

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Venice

FILED
STATE RECORDS

SEP 20 2024

Local Law No.

2

DEPARTMENT OF STATE
of the year 20 24

A local law

Wind Energy Facilities Law of
(Insert Title)
the Town of Venice

Be it enacted by the

Town Board
(Name of Legislative Body)

of the

☐ County ☐ City ☒ Town ☐ Village
(Select one:)

of Venice

as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2024 of the (County)(City)(Town)(Village) of Venice was duly passed by the Town Board on August 1, 2024, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law. (Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

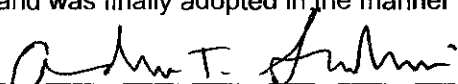
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20 _____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 ____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: September 17, 2024

(Seal)

**Town of Venice,
Cayuga County, NY**

Local Law #2 of 2024

Wind Energy Facilities Law

BE IT ENACTED by the Town Board of the Town of Venice, County of Cayuga, State of New York, as follows:

ARTICLE 1

SECTION 1 – Authority. This Local Law is adopted pursuant to the authority and provisions of § 10 of the Municipal Home Rule Law, § 10 of the Statute of Local Governments, and Town Law § 130, and Town Law Article 16, including §§ 268 and 274-a therein.

SECTION 2 – Purpose and legislative Matters. This Local Law shall be known as the “Wind Energy Facilities Law of the Town of Venice.” The purpose of these requirements and standards is to regulate the development of Wind Energy Conversion Project(s) (wind turbines) and related structures in the Town of Venice. This law is to be consistent with the general purposes stated in the Comprehensive Plan of the Town, to accommodate the necessary infrastructure for the provision of commercial wind powered electricity generation facilities so that they may be developed in a manner hereby deemed to be compatible with the general health, welfare and safety of the residents of the Town of Venice. Furthermore, this local law is enacted to address the visual, aesthetic and the land use compatibility aspects of Wind Energy Conversion Units, and more specifically to:

1. Encourage the location of Wind Energy Conversion Units in areas where adverse impacts on the community are minimized.
2. Encourage the configuration of Wind Energy Conversion Units in a way that minimizes adverse visual impact of the towers and related equipment.
3. Encourage the co-location or shared use of proposed and existing Wind Energy Conversion Units sites.
4. Encourage the location and/or co-location of Wind Energy Conversion Units in such areas and using such methods so as to minimize the irretrievable conversion or loss of prime soils in the Town, and to also minimize adverse impacts upon agricultural operations upon abutting properties.

SECTION 3 – Findings. The Town Board of the Town of Venice finds and declares that:

1. Wind energy is an abundant, renewable, and nonpolluting energy resource of the Town, and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the emission of carbon dioxide that results from the use of conventional energy sources.
2. The generation of electricity from properly sited wind turbines, including private systems, can be cost effective, and in many cases, existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users, or on-site consumption can be reduced.
3. Regulation of the siting and installation of wind turbines is necessary for the purposes of protecting the environment as well as the health, safety and welfare of neighboring property owners and the general public from any potential impacts, including but not limited to those set forth herein.
4. Wind energy systems represent significant potential aesthetic impacts because of their large size, lighting, shadow flicker effects, and visual impacts associated with collection systems.
5. If not properly regulated, installation of wind energy conversion systems can create drainage problems through erosion and lack of sediment control for system sites and access roads, and harm farmlands through improper construction methods.
6. Wind energy conversion systems may present a risk to bird and bat populations.
7. Wind energy conversion systems may present risks to property values in the town.
8. Wind energy conversion systems can be a significant source of noise, which if unregulated, can negatively impact adjoining properties.
9. Construction of wind energy conversion systems can create traffic problems and damage local roads.
10. Wind energy conversion systems can cause electromagnetic interference issues with various types of communications.
11. Wind energy conversion systems can impact emergency response services.
12. Wind energy conversion systems can have environmental impacts on wetlands, streams and other natural habitats.
13. Wind energy conversion systems can impact area groundwater, and private wells, particularly as a result of blasting operations that might be necessary for construction of such systems.

SECTION 4 - Definitions

Applicant: Any person or entity applying to develop, own, locate, construct or operate a Wind Energy Conversion System and /or Battery Storage System within the Town. All requirements placed upon an Applicant under this local law or by way of approval of a permit issued hereunder, shall be fully and completely binding upon the owner, his/her/its successors, heirs and assigns, of the Wind Energy Conversion System being submitted for review hereunder.

Accessory Facilities or Equipment: Any structure, other than a Wind Energy Conversion Unit, related to the use and purpose of deriving and/or transmitting energy from such towers located at the Wind Energy Conversion System.

Battery Storage System: Any structure or apparatus designed to hold energy which may release it at a later time.

Blade Glint: The intermittent reflection of the sun off the surface of the blades of a Wind Energy Conversion Unit.

Commercial Structure: A structure which is occupied by humans for at least an average of 1,000 hours per year and does not fall under the definition of Residential Structure.

Discontinuance: Status of a Wind Energy Conversion Unit and/or system when it has been nonproductive for a period of one year, in that it has failed or is unable to consistently produce, or support the production of energy generation and conversion. It is the intent of this legislation for Discontinuance to be used synonymously with the word abandonment. The one year period may be extended if the Town Board agrees that Good Faith Efforts are being exhibited to rectify the cause of the nonproductivity.

Fall Zone: Fall Zone shall be a level distance perpendicular to the base equal to the total height of the Wind Energy Conversion Unit plus the rotor at a full and upright vertical position, plus 10%.

Good Faith Effort(s): The Town Board will use the Uniform Commercial Code as the guideline for making a determination of Good Faith Efforts.

Nacelle: The portion of the Wind Energy Conversion Unit that connects the rotor to the support tower and houses the generator, gearbox, drivetrain and braking system.

Non-Participating Property: Real property not under lease or other use agreement with an Applicant or an Applicant affiliated company, including its successor and assigns.

Non-Participating Residential Structure: Any Residential Structure located on real property not under lease to or other use agreement with a wind generating company, Applicant, or an Applicant affiliated company, including its successors and assigns.

Non-Participating Commercial Structure: Any Commercial Structure located on real property not under lease to or other use agreement with a wind generating company, Applicant, or an Applicant affiliated company, including its successors and assigns.

Participating Property: Real property where the owner has a lease or other use agreement with a wind generating company, Applicant or an Applicant affiliated company, including its successors and assigns.

Participating Commercial Structure: Any Commercial Structure located on real property under lease or other use agreement with, a wind generating company, Applicant, or an Applicant affiliated company, including its successors and assigns.

Participating Residential Structure: Any Residential Structure located on real property under lease or other use agreement with, a wind generating company, Applicant, or an Applicant affiliated company, including its successors and assigns.

Residential Structure: Any structure regularly occupied by a person or persons as living units.

Town Project Coordinator: The individual or entity identified by the Town Board to interact with and participate with the applicant/owner/operator's assigned construction coordinator as it relates to scheduling during the life of the project.

Town Board: For the purposes of this Local Law shall mean the Town Board of the Town of Venice.

Public Hearing: A meeting announced and advertised in advance, and open to the public, with the public given an opportunity to talk, participate and express their opinions, support or concerns.

Right of Way: A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

Setback: The area of land measured along the ground out a horizontal distance in any direction from a structure, accessory structure, system, or facility being regulated under this local law.

Shadow Flicker: The effect from the sun shining through the turning blades on the Wind Energy Conversion Unit and casting a shadow over the landscape - most noticeably during sunrise and sunset.

Structure: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. For example, structures include buildings, manufactured homes, walls, fences, signs, sheds, billboards, docks, gas pumps, and/or similar construction types.

Tip Height: Tip height is equal to the distance from the ground to the tip of the rotor blade in a full and upright vertical position.

Tower Height: Tower height is equal to the distance from the ground to the top of the tower not including the nacelle or rotor blades.

WECS or Tower Site: Site where one or more Wind Energy Conversion Units or wind turbines will be located, including all accessory facilities or equipment.

Wind Energy Conversion Unit/ Wind Turbine: Any tower, pole or other structure, system, aperture or technology whether attached to a building or freestanding, designed to be used for producing electricity from wind energy.

Wind Energy Conversion Unit/ Wind Turbine (Large Project): One or more towers, poles or other structures, or technologies, whether attached to a building or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for the purpose of producing electricity intended to provide electricity production for delivery on the local transmission network. Any Wind Energy Conversion Unit/ wind turbine not meeting the definition of a Wind Energy Conversion Unit/ wind turbine (Small Project) shall, for the purposes of this Local Law, be considered a Wind Energy Conversion Unit/ wind turbine (Large Project).

