more mechanical devices such as wind chargers, windmills, or wind turbines that are designed and used to convert wind energy into a form of useful energy for use on-site to reduce power costs for sale or redistribution to others. WECS includes both commercial and noncommercial systems.

WIND ENERGY FACILITY — Any Wind Energy Conversion System or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads, and accessory structures.

WIND ENERGY SYSTEM — The equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, Tower, transformer, turbine, vane, wire, substation, maintenance or control facilities or other component used in the system.

WIND MEASUREMENT TOWER — A Tower used for the measurement of meteorological data such as temperature, wind speed, and wind direction.

Applicability.

The requirements of this article shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this article.

Permits required; allowable zoning districts.

A. No Wind Energy Facilities shall be constructed, reconstructed, modified, or operated in the City of Oneida except in compliance with this article.

B. No Wind Energy Facilities shall be constructed, reconstructed, modified, or operated in the City of Oneida except in Agriculture (A) and Community Services (C-S) zones, subject to the issuance of a conditional use permit approved pursuant to this article, the completion of environmental review pursuant to the State Environmental Quality Review Act (SEQRA), and the issuance of a building permit.

C. No Wind Measurement Tower shall be constructed in the City of Oneida except in the allowable districts pursuant to a conditional use permit and this article.

Applications for Wind Energy Facilities.

A. Applications for a conditional use permit for WECS will follow the general process for the issuance of a conditional use permit as described in Chapter 190 of the City Code and this article, and shall be as follows:

(1) Applicants for a conditional use permit for Wind Energy Conversion Systems within the City of Oneida shall submit the following information to the City for its referral to a professional engineer or consultant and to the Joint Zoning Board of Appeals/Planning Commission through the Director of Planning and Development:

(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) Visual environmental assessment form (visual EAF), landscaping plan, and visual assessment report, including appropriate models and photography assessing the visibility from key viewpoints identified in the visual EAF or by the City of Oneida, existing tree lines, and proposed elevations. The visual EAF shall include a detailed or photographic simulation showing the site fully developed with all proposed wind turbines and accessory structures.

(d) A SEQRA full environmental assessment form (EAF).

(e) A site plan drawn in sufficient detail to show the following:

[1] Location of the Tower(s) on the site and the Tower Height, including blades, rotor diameter, and ground clearance.

[2] Utility lines, both above and below ground, within a radius equal to the proposed Tower Height, including the blades.

[3] Property lot lines and the location and dimensions of all existing structures and uses on-site within 1,000 feet of the Wind Energy Conversion Systems.

[4] Surrounding land use and all structures within 1,500 feet of the Wind Energy Conversion Systems.

[5] Dimensional representation of the various structural components of the Tower construction, including the base and footing.

[6] Certification by a registered New York State professional engineer that the tower's design is sufficient to withstand wind loading requirements for structures as established by the New York State Uniform Construction Code.

[7] Existing topography.

[8] Proposed plan for grading and removal of natural vegetation.

[9] Proposed plan for restoration after construction according to City of Oneida and NYS Department of Environmental Conservation guidelines.

[10] Wind characteristics and dominant wind direction from which 50% or more of the energy contained in the wind flows.

[11] Plan for ingress and egress to the proposed project site, including:

[a] A description of the access route from the nearest state, county, and/or City-maintained roads to include:

[i] Road surface material, stating the type and amount of surface cover.

[ii] Width and length of access route.

[iii] Dust control procedures.

[b] A road maintenance schedule or program.

[c] Review of railroad accessibility for deliveries.

[12] A detailed construction plan, including but not limited to a construction schedule; hours of operation; designation of heavy haul routes; a list of material equipment and loads to be transported; identification of temporary facilities intended to be constructed; and a contact representative in the field with a name and phone number.

[13] Tree removal. All groves of trees shall be located on the site plan at the time of application. No grove or woodlots of trees shall be removed without approval of the Joint Zoning Board of Appeals/Planning Commission.

(f) Turbine information: must contain specific information on the type, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each commercial wind turbine model, Tower, and electrical transmission equipment.

(g) Turbine drawings: must contain photographs or detailed drawings of each wind turbine model, including the Tower and foundation.