Wind Energy Conversion Unit/ Wind Turbine (Small Project): One or two towers, poles or other structures, whether attached to a building or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as nacelle and

generator for the purpose of producing electricity intended to reduce on-site consumption of utility power. Such towers shall be limited in height to 150' and to a power generating rating of 250 kw (kilowatts). Any Wind Energy Conversion Unit/ wind turbine not meeting this definition shall, for the purposes of this Local Law, be considered a Wind Energy Conversion Unit/ wind turbine (Large Project).

Wind Energy Conversion System (WECS): All structures, equipment, improvements, and facilities utilized or necessary for the normal operation of the project being submitted by an Applicant under this local law, including, but not limited to, Wind Energy Conversion Units, all accessory facilities and equipment thereto, and/or any portion thereof.

Wind Generating Company: Any organization, entity, or individual that owns and or operates infrastructure, improvements and/or systems which convert wind energy into electrical energy.

Wind Measurement Tower (MET Tower): A tower used for the measurement of meteorological data such as temperature, wind speed, and wind direction.

SECTION 5 – Permits, Exemptions, Transfer.

1. The Town Board is hereby authorized to approve, approve with conditions, or disapprove Wind Energy Conversion project applications in compliance with the provisions of this local law as is consistent with applicable New York State laws and regulations in existence and/or which may be promulgated.
2. No Wind Energy Conversion System or any portion thereof shall be located, constructed, reconstructed, modified, or operated in the Town unless and in accordance with a Special Use Permit duly issued by the Town Board under this local law and the other applicable provisions of Town of Venice laws.
3. The Town Board shall determine on a case-by-case basis, based upon the specific aspects of the application and the complexity of the application, whether an independent professional Engineer and/or other consultant will be required to assist in the review of an application, including review of SEQRA documentation and outside legal services on behalf of the Town. If so determined that independent professional or consulting services are required, the applicant shall be responsible for any and all fees and costs associated with such services. The costs of such services shall be limited to the reasonable standard fees for such independent third parties as determined upon review of such fees charged by such consultants in the Town and generally in the Finger Lakes Region of New York State. Upon submission of the application, the Town shall obtain a good faith estimate of the fees to be charged by said third-party consultant and advise the applicant of said estimate of fees to which the applicant shall remit an amount to the Town equal to such estimate within 15 days of such demand. These funds shall be held by the Town in trust to reimburse and be drawn upon by the Town when the Town incurs and pays the appropriate voucher for such third-party services. Should the fees for such third-party consultants exceed said estimated amount, the applicant shall immediately deliver and file with the

Town an additional sum in an amount equal to the original estimated amount, or such sum as deemed appropriate and necessary to cover the remaining charges anticipated to be incurred by the Town thereafter. Any funds held in trust following completion of said third-party review, shall be returned to the Applicant upon presentation of a duly executed voucher seeking the same. If the Applicant fails to pay any and all such fees and costs incurred relative to such independent third-party services or the estimated fees to be deposited in trust with the town prior to the date such fees are demanded to be paid by the Town to the Town, such failure shall constitute a withdrawal of the Applicant's application under this local law and thereafter such application shall be considered null and void by the Town for all purposes relative thereto.

4. No Wind Measurement Tower (MET Tower) shall be constructed, reconstructed, modified or operated in the Town of Venice except pursuant to a Special Use Permit and Building Permit issued pursuant to this law.
5. Notwithstanding any other provisions of this Local Law or other portions of the Town of Venice laws, Special Use Permits for Wind Energy Conversion Systems shall be issued by the Town Board.
6. Transfer. No transfer or assignment of any Wind Energy Conversion System or Special Use Permit shall occur without prior written approval of the Town Board, which approval may be granted upon written acceptance by the transferee of the obligations of the transferor under this local law, and the transferee's demonstration, in the sole discretion of the Town Board, that it can meet the technical and financial obligations of the transferor. No transfer shall eliminate the liability of the transferor nor of any other party under this local law unless the entire interest of the transferor in all facilities in the Town is transferred, including decommissioning responsibilities and related financial obligations, and there are no outstanding obligations or violations pending with the Town of Venice.
7. Notwithstanding the other requirements of this local law, replacement in kind or modification of a wind energy conversion system may occur without Town Board approval when (1) there will be no increase in Tip Height; (2) there will be no change in the location of any wind energy conversion unit; (3) there will be no additional lighting or change in color to any such unit; (4) there will be no increase in noise produced by any such unit; and (5) there will be no substantial deviation from existing design, styling and/or functioning.

SECTION 6 - Applications for Wind Energy Conversion Systems Special Use Permits.

1. The Applicant for the proposed development of a Wind Energy Conversion Project shall submit fifteen (15) copies of the application and site plan showing the following information, unless such information requirements are waived by the Town Board for good cause shown. In addition, the Town Board may

request, and the Applicant shall provide, any and all additional information the Town Board might deem necessary for review of such application. Additional copies may be requested by the Town Board and must be supplied by the Applicant at the Applicant's expense.

- A. Name of the project, an instrument survey map indicating boundary lines of the parcel (or parcels) that the project will include and the proposed site location(s), date, North arrow, scale of the plan, and tax map identification number(s). The maps shall include an overall map of the project, as well as individual site maps for each proposed Wind Energy Conversion Unit location.
- B. Name and address of the owner(s) of record of the parcel(s) where the project is proposed to be sited, Name and address of the project sponsor and the seal, including the name and address, of the engineer, architect, or surveyor preparing, or assisting in the preparation of, the site plan. If the property owner is not the applicant, the application shall include a letter, or other written permission, signed by the property owner (i) confirming that the property owner is familiar with the proposed application(s) and (ii) authorizing the submission of the application(s).
- C. Name and addresses of all property owners of record, as indicated in the Town Assessor's Office, of all adjacent property owners to the project and all property owners of any and all parcels within the property setback requirements as specified herein.
- D. A Site plan prepared by a licensed surveyor or engineer drawn in sufficient detail and scale to clearly describe the following:
 - (1) Property lines and physical dimensions of the Site;
 - (2) Location, approximate dimensions and types of major existing structures, including all residences and uses on the Site, public roads, and adjoining properties within one thousand (1,000) feet beyond the boundaries of the proposed Wind Energy Conversion Unit.
 - (3) Location and elevation of each proposed Wind Energy Conversion Unit.
 - (4) Location of all above ground utility lines on the site or within one and one half the radius of the total (tip) height of the proposed Wind Energy Conversion Unit(s), transformers, power lines, interconnection point with transmission lines, microwave and communication towers, and other ancillary facilities or structures.
 - (5) Location of all structures, both residential and commercial, within the set-back requirements of this law for each proposed tower. (E) All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units and fencing, regardless of whether they are above ground or below ground.

- (6) The location, alignment and width of existing and proposed easements and rights of way.
 - (7) Location of all active farm or agricultural operations within one (1) mile from any Wind Energy Conversion System.
- E. A map showing existing and proposed topography at five-foot intervals.
- F. Vertical drawing of the Wind Energy Conversion System showing Tip Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs and access doors. This drawing must also include all underground features such as the structure foundation and footings. One drawing may be submitted for each Wind Energy Conversion System of the same type and Tip Height.
- G. A landscape plan showing all existing natural land features, trees, forest cover and all proposed permanent changes to these features, including size and type of plant material and erosion control measures, to be included in the project upon completion. Also to be included are temporary erosion control methods to be used during the construction of the WECS.
- H. A fully completed State Environmental Quality Review Act (SEQRA) Environmental Assessment Form (EAF). If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information, at a minimum, shall be included in the Draft Environmental Impact Statement (DEIS) prepared for a Wind Energy Conversion System. Otherwise, the following studies, at a minimum, shall be submitted with the application:
 - (1) A visual impact study assessing the visibility of the project from key viewpoints relative to such project, existing tree lines, and proposed elevations. This study shall be digitally enhanced to simulate the appearance of the as-built project as such completed project would appear from distances specified by the Town Board within a five (5) mile radius of the location of such project, or any portion thereof. Additional pictures from specific locations may be required by the Town Board, and all such pictures shall be in color and no smaller than 8" x 10".
 - (2) The Applicant shall provide a shadow flicker and blade glint study for the area within the boundaries of the parcel upon which the project, or any portion thereof, is to be sited and for any additional area located within a radius of one mile beyond the boundaries of each wind turbine. Such information shall include a shadow flicker zone map and documentation of the non-reflective coating for the blades. Accompanying such information shall be the proposed schedule with which the non-reflective coating for

the blades shall be reapplied as based on the manufacturer's suggested life of the coating product. The study will:

- a. designate and describe the zones within the project where shadow flicker and/or blade glint is likely to affect existing residential structures, roadways and other similar areas of public or private use. The study shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind direction and speed;
 - b. Identify the most likely locations of shadow flicker and blade glint, estimate the expected duration of such shadow flicker and blade glint at these locations per day, and calculate the potential total number of hours per year at each location such shadow flickers and blade glint may occur; (iii) Identify potential problem zones where shadow flicker and blade glint may interfere with existing residences and roadways, and describe proposed measures to mitigate these problems- including but not limited to a change in siting of the unit, a change in operation of the unit, or grading or landscaping mitigation measures; and (iv) Provide tax identification numbers for all properties within the potential shadow flicker and blade glint zones.
- I. Noise Analysis. The applicant shall provide a noise analysis prepared by a competent acoustical consultant documenting expected noise levels produced by the proposed Wind Energy Conversion System. The study shall predict noise levels at property lines and at the nearest residence not on the site (if access to the nearest residence is not available, the Town Board may modify this requirement). The noise analysis shall provide pre-existing ambient noise levels and include low-frequency noise.
 - J. Property Value Analysis. This study shall be prepared by a licensed and certified real estate appraiser in accordance with industry standards, regarding the potential impact(s) on the value of properties within the Town of Venice as a result of the potential location and development of Wind Energy Conversion System sites in the Town, including properties across public roads from the prospective Wind Energy Conversion System development sites.
 - K. An assessment of potential electromagnetic interference with microwave, radio, television, personal communications systems and other forms of wireless communication(s).
2. Tower design information sufficient to demonstrate compliance with wind-loading, and other applicable State and Federal Codes and requirements.

3. An analysis of potential ice-throwing and damage from blade throw impacts.
4. Documentation of the proposed intent and capacity of energy generation to be derived from the completed project. In addition, the applicant shall, prior to the receipt of a building permit, demonstrate that the proposed WECS meets system reliability requirements of the New York Independent System Operator, or provide proof that it has executed an Interconnection Agreement with the New York State Independent Operator and/or the applicable Transmission Owner.
5. Preliminary report prepared by the Applicant describing:
 - A. Surrounding topography in relation to the capabilities for generation of electricity by wind and why the project site was selected for development.
 - B. Required improvements for construction activities, including those within the public right of way or land controlled by the Town of Venice.
 - C. Proposed mitigation measures for visual impacts of any and all components, structures, and materials related to the Wind Energy Conversion Project including, but not limited to, Wind Energy Conversion Units, substation(s), meteorological (MET) towers, battery storage facilities, support structures and access roads.
 - D. Proposed safety measures to mitigate any potential Wind Energy Conversion Unit failure.
 - E. Documentation and justification for any proposed land clearing around structures within the project.
6. Elevation map showing the Wind Energy Conversion Unit's height and design, including a cross-section of the structure and components of the nacelle; statement of compliance documenting the unit's compliance with applicable structural standards; and the Wind Energy Conversion Unit's abilities in terms of producing energy.
7. Lighting plan. This must include location and type of lighting, as well as the expected impact on residential property within a ten (10) mile radius of the project and must be in compliance with Federal Aviation Administration (FAA) minimum lighting requirements. The application should include a copy of the determination by the FAA to establish required markings and/or lights for the structures. But if such determination is not available, at the time of the application, no Special Use Permit or building permit for any lighted facility may be issued until such determination is submitted.
8. Decommissioning Plan. The applicant shall submit a decommissioning plan, which shall include at a minimum: (1) the anticipated life of the Wind Energy Conversion System; (2) the estimated decommissioning costs in current dollars; (3) how said estimate was determined; (4) the proposed method of insuring that funds will be available for decommissioning and restoration; (5) the method, such as bi-annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current; (6) the manner in which the Wind Energy Conversion System will be decommissioned and the Site restored, which shall include removal of all structures and debris to a depth of twelve feet, or greater where

required by other law, regulation or guideline, restoration of vegetation (consistent and compatible with surrounding vegetation) less any fencing or residual minor improvements requested by the land owner. The Plan shall include the Decommissioning Security or Assurance required by this local law. The decommissioning plan shall be in accordance with New York State Department of Agriculture and Markets regulations and guidelines where and when applicable.

9. Description of the Applicant's plan for the project that shall include the estimated market demand and long-term project expansion needs within the Town associated with the project for the duration of the project.
10. Report showing soil logs and soil profile analysis for any area being disturbed as part of the project. The report shall indicate any anticipated need for blasting and the information relied upon for such anticipated blasting.
11. Plans to prevent the contamination of surface or groundwater, erosion of soil, excessive runoff, and flooding of other properties, during and after construction as well as throughout the life of the project. The plan shall outline the following:
 - A. the impact the project will have on surface runoff and erosion, groundwater and wells, including projected impact on existing downstream drainage infrastructure.
 - B. steps to mitigate any anticipated issues including a Stormwater Pollution Prevention Plan (SWPPP) in accordance with NYSDEC General Permit requirements.
 - C. plans to revisit the project at no less than two-year intervals, for a period of four (4) years, to confirm the impact(s) were as anticipated, and where impacts were not anticipated, the submission to the Town Board of a corrective plan of action to address same, subject to Town Board approval via an amended Special Use Permit.
12. Plans to prevent, monitor, and mitigate any contamination of soil during and after construction as well as throughout the life of the project.
13. The Applicant shall, in consultation with, and approval and written acceptance of the Local Volunteer Fire Departments, Fire Districts and Cayuga County Hazardous Response Teams, establish an Emergency Preparedness Plan, in the event of an emergency requiring immediate response or attention during the construction, operation of the Wind Energy Conversion Project or any portion thereof.
14. The Applicant shall present a contaminant response plan which meets or exceeds all state and federal guidelines and is agreed to by the Office of Renewable Energy Siting (ORES) or its successor organization, and the Town Board to be implemented in the event of any environmental contamination including, but not limited to, oil, airborne contaminants or other chemicals. A property owner's Participation in the project is not a requirement for the property to be covered by the contamination response plan. The costs for any required cleanup of the

- environment shall be the responsibility of the Applicant, or an Applicant-affiliated company, including its successors and assigns..
15. Proof of all required financial surety or other similar financial requirements relative to the project. Such proof may include, but is not limited to, proof of liability insurance, decommissioning funds, development mitigation funds and whatever other financial requirements relative to the application. The amount and coverages of such liability insurance shall be sufficient to meet all foreseeable contingencies under the contaminant response plan and must be satisfactory to ORES and the Town Board.
 16. Right of Way permits shall be secured by the Applicant, Wind Energy Conversion System owner and/or operator, as applicable, for any and all work in Town of Venice roadways, easements, rights-of-way and public areas.
 17. Complaint Resolution. The application will include a complaint resolution process to address complaints from nearby residents and/or town officials both during construction, while any WECS is in place, and during decommissioning, acceptable in form and substance to the Town Board. Prior to the start of construction, the Applicant will provide contact information and procedures for registering complaints to all host landowners, adjacent landowners within one (1) miles of parcels hosting project components, and the Town. The Applicant shall also publish such information in the local newspaper of record. Any complaints received must be investigated within 72 hours of the complaint. The Applicant shall work in good faith to address and/or resolve complaints as soon as reasonably practicable. Any complaints not resolved within sixty days may be mediated by an independent third party. The process may use an independent mediator or arbitrator and include a reasonable time limit for acting on a complaint; however, complainants shall not be responsible for the payment of any costs involved in the complaint process, and all hearings and/or arbitrations must occur at Venice Town Hall.
 18. An application shall include information relating to construction / installation of the Wind Energy Conversion System as follows:
 - A. Total project value for the fully completed and operational project.
 - B. A construction schedule describing commencement and completion dates;
 - C. A WECS Traffic Routes Plan addressing the standards set forth herein.
 - D. An indemnity agreement holding the Town of Venice harmless for all construction and/or work in public areas, rights-of-way and easements, and for the costs of any and all cleaning, repairs and/or replacements of Town roadways and/or improvements or facilities due to degradation related to development and/or operation of the Wind Energy Conversion project.
 19. A statement, signed under penalty of perjury, that the information contained in the application is true and accurate.
 20. Waivers. In the case of Small WECS projects, the Town Board may reduce the required number of copies of the application to be submitted and may waive

those application requirements set forth in this Local Law that may not be relevant to the project, in the sole discretion of the Town Board.

SECTION 7 - Application Review Process.