(h) Noise report. A noise report shall be furnished which shall include the following:

[1] A description and map of the project's noise-producing features, including the range of noise levels expected, and the tonal and frequency characteristics

expected. The noise report shall include low frequency, infrasound, pure tone, and repetitive/impulsive sound.

[2] A description and map of the noise-sensitive environment, including any sensitive noise receptors (i.e., residences, hospitals, libraries, schools, places of worship, and other facilities where quiet is important) within two miles of the proposed facilities.

[3] A survey and report prepared by a qualified engineer that analyzes the preexisting ambient noise regime, including seasonal variation, including but not limited to separate measurements of low frequency and A-weighted noise levels across a range of wind speeds, including near cut-in, turbulence measurements, distance from the turbines, location of sensitive receptors relative to wind direction and analyses at affected sensitive receptors, located within two miles of the proposed project site.

[4] A description and map showing the potential noise impacts, including estimates of expected noise impacts upon construction and operation workers and estimates of expected noise levels at sensitive receptor locations.

[5] A description and map of the cumulative noise impacts.

[6] A description of the project's proposed noise-control features, including specific measures proposed to protect workers and specific measures proposed to mitigate noise impacts for sensitive receptors consistent with levels in this article.

[7] Identification of any problem areas.

[8] Manufacturers' noise design and field-testing data, both audible dB(A) and low frequency (deep bass vibration), for all proposed structures.

[9] A report that outlines issues and considerations for individuals that use hearing aids.

(i) A geotechnical report shall be furnished which shall, at a minimum, include the following:

[1] Soil engineering and engineering geologic characteristics of the site based on on-site sampling and testing.

[2] Foundation design criteria for all proposed structures.

[3] Slope stability analysis.

[4] Grading criteria for ground preparation, cuts, and fills, and soil compaction.

(j) Ice throw calculations: a report from a New York State professional engineer that calculates the maximum distance that ice from the turbine blades could be thrown. The basis of the calculation and all assumptions must be disclosed.

(k) Blade throw calculations: a report from a New York State professional engineer that calculates the maximum distance that pieces of the turbine blades could be thrown. The basis of the calculation and all assumptions must be disclosed.

(l) Catastrophic tower failure: a report from the turbine manufacturer stating the wind speed and conditions that the turbine is designed to withstand, including all assumptions.

(m) FAA notification: a copy of the written notification to the Federal Aviation Administration.

(n) Utility notification: Utility interconnection data and a copy of a written notification to the utility of the proposed interconnection.

(o) Notification to microwave communications link operators. An application that includes any wind turbine which is located within two miles of any microwave communications link shall be accompanied by a copy of a written notification to the operator of the link.

(p) Floodplain. An application that includes any wind turbine which is located within a one-hundred-year floodplain area, as such flood hazard areas are shown on the floodplain maps, shall be accompanied by a detailed report which shall address the potential for wind erosion, water erosion, sedimentation, and flooding, and which shall propose mitigation measures for such impacts.

(q) Other information: such additional information as may be reasonably requested by the City Engineer, Code Enforcement Officer, and the Director of Planning and Development.

B. Conditional use permits issued for Wind Energy Conversion Systems shall be subject to the following conditions:

(1) Setbacks. The applicant shall adhere to the following setbacks:

(a) From zoning districts:

[1] Residential lot setback:

[a] No Commercial Wind Energy Systems shall be allowed in any residential district.

[b] One thousand feet from any residential district boundary line.

(b) From structures:

[1] A minimum of 1.5 times the total WECS height from any building located outside the applicant's property line.

[2] A minimum of 1,500 feet from any dwelling.

(c) From property lines (excluding residential zones):

[1] A minimum of 1.5 times the total WECS height from any property line, excluding adjoining lot lines of project participants.

(d) From public roads and highways:

[1] A minimum of 1.5 times the total WECS height from any public road and highway.

[2] Where the lot line abuts a public right-of-way, the setbacks specified above shall be measured from the center line of such right-of-way.

(e) From aboveground transmission lines greater than 12 kilovolts:

[1] A minimum of 1.5 times the total WECS height from any aboveground transmission line greater than 12 kilovolts, excluding where transmission lines are located within PUD Zones and those transmission lines associated with the WECS.

(f) Notwithstanding the provisions set forth in these subsections, such setbacks from lot lines do not apply if the application is accompanied by a legally enforceable agreement for a period of 25 years or the life of the permit, whichever is longer, that the adjacent landowner agrees to the elimination of the setback, and is approved by the Joint Zoning Board of Appeals/Planning Commission.

(2) Maximum overall height. The maximum overall height of any Wind Energy Conversion System shall be 450 feet. The maximum height shall be measured from the ground elevation to the top of the tip of the blade in the vertical position.

(3) Signage.

(a) Signage limited. No advertising sign shall be placed or painted on any Commercial Wind Energy Facility.

(4) Color and finish; camouflage facilities.

(a) Color and finish. Wind turbines shall be painted a nonobtrusive (e.g., light environmental color such as white, gray, or beige) color that is nonreflective.

(b) Camouflage facilities. The design of commercial wind energy facility buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend the facility into the natural setting and the existing environment.

(5) Lighting.

(a) Lighting plan required. The applicant shall submit a commercial wind energy facility lighting plan that describes all lighting that will be required, including any lighting that may be required by the FAA. Such plan shall include but is not limited to the planned number and location of lights, light color, whether any such lights will be flashing, and mitigation measures planned to control the light so that it does not spill over onto neighboring properties.

(6) Compliance with regulatory agencies. The applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county, and local agencies having jurisdiction and approval related to the completion of the Wind Energy Conversion System.

(7) 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. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the wind turbine structure. No wind turbine shall be permitted that lacks an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding and excessive pressure on the tower structure, rotor blades, and turbine components.

(b) Grounding. All structures which may be charged with lightning shall be grounded according to applicable electrical codes.

(c) Wiring. All wiring between the wind turbines and the Wind Energy Facility substation shall be underground. The applicant is required to provide a site plan showing the locations of all overhead and underground electric utility lines, including substations for the project.

(d) All transmission lines from Wind Energy Conversion Systems to oil-site substations shall be underground. The Joint Zoning Board of Appeals/Planning Commission shall have the authority to waive this requirement if the owner of the property upon which the transmission line will be sited consents to aboveground transmission lines or if the Joint Zoning Board of Appeals/Planning Commission has sufficient engineering data submitted by the applicant to demonstrate that underground transmission lines are unfeasible.

(e) Ground clearance. The blade tip of any wind turbine shall, at its lowest point, have a ground clearance of not less than 50 feet.

(f) Climb ability. Wind turbine towers shall not be climbable up to 15 feet above ground level.

(g) Access doors locked. All access doors to wind turbine towers and electrical equipment shall be lockable and shall remain locked at all times when operator personnel is not present.

(h) Self-supporting structures. All Wind Energy Conversion System structures shall be of monopole construction (single pole). No lattice structures or guy-wire-supported structures shall be permitted.

(i) Signage. Appropriate warning signage shall be placed on wind turbine towers, electrical equipment, and Wind Energy Facility entrances. Signage shall also include two twenty-four-hour emergency contact numbers for the owner of the wind turbine in accordance with local, state, and federal codes.

(j) Ice throw. The permit shall determine the acceptable ice throw range based on the activities in the area, location, and calculations of the ice throw.

(8) Noise requirements. The applicant shall adhere to the following noise requirements:

(a) Compliance with noise regulations is required. A WECS permit shall not be granted unless the applicant demonstrates that the proposed project complies with all noise regulations.

(b) Noise study required. The applicant shall submit a noise study based on the requirements set out in Subsection B of this section. The Director of Planning with the assistance of a technical consultant, or City Engineer shall determine the adequacy of the noise study and, if necessary, may require further submissions. The noise study shall consider the following:

[1] Low-frequency noise.

[2] Infrasound noise.

[3] Pure tone.

[4] Repetitive/impulsive sound.

(c) Noise setbacks. The Joint Zoning Board of Appeals/Planning Commission may impose a noise setback that exceeds the other setbacks set out in this section if it deems that such greater setbacks are necessary to protect the public health, safety and welfare of the community.