1. Applicants may request a pre-application meeting with the Town Board, or with any consultants retained by the Town Board for application review with at least one Town Board member present.
2. Payment of all application fees shall be made at the time of application submission. If variances are requested, variance application fees shall also be paid at the time of application submission.
3. Town staff or Town-designated consultants shall, within 60 days of receipt, or such longer time if agreed upon by the applicant, determine if all information required under this local law is included in the application.
4. If the application is deemed incomplete, the Town Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional application fees shall be required upon submission of the additional information unless the number of Wind Energy Conversion Units proposed is increased.
5. Upon submission of a complete application, including the grant of any application waiver by the Town Board, the Town Clerk shall transmit the application to the Town Board. The applicant shall post the completed application and any accepted environmental impact statements in a publicly accessible location.
6. The Town Board shall require the Applicant to participate with the Town Board and hold one or more public hearings on the application. Notice shall be given by first class mail to all property owners in the Town of Venice and published in the Town's official newspaper, no less than 10 nor more than 20 days before any hearing, but where any hearing is adjourned by the Town Board to hear additional comments, no further publication or mailing shall be required. The Town Board may, at its discretion, hold multiple public hearings. Expenses related to mailings, publications and hearings, shall be borne by the applicant. The times and dates of the public hearings shall also be conspicuously posted on the proposed site to be developed.
7. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested variances.
8. Notice of the project shall also be given, when applicable, to (1) the Cayuga County Planning Board, if required by General Municipal Law sections 239-1 and 239-m, and (2) to adjoining Towns.
9. SEQRA Review. Applications for Wind Energy Conversion Systems are deemed Type I projects under the State Environmental Quality Review Act (SEQRA). The Town shall conduct its SEQRA review in conjunction with other agencies, and the record of the review by said agencies shall be part of the record of the Town's

proceedings. At the completion of the SEQRA review process if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Town shall issue a Statement of Findings, which statement may also serve as the Town's decision on the application(s). Expenses related to this review shall be borne by the applicant.

10. Upon receipt of the report of the recommendations of the County Planning Board, where applicable, and the report of the recommendation of the Town Board, where applicable, the holding of the public hearing, and the completion of the SEQRA process, the Town Board may approve, approve with conditions, or deny the application(s).

SECTION 8 – Standards. Wind Energy Conversion Systems and all related structures thereto may be permitted to be constructed within the Town only upon receiving prior Special Use Permit approval from the Town Board and issuance of building permits. The application for a Special Use Permit shall only be granted if the application complies with the following requirements and such other reasonable conditions that the Town Board requires as part of any conditional approval issued hereunder:

1. All Wind Energy Conversion Systems shall be located, erected and sited in accordance with the following requirements:
 - A. No individual Wind Energy Conversion Unit shall be installed in any location along the major axis of existing communications links or telephone transmission lines where the operation is likely to produce interference in said link's operation. If such problem is found to exist, the Applicant shall correct (or document significant progress toward corrective action on) any unforeseen interference to the satisfaction of the Code Enforcement Officer within thirty (30) days of any complaint being given to the applicant by the Code Enforcement officer or affected person to correct such problem.
 - B. No individual Wind Energy Conversion Unit shall be installed in any location where such unit's proximity with existing fixed broadcast, or reception antenna (including residential and/or agricultural reception antenna or satellite system, including but not limited to real time kinetic towers and global positioning systems, etc.) for radio, television or wireless phone or other personal communication systems where unit would produce interference with signal transmission or reception. The Applicant shall correct (or document significant progress toward corrective action on) any unforeseen interference to the satisfaction of the Code Enforcement Officer within thirty (30) days of any complaint being given to the applicant by the Code Enforcement officer or affected person to correct such problem:
 - i. The Applicant shall provide the affected person(s) with service equal to or better than the service that was interrupted, or an

acceptable alternative to such service agreed to by the Code Enforcement Officer and the affected property owner.

- ii. If emergency service needs have been affected, such problems shall be remedied by the Applicant within 36 hours of notification being given to the Applicant by the Code Enforcement Officer or affected person.
- C. All Wind Energy Conversion Units shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity, particularly bird and bat species.
- D. No individual Wind Energy Generating Unit shall be installed in any location where it may interfere with the normal flight patterns at area airports and private airstrips as determined by the FAA.
- E. Wind Energy Conversion Systems and related infrastructure shall be located in a manner consistent with all applicable State and Federal wetlands laws and regulations.
- F. The use of guy-wires is prohibited, except if otherwise unfeasible in the case of a Wind Energy Conversion Unit/Wind Turbine (Small Project), meteorological towers or transmission infrastructure.
- G. No advertising signs, or television, radio, cellular telephone or other communication antennas, are allowed on any part of the Wind Energy Conversion System including fencing and support structures. Signage to inform persons of ownership and contact information is permitted so long as such signage is erected in accordance with Town Law.
- H. All solid waste and hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate laws, rules and regulations
- I. The Town of Venice shall be named as an additional insured under the general liability policy of the applicant, the amount of which insurance shall be no less than a reasonable amount to be determined by the Town Board given the nature and scope of the project proposed by the applicant.
- J. All Wind Energy Conversion Units shall only be located, installed, or constructed on the subject parcel in accordance with the following setbacks:
 - i. A distance not less than 1.1 times the tip height of the Wind Energy Generating Unit as measured from any and all public roadways or above ground power lines in the vicinity of said unit, to the base of such unit.
 - ii. A distance not less than 1.5 times the tip height of the Wind Energy Generating Unit as measured from above bulk energy systems (bulk power systems) in the vicinity of said unit, to the base of said unit.
 - iii. A distance not less than two (2) times the tip height from any existing non-participating residential structure

- iv. A distance of not less than 1.5 times the tip height from any existing non-participating commercial structure. This distance may be reduced for WECS Small Projects.
- v. A distance not less than 1.1 times the tip height of the Wind Energy Generating Unit as measured from the property lines of any Non-Participating Property.

2. Noise

- A. The level of noise produced by or from the operation of the Wind Energy Conversion System shall not exceed the following:
 - i. 45dBA Leq 8-hour at non-participating residential or commercial structures.
 - ii. 55 dBA Leq 8-hour at participating residential or commercial structures.
 - iii. 65 dBZ Leq 1-hour at 16 Hzm 31.5 Hz and 63 Hz full octave bands.
- B. In addition, the system shall not produce any audible prominent tones, as defined under ANSI (American National Standards Institute) S12.9, Part 4-2005 Annex C, as amended from time to time at any non-participating structures.
- C. The system shall not produce human perceptible vibrations inside any non-participating structures that exceed the limits for residential use recommended in ANSI Standard 52.71-1983, as amended.
- D. In the event that the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is not exceeded for more than six (6) minutes per hour. Ambient noise levels shall be measured at a distance of 1000 feet from the base of the Wind Energy Conversion Unit. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind-generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project Site are sufficient to allow Wind Turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.
- E. Any noise level falling between two whole decibels shall be the greater of the two.

3. Emergency Shutdown / Safety Operations

- A. The Applicant shall file emergency contact information, including but not limited to a telephone number and unique ID number, for each Wind Energy Conversion Unit with the Town Clerk. At least one sign shall be posted at the base of each tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of the 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 or toll-free telephone number with 24-hour, 7 day a week coverage. The Town Board may require additional signs based on safety needs.
- B. Each Wind Energy Conversion Unit shall have an automatic manufacturer certified or engineer certified braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components or nacelle.
 - C. All nacelles shall have fire suppression systems.
4. Lighting. The final project design shall incorporate the following measures for visual impact minimization:
- A. the use of aircraft detection lighting system(s) (ADLS) or other similar lighting minimization technologies or technologies at the WECS that avoids visual lighting impacts at night. Details of the ADLS technology shall be submitted to the Town Board and its consultants along with the FAA's approval of the specific system used. If for any reason ADLS is not permitted by the FAA, the Certificate Holder shall provide communications and documents showing the FAA's determination and rationale for its determination. In the event that ADLS is not used, the Applicant shall submit a mitigation plan proposal for other measures, such as light shields, to minimize visual nighttime impacts, which must be approved prior to commencement of project operations.
 - B. Prior notification of any changes in the lighting plan for the project must be communicated to the Town Board prior to installation of such new lighting scheme, and such alterations shall only be approved for installation for good cause shown or in order to bring such project into compliance with any and all statutory and regulatory requirements.
 - C. If the minimum lighting requirement, as determined by applicable federal, state or local rules, regulations or statutes change during the course of operation of the Wind Energy Conversion System, the applicant shall alter the lighting plan and install such lighting in the Wind Energy Conversion System that is at a level equal to such revised minimum requirements.
5. Utility Service
- A. All power transmission lines servicing the project, or any portion thereof shall be underground to the extent practical, to a minimum depth of forty-eight (48) inches in agricultural land and thirty six (36) inches in non-agricultural land or to such depth as required by applicable State and Federal regulations and codes, whichever is greater. Particular attention must be given to underground drainage systems (example; agricultural drainage tile) and transmission lines must be placed so as to not impede or materially affect current or future drainage of non-participating properties. If this standard is deemed to be technically infeasible, rationale and alternative solutions and designs shall be submitted with the completed application for review and approval by the Town Board. Such

approval shall be granted if such alternative is deemed acceptable by the Town Board based upon substantial evidence in the record ensuring such alternative provides the level of protection and safety afforded by the standard set forth hereinabove.