(d) Audible noise standard. The audible noise standard due to wind turbine operations shall not be created which causes the noise level at the boundary of the proposed project site to exceed the greater of 45 dB(A) for more than five minutes out of any one-hour time period or 6 dB(A) greater than the prevailing background noise.

(e) Operations, low-frequency noise. A WECS 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 receptors.

(f) Noise complaint and investigation process required. The applicant shall submit a noise complaint and investigation process. The Joint Zoning Board of Appeals/Planning Commission shall determine the adequacy of the noise complaint and investigation process.

(9) Fire hazard protection. The applicant shall submit a fire control and prevention program that is appropriate and adequate for the proposed facility. The proposed program may include, but is not limited to, the following:

(a) Fireproof or fire-resistant building materials.

(b) Buffers or fire-retardant landscaping.

(c) Availability of water.

(d) An automatic fire-extinguishing system for all buildings or equipment enclosures of substantial size containing control panels, switching equipment, or transmission equipment without regular human occupancy.

(e) Provision of training and fire-fighting equipment for local fire protection personnel.

(10) Impact on wildlife species and habitat. The applicant shall adhere to the following regarding the impact on wildlife species and habitat:

(a) Endangered or threatened species. The development and operation of a WECS facility shall not have a significant adverse impact on endangered or threatened fish, wildlife, or plant

species or their critical habitats, or other significant habitats identified in the City of Oneida Comprehensive Plan and/or the studies and plans of the regional planning commissions based on criteria established by federal or state regulatory agencies.

(b) Migratory birds. The development and operation of a Commercial Wind Energy Facility shall be evaluated based on SEQRA findings.

(11) Unsafe and inoperable wind energy facilities; site reclamation. The applicant shall adhere to the following:

(a) Removal and site restoration. Unsafe WECS facilities, inoperable WECS facilities, and WECS facilities for which the permit has expired shall be removed by the owner at his or her expense. All safety hazards created by the installation and operation of the Commercial Wind Energy Facility shall be eliminated, and the site shall be restored to its natural condition to the extent feasible. A bond or other appropriate form of security shall be required to cover the cost of the removal and site restoration at the time of the building permit application. The bond shall be payable to the City of Oneida for the removal of nonfunctional towers and appurtenant facilities in an amount to be determined by the City on an annual basis for the period of the life of the facility. Any fund established may consist of a letter of credit from a State of New York licensed financial institution. All costs of the financial security shall be borne by the applicant.

(b) Removal and site restoration plan required. The applicant shall submit a removal and site restoration plan and removal and site restoration plan cost estimate to the Code Enforcement Officer/Building Inspector, City Engineer, and Planning Director for review and approval. The restoration plan shall identify the specific properties it applies to and shall indicate the removal of all buildings, structures wind turbines, access roads and/or driveways and foundations to four feet below finish grade; road repair costs, if any; and all regrading and revegetation necessary to return the subject property to the condition existing prior to establishment of the WECS facility. The restoration shall reflect the site-specific character, including topography, vegetation, drainage, and any unique environmental features. The plan shall include a certified estimate of the total cost (by element) of implementing the removal and site restoration plan.

(c) Public nuisance. Every unsafe WECS facility and every inoperable WECS facility is hereby declared a public nuisance which shall be subject to abatement by repair, rehabilitation, demolition, or removal. An inoperable WECS facility shall not be considered a public nuisance, provided that the owner can demonstrate that modernization, rebuilding or repairs are in progress or planned and will be completed within no more than six months.

(d) "Inoperable" defined. A Commercial Wind Energy Facility shall be deemed inoperable if it has not generated power within the preceding six months.

(12) Interference with residential television, microwave, and radio reception. The applicant must submit proof that the proposed construction of the Wind Energy Conversion System will not cause interference with microwave transmissions, cellular transmissions, residential television interference, or radio reception of domestic or foreign signals. The applicant shall include specific measures proposed to prevent interference, a complaint procedure, and specific measures proposed to mitigate interference impacts.

(13) Compliance with FAA regulations. All Commercial Wind Energy siting shall comply with Federal Aviation Administration (FAA) regulations.

(a) Locking mechanisms to limit radar interference are required. All WECS facilities shall include a locking mechanism that prevents the blades from rotating when not producing power, in order to limit airport radar interference or "clutter." This provision does not apply while the WECS is "free-wheeling" during startup and shutdown. The Joint Zoning Board of Appeals/Planning Commission may modify or eliminate the requirement for a locking mechanism if sufficient evidence is presented that no significant airport radar interference or "clutter" will be caused by the WECS facility.

(14) Erosion control. The applicant shall adhere to the following:

(a) Erosion control plan required. Before the City of Oneida shall issue a grading or building permit for the WECS facility, the applicant shall submit an erosion control plan to the Director of Planning and Development for review and approval. The plan shall minimize the potential adverse impacts on wetlands and Class I and II streams and the banks and vegetation along those streams and wetlands and minimize erosion or sedimentation.

(b) If the proposed project disturbs over one acre, the applicant must comply with the New York State Department of Environmental Conservation (NYSDEC) SPDES General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-02-01). A copy of the notice of intent (N.O.I.) and stormwater pollution prevention plan (SWPPP), as required by the general permit, must be filed with the City of Oneida Code Enforcement Office prior to construction. Per the general permit, construction cannot begin until the required time period for the NYSDEC review has passed.

(15) Certification. The applicant shall provide the following certifications:

(a) Certification of structural components. The foundation, tower, and compatibility of the Tower with the rotor and rotor-related equipment shall be certified in writing by a structural engineer licensed and registered in New York. The engineer shall certify compliance with good engineering practices and compliance with the appropriate provisions of the Uniform Building and Construction Code that have been adopted in New York State.

(b) Certification of post-construction. After completion of the Wind Energy Conversion System, the applicant shall provide a postconstruction certification from a licensed professional engineer licensed and registered in the State of New York that the project complies with applicable codes and industry practices and has been completed according to the design plans.

(c) Certification of the electrical system. The electrical system shall be certified in writing by an electrical engineer registered in New York. The engineer shall certify compliance with good engineering practices and with the appropriate provisions of the Electric Code that have been adopted by New York State.

(d) Certification of rotor overspeed control. The rotor overspeed control system shall be certified in writing by a mechanical engineer licensed and registered in New York State. The engineer shall certify compliance with good engineering practices.

(e) Certification of project. A certificate of completion must be supplied by the applicant and approved by the City of Oneida Code Enforcement Officer.

C. Monitoring requirements for wind energy conversion systems.

(1) Right to enter premises for monitoring. Upon reasonable notice, City of Oneida officials or their designated representatives may enter a lot on which a WECS facility permit has been granted for the purpose of compliance with any permit requirements. Twenty-four hours advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice.

(2) Avian/bat impact study plan. The applicant shall submit a plan for monitoring the avian impact of the commercial wind energy facility to the Joint Zoning Board of Appeals/Planning Commission for its review and approval. Such a plan shall document and follow accepted scientific study procedures. In addition, the applicant shall agree to submit a report to the Joint Zoning Board of Appeals/Planning Commission according to the requirements of the applicable regulatory agencies that identifies all dead birds found within 500 feet of the commercial wind energy facility.

(3) Periodic reporting is required. The applicant shall agree to submit periodic monitoring reports to the City. The report shall contain data on the operations and environmental impacts and shall be in the form prescribed by the Code Enforcement Officer or Director of Planning and Development.

(4) Power production report required. The applicant shall agree to submit as requested by the Joint Zoning Board of Appeals/Planning Commission a power production report to the City. The power production report shall include actual power production in kilowatt hours for each WECS facility.

(5) Inspections. Unless waived by the Joint Zoning Board of Appeals/Planning Commission, wind turbines or poles over 150 feet in height shall be inspected annually by a New York State licensed professional engineer that has been approved by the City or at any other time upon a determination by the City's Code Enforcement Office that the wind turbine, tower or pole may have sustained structural damage, and a copy of the inspection report shall be submitted to the City Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.

(6) General complaint process.

(a) During construction, the City of Oneida Code Enforcement Officer can issue a stop-work order at any time for any violations of the permit.