- B. In the event of a stray voltage occurrence, the applicant shall be notified, and corrective action shall be taken immediately by the applicant fully remedying such occurrence.
6. Blade Sweep and Tip Height. The minimum height of the lowest part of the blade sweep area shall be thirty (30) feet above the highest existing structure or tree within a one-hundred-fifty (150) foot radius of the base of the Wind Energy Conversion Unit. The total tip height for each Wind Energy Conversion Unit cannot exceed seven hundred (700) feet as measured from the base of the unit to the tip of the unit's longest blade.
7. Access Roads and Road Mitigation.
- A. In an effort to minimize curb cuts, existing roadways shall be used for access to the site whenever possible.
 - B. If existing roadways are not practicable to be utilized for such access, any necessary new roadway, shall be constructed in a way so that they are level to the surrounding environment. Unless the landowner upon which such a new access road is located signs a waiver requesting such property not be gated, new access roads constructed from existing roadways shall be gated and locked near the vicinity of the intersection of the access road and the existing roadway with gates allowing land owner and emergency access to the roadway.
 - C. Construction of WECS poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include (1) minimizing traffic impacts from construction and delivery vehicles; (2) minimizing WECS-related traffic during times of school bus activity; (3) minimizing wear and tear on local roads; and (4) minimizing impacts on local business operations. Special Use Permit conditions may require documentation of road conditions prior to and following construction from the Town Highway Superintendent, remediation during construction, limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public and all applicable State, County and municipal highway authorities and superintendents whose roads are included in the WECS traffic routes plan. Notification to all applicable highway authorities and superintendents will include the number and type of vehicles and their size, their maximum gross weight, the number of round trips per day and the dates and time periods of expected use of designated traffic routes.

The applicant shall obtain any necessary Road Use Agreements with agencies and municipalities over whose roads and rights-of-way will be used in the construction or reconstruction of any WECS and provide documentation of same to the Town.

- D. Applicant/Owner must apply and adhere to the Town of Venice Road Right of Way Permit for any construction activity near or under town roads.
 - E. Prior to any construction of the project, an engineer approved by the Town, will inspect the designated roads for their condition, a reevaluation will be performed at 6-month intervals, for the life of the project, including the decommissioning phase, by an engineer and signed off by the Town Highway Superintendent as to the change in their condition. These inspections will be at the Applicant/Owner's expense.
 - F. The Applicant/Owner is responsible for remediation of damaged roads during and upon completion of the installation, maintenance and decommissioning of a Wind Energy Facility and shall sign a separate indemnification agreement thereby agreeing to indemnify and hold the Town harmless from any and all material damages to all roadways or other improvements caused by construction and/or delivery vehicles and equipment. A public improvement bond shall be posted prior to the start of construction of a Wind Energy project whenever deemed necessary by the Town Board. Facilities in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads, shall be established as part of, and a condition upon, any approval.
 - G. If the applicant or successor uses any seasonal use highway in the off-season, it shall be solely responsible for the maintenance of said highway including, but not limited to, snow plowing. No acts of maintenance on a seasonal use highway by an applicant or successor shall be considered as Town maintenance of that highway for purposes of determining the seasonal use status of the highway.
8. Accessory Structures/Facilities. Transmission facilities and/or buildings shall be located along roadways, below ridgelines or behind vegetation to screen such facilities and/or buildings from visibility. If such a facility or building is to be located in or along the side of an open field, the facility or building shall be landscaped in such a way as to blend such facility or building in with the surrounding environment. This landscaping shall be reviewed and approved to the complete satisfaction of the Town Board.
9. Physical Security. To Secure each and every Wind Energy Conversion Unit so constructed within the Town, each such unit shall:
- A. Not have any climbing pegs, tower ladders or other climbing device of any kind attached to the Wind Energy Conversion Unit closer than fifteen (15) feet from the ground.
 - B. Have a locked anti-climbing device installed on the unit.

- C. If the property owner submits a written request that fencing be required, a minimum six foot (6') high fence with a locking portal shall be required to enclose each tower or group of towers. The color and type of fencing for each WECS installation shall be determined on the basis of individual applications as safety and aesthetic needs dictate, in the sole discretion of the Town Board.
 - D. WECS shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked.
 - E. Accurate maps of the underground facilities shall be filed with the Town and with "Dig Safely New York" (1-800-962-7962) or its successor.
10. Shadow Flicker/Glint. The Wind Energy Conversion System shall be designed such that shadow flicker and /or glint from an individual Wind Energy Conversion Unit will not fall on any portion of a non-participating residential or commercial structure in excess of thirty (30) hours per year. If a non-participating residence or commercial structure is being impacted by multiple Wind Energy Conversion Units, the cumulative effect of said impact shall not exceed thirty (30) hours per year, subject to verification using shadow prediction and operational controls at appropriate wind turbines. If shadow flicker and/or glint exceeds these conditions, the applicant/owner/operator of the project must submit within 90 days, a mutually agreeable plan to remedy the issue to the affected property owner and Town Board.
 11. Construction Hours. Except where certain activities (e.g., cement pours or component deliveries) or other conditions (such as high wind speeds during the day) demand from time to time require deviation from the hours set forth herein, no construction or reconstruction of any WECS shall begin before 7:00am. nor end after 8:00 p.m. Mondays through Saturdays. Construction shall occur on Sundays and national holidays only between the hours of 10:00a.m. and 8:00p.m.. Exceptions will be considered on a case by case basis by the Town's project coordinator and shall follow ORES guidelines.
 12. Removal of Solid Waste. The applicant/operator of a WECS shall remove and properly dispose of any solid waste or other unused construction materials. On site burial will not be permitted. All solid waste must be removed from the Town of Venice unless exceptions are agreed upon in writing with the town.
 13. Post Installation.
 - A. On an annual basis a post-installation field report identifying the Wind Energy Conversion System's generation of electricity and impacts upon the environment, including but not limited to any adverse drainage patterns then existing, sites of erosion in vicinity of the system, and other potential adverse environmental conditions, shall be submitted by the applicant to the Town Board. The report shall also include any and all work-related calls logged by the Applicant, and any other reasonable items that may be requested by the Town Board. This report shall be filed

with the Town Clerk annually on or before June 1st for review at the July Town Board Meeting.

- B. If it is determined that any Wind Energy Conversion System or portion thereof is operating outside the parameters of any applicable zoning laws and/or any lawful or approved requirements and conditions of approval, the Applicant shall be notified, and any and all necessary remedies implemented. If the problem cannot be remedied within an appropriate amount of time, based on its nature and severity, the Code Enforcement Officer may require the Wind Energy Conversion System or portion thereof be shut down until such repairs can be affected. If the Applicant and the Code Enforcement Officer are unable to agree on an appropriate time or method for remedying such problem, either party shall ask the Town Board to determine such a reasonable time or method of remedy, which determination shall be final unless successfully appealed to the Cayuga County Supreme Court by way of a CPLR Article 78 proceeding, which said petition must be filed with said Court within 30 days of the issuance of the determination by the Town Board being so appealed.
- C. Safety issues deemed to be of an imminent significant threat to the health, safety and/or welfare of any person affected by the Wind Energy Conversion System, or any portion thereof as determined by the Code Enforcement Officer shall require the immediate shut down of the Wind Energy Conversion System or portion thereof until corrective action is taken and the imminent significant threat fully mitigated.
- D. In the event a Wind Energy Conversion System or portion thereof requires attention, whichever entity is notified first - the Applicant or the Code Enforcement Officer - such entity/person shall immediately contact the other party to report the matter being attended to.

SECTION 9 - Noise and Setback Easements-Variances

- 1. Waiver. In the event the noise levels resulting from a WECS exceed the criteria established for participating properties in this Local Law, shadow flicker, or glint or set back requirements are not met for participating properties, a waiver may be granted from such requirements where the property adjacent to that hosting the Wind Energy Conversion Unit is also part of the WECS site due to hosting a Wind Energy Conversion Unit or other ancillary components.
- 2. Written consent from the affected property owners shall be obtained stating that they are aware of the WECS and the noise, shadow flicker, glint and/or setback limitations imposed by this law, and that they wish to be a part of the Site as defined herein, and that consent is granted to (1) allow noise, shadow flicker, or glint levels to exceed the maximum limits otherwise allowed, or (2) allow distance setbacks less than required.

3. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, shall be recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements and/or waivers, as the case may be, shall be permanent and may not be revoked without the consent of the Town Board, which consent may be granted upon either the completion of the decommissioning of the benefitted WECS in accordance with this law, or the acquisition of the burdened parcel by the owner of the benefitted parcel or the WECS.

SECTION 10 – Large Scale Battery Energy Storage Systems Special Conditions, including for Site Plan Review. The purpose of this Article is to provide standards for Battery Energy Storage Systems. The following rules apply to Battery Energy Storage Systems as they relate to Wind Energy Systems.

1. Building and electrical permits shall be required for all battery energy storage systems. A development review application must be accompanied by all the appropriate application fees, forms, and number of copies of all plans and supporting documentation, including but not limited to the following:
 - A. A State Environmental Quality Review Act ("SEQRA") environmental assessment form, substantially completed, with the accompanying data, schedules and mappings as reasonably requested by the Town Board.
 - B. Evidence that a copy of the application, and submittals outlined below, have been submitted to the appropriate Fire Chief, Fire District and County Emergency Preparedness Department, together with a copy of the shut-off switching diagrams.
 - C. An emergency response and Fire Safety Compliance Plan, which has been agreed to by the local emergency response district as well as the Cayuga County emergency management department and reviewed and agreed upon periodically as deemed necessary by said departments and districts. Such plans shall document and verify that the system and its associated controls and safety systems are in compliance with the fire prevention code, including procedures for safety shutdown, de-energizing, or isolation of equipment and systems under emergency conditions and emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions.
 - D. The location and nature of any proposed utility easements and infrastructure, including a utility plan if required by the Town, and including a one-or-three-line electrical diagram detailing battery installations, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.

- E. Identification of areas of potential environmental sensitivity, including onsite or nearby Unique Natural Areas; slopes greater than 15%; floodplains; historic sites; airports; government lands; conservation easements; trails; parkland; prime soils; and wetlands (including wetland delineations, as required).
 - F. A preliminary equipment specification sheet that documents the proposed Battery Energy Storage System components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit.
 - G. A commissioning plan or related documents that verify that the system and its associated controls and safety systems are in proper working condition, as conducted and prepared by a New York State licensed Professional Engineer after installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after Commissioning. A report describing the results of the System Commissioning and including the results of the initial acceptance testing shall be provided to the Town Board prior to final inspection and approval and maintained at an approved on-site location.
 - H. A system and property operations and maintenance plan describing continuing Battery energy Storage System maintenance and property upkeep, as well as design, construction, installation, testing and Commissioning information.
 - I. A description of any battery rotation or replacement cycles or operational plans, including whether the batteries are for stand-by power to be distributed on the site or to charge batteries for off-site use.
 - J. Name, address, and contact information for the proposed system installer, together with proof of liability insurance showing compliance with industry standards.
 - K. A Decommissioning plan and related Securitization of such obligation, as further defined in Section 11 of this document. Battery removal/disposal is required for Decommissioning.
 - L. A plan for initial and annual emergency response plan updates as well as initial and annual training, on-site practice and equipping of the local emergency responders. It shall be the responsibility of the owner of the battery storage facility to provide and maintain the local emergency response teams with any specialized equipment and supplies as recommended by state or national emergency response standards in relation to energy storage emergency response best practices.
2. Additional review and process requirements:
- M. No review shall commence until determined by the Town Board that the application and site plan submissions are substantially complete.

- N. At the expense of the Applicant, the Town may employ its own consultant(s) to examine the application and related documentation and make recommendations as to whether the Applicant's conclusions regarding safety, visual impacts, structural integrity, and stormwater management are accurate and comply with generally accepted and reliable engineering and technical data and standards.
 - O. The facility must demonstrate compliance with all federal and state laws and all applicable rules and regulations promulgated by any federal or state agencies having jurisdiction.
3. Battery Energy Storage Systems shall be sited to minimize impacts to the following areas and type of lands:
- A. Designated Agricultural Districts and actively farmed prime agricultural soils as identified by the United States Department of Agriculture-Natural Resources Conservation Service (USDA-NRCS), or alternative available resource.
 - B. Critical Environmental Areas as determined by the Town of Venice and/or New York State, areas of special flood hazard concern, upon properties that constitute public trust lands, unless consistent with the purposes of such public trust, and in jurisdictional wetlands and wetlands duly declared to be of local importance.
 - C. On slopes greater than fifteen percent (15%).
 - D. Within 400 feet of perennial streams and within 200 feet of intermittent streams.

SECTION 11 - Decommissioning.

1. At the end of its useful life, or where otherwise necessary, an individual turbine and/or a Battery Storage System may need to be decommissioned, or the entire project may be decommissioned. Decommissioning includes dismantling and removing wind turbines and system components on property owned, leased or otherwise controlled by the Applicant. The Applicant must perform decommissioning activities in accordance with this section.
2. The Applicant, and its successors, assign or heirs, are responsible for the decommissioning and all costs associated with decommissioning the project and associated facilities and systems. All above- ground components being decommissioned, including but not limited to turbines, blades, nacelles, towers, transformers, above ground collection cables and poles, permanent meteorological towers and the collection substation must be removed. Foundation and collection lines buried less than a depth of three (3) feet in nonagricultural lands and four (4) feet in agricultural lands, must be removed. Foundations and buried project components below a depth of three (3) feet on non-agricultural land and four (4) feet in agricultural land may remain in place.

Additionally, removal and restoration of access road locations and equipment storage areas shall be undertaken contemporaneously where appropriate.

3. The areas disturbed by decommissioning shall be restored in accordance with subdivision 14 of this section.
4. The Applicant is responsible for obtaining all applicable permits and approvals for the activities associated with decommissioning and site restoration, including compliance with the State Environmental Quality Review Act (SEQRA).
5. Prior to application approval, the Applicant must provide a Decommissioning Plan, including financial assurance for decommissioning costs in accordance with this section.
6. The Applicant, and/or its successors and assigns, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town, for the removal of all facilities and appurtenances, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of, at minimum, an irrevocable letter of credit, payable by demand notice, from a State of New York licensed financial institution, in form approved by the Town. All costs of the financial security shall be borne by the Applicant. All decommissioning bond requirements shall be fully funded before a siting approval is issued. The total amount of financial security created for the Town shall be equal to the net decommissioning and site restoration estimate; the net decommissioning and site restoration estimate is equal to the gross decommissioning and site restoration estimate (which is the overall decommissioning and site restoration estimate plus a eighteen (18) percent contingency cost) less the total projected salvage value of facility.
7. The decommissioning and site restoration costs will be reviewed prior to operation by an engineer approved by the Town at the operator's expense and adjusted at three (3) year intervals during the life of the project to maintain accurate cost estimates of decommissioning.
8. The Applicant shall notify the Code Enforcement Officer within thirty (30) days of the Discontinuance of use of the Wind Energy Conversion System or any portion thereof. Should the applicant fail to notify the Town Code Enforcement Officer as required, the Applicant, Wind Energy Conversion System owner and/or operator, shall be subject to all penalties provided under this local law and the following additional penalties: A minimum of \$200.00 per day, calculated at \$10 per day per megawatt of nameplate capacity of the entire project from the time the Applicant should have notified the Town Code Enforcement Officer and the date the Wind Energy Conversion System or portion thereof is removed or made operational as set forth in this Section 11.
9. Once the Wind Energy Conversion System is approved for operation (as referenced in 11.7) should the Wind Energy Conversion System or any portion thereof not operate for a total period of 6 months within a 1 year period, the Town Code Enforcement Officer shall notify the Applicant. The applicant shall have 30 days to prove a good faith effort has been or is being made to restore the