(b) Postconstruction. After construction is complete, the permit holder shall establish a contact person, including name and phone number, for receipt of any complaint concerning any permit requirements. Upon receipt of a complaint from the City of Oneida Code Enforcement Officer, the permit holder contact person shall have seven working days to reply to the City in writing.

D. Application and development fees and costs.

(1) Application fee. The applicant shall pay a fee of \$5,000 per Wind Energy System associated with the City of Oneida's review and processing of the application. The applicant shall submit a deposit with the application in the amount as set forth above. Following action on the application, any unused amount of the deposit(s) shall be returned to the applicant with a summary of the costs incurred.

(2) Development fees to be paid. A one-time or periodic fee and a requirement to provide public works or services may be imposed as a condition of a commercial wind energy system permit. Such fees must be related to the public need created by wind energy development. The purposes for which the permit fee may be used include, but are not limited to, providing roads required by the wind development, providing fire protection services, and establishing and operating a monitoring system.

(3) Proof of insurance. Prior to the issuance of a building permit, the applicant shall provide the City Clerk with proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with the construction and operation thereof.

E. Findings.

(1) Findings necessary to grant a WECS facility permit. In order to grant a WECS facility permit, the Joint Zoning Board of Appeals/Planning Commission shall review the application and all filings by any other party and conduct a public hearing. A Commercial Wind Energy Facility permit shall not be granted unless the City of Oneida makes the following findings based on substantial evidence:

(a) Consistent with the Comprehensive Plan. The proposed Commercial Wind Energy Facility project is consistent with the Comprehensive Plan of the City of Oneida.

(b) Will not unreasonably interfere with the orderly land use and development plans. The proposed WECS facility will not unreasonably interfere with the orderly land use and development plans of the City of Oneida.

(c) Benefits to the applicant and the public will exceed any burdens. The benefits of the proposed WECS facility project to the applicant and the public will exceed any burdens.

(d) Not detrimental to the public health, safety, and general welfare of the community. The proposed WECS facility will not be detrimental to the public health, safety, or general welfare of the community.

(e) Complies with all required provisions of the Site Plan Review regulations. The proposed WECS facility shall comply with all required provisions of the Site Plan Review regulations unless variances have been properly applied for and granted pursuant to §143 of the Code of the City of Oneida.

(f) Complies with all required provisions of the Zoning Regulations. The proposed WECS facility shall comply with all required provisions of the Zoning Regulations unless variances have been properly applied for and granted pursuant to §190 of the Code of the City of Oneida.

F. The Joint Zoning Board of Appeals/Planning Commission may grant the conditional use permit, deny the Conditional Use permit, or grant the Conditional Use permit with written stated conditions.

Denial of the Conditional Use permit shall be by written decision based upon substantial evidence submitted to the Joint Zoning Board of Appeals/Planning Commission. Upon issuance of the Conditional Use permit, the applicant shall obtain a building permit for each tower.

G. WECS permits approved by the City Council of the City of Oneida shall be renewed annually.

The permit holder shall make a renewal application to the Code Enforcement Officer 60 days prior to expiration to allow for inspection and full compliance with all applicable laws and regulations. The renewal application will include a fee as set by the City Council of no more than \$500 per Wind Energy System.

H. The Conditional Use permit shall not be assignable or transferable without the approval of the Joint Zoning Board Appeals/Planning Commission.

I. Amendments to Conditional Use permit. Any changes or alterations postconstruction to the WECS shall be done only by amendment to the Conditional Use permit and subject to all requirements of this article.

J. The applicant licensee shall agree to indemnify and hold the City, its City Council, officers, agents and employees harmless from any liability imposed upon the City, its officers, agents and/or employees arising from the construction, operation or maintenance of the WECS.

K. The applicant shall certify to the City that appropriate security will be in place to restrict access to the WECS and facilities following completion of construction.

Wind Measurement Towers.

The City acknowledges that prior to construction of a WECS, a wind site assessment is conducted to determine the wind speeds and feasibility of using particular sites. Installation of wind measurement towers, also known as "anemometer ("met") towers," shall be permitted as a Conditional Use in the same zoning districts as the WECS.

A. An application for a Wind Measurement Tower shall include:

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

B. The Joint Zoning Board of Appeals/Planning Commission may attach such conditions as it deems appropriate to variance approvals as it deems necessary to minimize the impact of the variance.

Permit revocation.

A. Testing fund. A Conditional Use permit shall contain a requirement that the application fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as every two years or more frequently upon request of City Code Enforcement in

response to complaints by residents. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Conditional Use Permit and this article and shall also include an evaluation of any complaints received by the City. The applicant shall have 90 days after written notice from the Codes Department to cure any deficiency. An extension of the ninety-day period may be considered by the Code Enforcement Department, but the total period may not exceed 180 days.

B. Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. The operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate permit conditions, the owner or operator shall remedy the situation within 90 days after written notice from the Code Enforcement Department. The applicant shall have 90 days after written notice from the Code Enforcement Department to cure any deficiency. An extension of the ninety-day period may be considered by the Code Enforcement Department, but the total period may not exceed 180 days.

C. Notwithstanding any other abatement provision under this article, if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Joint Zoning Board of Appeals/Planning Commission may, after a public hearing at which the operator or owner shall be given the opportunity to be heard and present evidence, including a plan to come into compliance, either order remedial action within a particular timeframe or order revocation of the wind energy permit or the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Code Enforcement Department shall have the right to use the security posted as part of the decommissioning plan to remove the WECS.

Fees and costs.

All fees required under this article shall be approved by the Common Council by resolution. Nothing in this article shall be read as limiting the ability of the City to enter into host community agreements with any applicant to compensate the City for expenses or impacts on the community. The City 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.

Enforcement; penalties for offenses; remedies.

A. Any person owning, controlling or managing any building, structure, or land who shall undertake a WECS or wind measurement tower in violation of this article or in noncompliance with the terms and conditions of any permit issued pursuant to this article or any order of the enforcement officer and any person who shall assist in so doing shall be guilty of an offense and subject to a fine of not more than \$250 or to imprisonment for a period of not more than six months, or both. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The City may institute a civil proceeding to collect civil penalties in the amount of \$250 for each violation, and each week said violation continues shall be deemed a separate violation.

B. In case of any violation or threatened violation of any of the provisions of this article, including the terms and conditions imposed by any permit issued pursuant to this article, in addition to other remedies and penalties herein provided, the City may institute any appropriate action or proceeding to

prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation to prevent the illegal act.”

SECTION 2.

So that Chapter 190 (Zoning) of the City of Oneida Code, Section 190 Attachment 1, titled “Table A: Schedule of Uses” shall be amended as follows:

“Chapter 190 (Zoning), Article III (Application of Regulations) of the City of Oneida Code, is amended to add “Wind Energy Conversion Systems” to Section 190 Attachment 1, titled “Table A: Schedule of Uses” to be allowable by means of a conditional use permit in Agricultural and Community Services Zones.

SECTION 3.

So that Chapter 190 (Zoning) of the City of Oneida Code, Section 190 Attachment 2, titled “Table B: Lot Development Standards” shall be amended as follows:

“Chapter 190 (Zoning), Article III (Application of Regulations) of the City of Oneida Code, is amended to add “Wind Energy Conversion Systems” to Section 190 Attachment 2, titled “Table B: Lot Development Standards” must comply with the following standards in Agricultural and Community Services Zones:

“Area, yard, and lot coverage requirements will be determined by the Joint Zoning Board of Appeals/Planning Commission based on health, safety, and general welfare standards. However, unless increased or decreased by the Joint Zoning Board of Appeals/Planning Commission, minimum lot size shall be set by the Joint Zoning Board of Appeals/Planning Commission, minimum front yards, 50 feet; minimum side yards, 50 feet; and minimum rear yards, 50 feet.”

SECTION 4.

“Chapter 143 (Site Plan Review), Article III (Application of Regulations) of the City of Oneida Code, is amended to add “The development of Wind Energy Conversion Systems (WECS)” to Section 143-9(B)(12).

SECTION 5. Validity and severability.

If any section or part of this local law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this local law.

SECTION 6. Effective date.

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