- Wind Energy Conversion System or portion thereof to full function (section 11.11). Failure to restore functioning or provide proof of a good faith effort, will trigger a requirement to remove the non-functioning component(s).
10. Prior to operation, the project will be deemed abandoned if construction activities cease for more than 8 consecutive months without good cause.
 11. The Applicant shall remove any abandoned, discontinued, decommissioned, obsolete or unused Wind Energy Conversion System and/or Battery Storage System, or portions thereof and restore the site to pre-construction conditions, or make the subject system, or portions thereof, fully operational, within one hundred eighty (180) days of delivery or receipt of the notification set forth herein, unless such time limit is extended by the Town Board for good cause shown. Non-function or lack of operation may be proven, among other means, by reports to the Public Service Commission, NYSERDA, or by lack of income generation. The Applicant or its successor and assigns shall make available (subject to a non-disclosure agreement, if requested) to the Town Board all reports to and from the purchaser of energy from individual Wind Energy Conversion Systems and/or Battery Storage Systems, if requested, necessary to prove the subject system is functioning, which reports may be redacted as necessary to protect proprietary information.
 12. Prior to the expiration of any time limits in this Section, the Applicant may apply to the Town Board for a further extension in time for which such Wind Energy Conversion System, the Battery Storage System, or portion thereof needs to be removed or made operational. Such extension may only be granted if the applicant demonstrates good cause that such extension is necessary as a result of uncontrollable events such as transmission curtailment, technical or supply chain failures outside of the operator's control, weather delays, repair delays or other similar force majeure conditions requiring the need for such extension. The Town Board may request as a condition of such extension that the applicant provide monthly reports to the Town regarding the Applicant's progress to restore the WECs to operable condition.
 13. Failure to notify and/or remove any discontinued, decommissioned, obsolete or unused Wind Energy Conversion System and/or Battery Storage System or portion(s) thereof in accordance with this local law shall be in violation of this local law and subject the applicant to the penalties set forth herein. In addition, the cost of removing the offending Wind Energy Conversion System and/or Battery Storage System, or portions thereof, shall be drawn against the financial surety posted by the Applicant for demolition or decommissioning of the project as set forth in this section.
 14. Any costs incurred by the Town that exceeds the amount of such financial surety shall be the complete and sole responsibility of the Applicant, and/or its successors and assigns. If the Applicant, or its successors and assigns, is insolvent and such costs cannot be practicably collected from said Applicant, then such costs shall become a lien upon the property upon which the costs were

incurred and said lien shall thereafter be assessed on the next succeeding year's tax bill for such parcel and collected in accordance with normal tax foreclosure proceedings if such tax bill remains unpaid thereafter.

15. Restoration: The Applicant and its successors, heirs or assigns, are responsible for restoration and all costs associated with restoring the project site. Ground disturbance must be minimized to the extent practical, and the site restored to its original condition, to the extent practicable, and re-established using native seed mix or, in any agricultural areas, in coordination with the landowner to allow desired crops to be replanted.
16. Roads must be adequately restored to their original condition, or better, following decommissioning activities. Access roads, and residual minor improvements may remain with the written consent of the landowner.
17. Upon completion of all such removal activities by the Town, any remaining portion of the posted surety shall be returned to the applicant forthwith.

SECTION 12 - Ownership Changes.

1. The Owner and Operator of the Wind Energy Conversion System Facility and/or Battery Storage System shall give written notice to the Town Board of any proposed change in ownership or change in operation of the project as soon as possible, but not later than 90 days prior to the change in ownership or operation. Such notice shall contain:
 - a. A statement signed by the proposed successor owner or operator that such person/entity assumes all the obligations of the Site Plan approval, any special use permits, compliance with this Local Law, and the decommissioning plan.
 - b. Acknowledgement that the obligations shall continue despite the proposed change in ownership or operation.
 - c. In the event of failure to give notice, the Special Use Permit and all project approvals shall be deemed terminated and the project shall be deemed discontinued. The Town may immediately give notice to commence decommissioning pursuant to the decommissioning plan and any bond or security therefor.
 - d. If such notice is given, and all applicable conditions in this law, and the site plan and special use permit approvals have been met, then the site and special use permit approvals shall remain in effect.

SECTION 13 - Other Operating Considerations and Permit Revocation

1. Landscaping - Unless otherwise agreed to in writing by the landowner, upon completion of installation, the site shall be returned as close as possible to its natural state, and in conformity with applicable State and Federal regulations and guidelines, including, but not limited to restoring the subsoil and topsoil to

pre-construction condition. Wherever woodlands have been cleared as part of the project, they should be reforested, to the extent that the reforestation does not impede the ongoing operation or functioning of the project. The reforestation shall follow guidelines as set forth by the USDA. An example may be found at USDA Forest Service Reforestation Strategy.

2. Building and Grounds Maintenance - Any damaged or unused parts shall be removed from the premises within thirty (30) days or stored in a locked on-site storage building. All maintenance equipment, spare parts, oil or chemicals (cleaning, pesticides, fuels) shall also be stored in said on-site locked storage building.
3. Testing and Inspection Fund- A Special Use Permit shall contain a requirement that the applicant, or successor, fund periodic structural inspections, noise testing, and battery storage inspections by a qualified, independent, third-party consultants, which may be required as often as every two (2) years, or more frequently upon request of the Town Board in response to complaints by neighbors. The scope of the inspections and noise testing shall be to demonstrate compliance with the terms and conditions of the Special Use Permit and this Local Law and shall also include an evaluation of any complaints received by the Town. The applicant or successor shall have 30 days, after written notice from the Code Enforcement Officer, to cure any deficiency, or show a good faith effort is being made to cure the deficiency. Any extension of the 30-day period may be considered by the Code Enforcement Officer.
4. Operation- A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational conditions include meeting all noise requirements and other Special Use Permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a Special Use Permit condition, the owner or operator shall remedy the situation per the decommissioning requirements in Section 11 of this local law.
5. The Town Board will impose other related requirements for applications, and conditions on its approval, under this local law as to enforce the standards referred to herein or in order to discharge its obligations under SEQRA, and Large-Scale Wind Energy Systems shall be discouraged from being located in the following areas unless otherwise approved by the Town Board:
 - a. Prime farmlands soils as identified by the USDA-NRCS, or alternative available resources.
 - b. Areas of potential environmental sensitivity, including Flood Plains, historic sites, airports, state-owned lands, conservation easements, trails, parkland, and wetlands as identified by the New York State Department of Environmental Conservation or the United States Army Corps of Engineers.
 - c. On slopes of greater than 15% unless the Applicant can demonstrate through engineering studies and to the satisfaction of the Town Board that

the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.

6. The Town has determined that the mitigation payment as outlined in New York State regulations is inadequate for the local residents who will be most affected by the loss of lands from traditional agricultural production. The New York State mitigation payment is a one-time payment, gets remitted to the State and does not directly benefit the communities that lose the jobs and economic benefit over the life of the renewable project from said lost acres. The economic loss can be substantiated by using such references as the annual Cornell University Farm Business Management Summary. The latest Summary (2022) would indicate for every 80 acres of prime soils lost, a full time worker-equivalent job is lost from the local community. To offset this substantial economic loss, the Town feels it is necessary to implement a mitigation payment that will directly benefit the immediate community losing prime soils and jobs. Therefore, project lands containing prime soils as designated by NRCS-USDA as class 1-4 shall be subject to mitigation payments, paid to the Town annually, equal to \$100 per year for the life of the project for every acre removed from the traditional agricultural production practices that the lands were engaged with before commencement of the project. This mitigation fee shall be adjusted annually by the change in the Consumer Price Index ("CPI") for the immediate twelve (12) month period using the CPI formula set out herein. The Consumer Price Index shall be defined as follows: At the end of each year (12 month period beginning at the commencement of the Wind Energy Conversion System's operation) the annual mitigation fee described above shall be increased by the annual increase in the CPI where CPI is the Consumer Price Index for the month of December just preceding such lease anniversary year, and the "Base CPI" is the Consumer Price Index for December of the previous lease year. As used herein, Consumer Price Index shall mean and refer to that table in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, now known as the "Consumer Price Index" for all Urban Consumers (northeast region). If such Index referred to above shall be discontinued, then any successor Consumer Price Index of the United States Bureau of Labor Statistics, or successor agency thereto, shall be used, and if there is no successor Consumer Price Index, the parties hereto shall authorize the Town of Venice's attorney to designate a substitute Index or formula. In no event shall any adjusted mitigation payment to the Town of Venice be less than the prior year. Mitigation payments are to address the removal from production of agricultural lands which represent the Town of Venice's residents' base for economic sustainability. Funds collected shall be used to the benefit of the Town of Venice residents.
7. New York State Department of Agriculture and Markets (NYSDAM) Guidelines for Agricultural Mitigation for Wind Power Projects shall be adhered to. When Large Scale Wind Energy Conversion Systems are proposed on agricultural land

in the Town of Venice, the Applicant, developer, operator, successor or assigns, shall adhere to and incorporate at a minimum the standards and requirements in NYSDAM's guidelines for mitigating construction impacts on agricultural land during the following stages of a wind energy project: Construction, post-Construction Restoration, Monitoring, Remediation, and Decommissioning. These guidelines apply to project areas subject to ground disturbance within agricultural lands. In areas of particularly sensitive or highly productive soils the Town Board may impose construction requirements which are stricter than those in the NYSDAM guidelines. A copy of NYSDAM's guidelines, dated April 19, 2018, or as revised, can be found online and is also on file with the Town Clerk and Code Enforcement Officer.

8. Environmental Monitor - An experienced firm shall be hired by the Applicant to act as Environmental Monitor to oversee compliance with State or local permit conditions, or certificate conditions, associated with any Article 120 or Section 94-c or Article 8 approvals, during project construction, the Environmental Monitor shall also oversee compliance with agricultural requirements and restoration in accordance with NYSDAM Guidelines. The identification and qualifications of the proposed Environmental Monitor shall be submitted by the Applicant for approval by the Town Board together with Applicant's application. All costs associated with Environmental Monitoring shall be borne by the Applicant. All reports of the Environmental Monitor shall be provided to the Town. Expenses associated with this compliance are to be the responsibility of the Applicant, owner or operator of the project.
9. Revocation of Special Use Permit- Notwithstanding any other abatement provision under this Local Law, if the WECS is not repaired or made operational, or brought into Special Use Permit compliance after notice and within the time limitations set forth herein, the Town may, after a public hearing at which the operator or owner shall be given an opportunity to be heard and present evidence, including a plan to come into compliance, (1) order remedial action within a particular time frame, or (2) order revocation of the Special Use Permit for the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Town Board shall have the right to use the security posted as part of the Decommission Plan to remove the WECS.

SECTION 14 - Certifications

1. Routine Inspection Report - An inspection report prepared by an independent professional engineer licensed in the State of New York shall be required at the completion of the installation of the Wind Energy Conversion System. Said inspection report shall certify the Wind Energy Conversion System and any portion thereof complies with all manufacturing specifications and any and all rules, regulations and statutes pertaining thereto. Said inspection report shall be filed with the Code Enforcement Officer and the Town Clerk.

2. Insurance - Liability - Prior to the issuance of a building permit regarding an approved Wind Energy Conversion System, and/or Battery Storage System the Applicant shall file with the Town proof, in the form of a duplicate insurance policy or an insurance binder issued by an a New York State admitted A-rated insurance company, of liability insurance coverage according to the following schedule: For projects with total nameplate capacity of 50 Megawatts or less \$1 million per occurrence and a \$2 million aggregate coverage, for projects with total nameplate capacity of 50 Megawatts to 150 Megawatts \$2 million per occurrence and \$5 million aggregate coverage, for projects with total nameplate capacity over 150 Megawatts \$3 million per occurrence and \$10 million aggregate. Policies shall name the Town of Venice as an additional named insured party during the construction period of the project. The owners and operators of a Wind Energy Conversion System shall also provide annual proof of liability insurance with a minimum coverage requirement according to the following schedule: For projects with total nameplate capacity of 50 Megawatts or less \$1 million per occurrence and a \$2 million aggregate coverage, for projects with total nameplate capacity of 50 Megawatts to 150 Megawatts \$2 million per occurrence and \$5 million aggregate coverage, for projects with total nameplate capacity over 150 Megawatts \$3 million per occurrence and \$10 million aggregate. Policies shall name the Town of Venice as an additional named insured party, during the operational and decommissioning period of the project. Such liability insurance shall also name the current property owner of record as an additional insured, unless said property owner waives such coverage in writing.
3. National and State Standards - In addition to any requirements of this local law, the Applicant shall show that all applicable manufacturer's, New York State and U.S. standards and guidelines for the construction, operation and maintenance of the proposed Wind Energy Conversion Units have been met or are in compliance. Wind Energy Conversion Units shall be built, operated and maintained to applicable industry standards, including but not limited to the Institute of Electrical and Electronic Engineers (IEEE), the International Electrotechnical Commission (IEC) the American National Standards Institute (ANSI).
4. Continuing Obligations - All requirements detailed in this local law shall remain in full force and effect for the duration of the granted Special Use Permit, including the decommissioning phase of the project.

SECTION 15 - Wind Measurement Towers

1. Wind Site Assessment. The Town Board acknowledges that prior to construction of a WECS, a wind site assessment is conducted to determine the wind speeds

and the feasibility of using particular Sites. Installation of wind measurement towers shall be permitted as a Special Use in the Town.

2. Applications for Wind Measurement Towers Special Use Permits.
 - a. An application for a wind measurement tower shall be made to the Town Board and shall include:
 - i. The name, address and telephone number of the applicant.
 - ii. The 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 (I) confirming that the property owner is familiar with the proposed application(s) and (ii) authorizing the submission of the application(s).
 - iii. The address of each proposed tower Site, including tax map number.
 - iv. Site plan.
 - v. Decommissioning Plan based on the same criteria for WECS including a security bond or cash for removal.
3. Standards for Wind Measurement Towers.
 - a. The distance between a Wind Measurement Tower and the property line shall be at least the Total Height of the tower. Sites can include more than one piece of property, and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent, in writing, of those property owners.
 - b. Special Use Permits for Temporary Wind Measurement Towers may be issued by the Town Board annually for a period of three (3) years with annual extensions up to an aggregate of seven years. Special Use Permits shall be renewed annually if the facility is in compliance with the conditions of the Special Use Permit.
 - c. Special Use Permits for Permanent Wind Measurement Towers may be issued by the Town Board. Special Use Permits for Permanent Wind Measurement Towers shall be renewed annually for the duration of the project if the facility is in compliance with the conditions of the Special Use Permit.

SECTION 16 - INCONSISTENCY

All other local laws and ordinances of the Town of Venice inconsistent with the provisions of this Local law are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this Local Law shall be in addition to such other local laws or ordinances regulating and governing the subject matter covered by this local law.

SECTION 17 - UNCONSTITUTIONALITY AND ILLEGALITY

If any clause, sentence, paragraph, word, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair, or invalidate any paragraph, word, section or part thereof not directly involved in the controversy in which such judgment shall have been rendered.

SECTION 18 - PENALTIES

1. Any person who violates or knowingly permits the violation of this Local Law shall be deemed to have committed a violation and shall be subject to the following penalties: a minimum of \$250.00 up to the maximum of \$10,000.00- or 15-days imprisonment, or both. Each separate violation shall constitute a separate additional offense for which a penalty may be assessed thereon. Further, every day such violation is determined to have existed shall be deemed to constitute a separate and additional offense for which the person may be subject to the penalties set forth herein for each and every day violation so existed.
2. In the case of any violation or threatened violation of any of the provisions of this law, including the terms and conditions imposed by any permit issued pursuant to this law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent the unlawful erection, structural alteration, reconstruction, moving, and/or use, and to restrain, correct, or abate such violation, to prevent the illegal act.

SECTION 19 - FEES

1. There shall be non-refundable application fees for each of the following categories, to be fixed by resolution of the Town Board from time-to-time:
 - a. WECS and/or Battery Storage System Special Use Permit.
 - b. Wind Measurement Towers.
 - c. Wind Measurement Tower Special Use Permit renewals.
 - d. Small WEC and/or Battery Storage System Project.
 - e. The cost of all legal notices and mailings shall be assessed to the applicant.
2. Building Permits. The Town believes the review of building and electrical permits for WECS requires specific expertise for those facilities. Accordingly, the permit fees for such facilities shall be increased by administrative costs which shall be fixed by resolution of the Town Board from time-to-time but no less than \$ 100.00 per permit request, plus the amount charged to the Town by the outside consultants hired by the Town to review the plans and inspect the work. In the alternative, the Town and the Applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such a

case, the Town and the Applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans or certifications, or to conduct inspections as agreed by the parties.

3. **Host Community Agreements.** Nothing in this section shall be read as limiting the ability of the Town to enter into Host Community agreements with any Applicant, as determined by the Town Board. It is the intent of the Town of Venice Town Board to require significant Host Agreement monetary payments to offset adverse impacts and administrative costs that may be realized by the Town of Venice and its residents. The Applicant, or its successors and assigns, shall be required to pay the Town a "host community fee" semi-annually to compensate the Town for expenses or impacts on the community. The amount of the host community fee shall be determined by applying a rate per MW (megawatt), or part thereof, of rated maximum generation capacity per year, prorated for any portion of a year of energy production. The host community fee may be in addition to any Payment in Lieu of Taxes which may be authorized to be collected by the Town pursuant to section 487 of the Real Property Tax Law of the State of New York. The amount of the host community fee will be *determined by the Town Board from time to time but not more frequently than annually*. All such fees shall be negotiated and determined prior to the approval and issuance of a Special Use Permit for any WECS.
4. 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.

SECTION 20 - EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State.

Town of Venice, NY
Cayuga County, New York 13147

Date Work Starts: _____, 20__

Date Work Completed: _____, 20__

APPLICATION FOR RIGHTS-OF-WAY/ROADWAY PERMIT

For Pipeline, Telephone, Telecommunications, Data, and Internet installations within the Town of Venice right(s)-of-way, pursuant to the New York Municipal Home Rule Law, General Municipal Law and Town Law.

To: Highway Superintendent and Town Board of Trustees, Application is hereby made by the undersigned, _____ (name of person or company).

Contact Name, Company & Title: _____

Contact phone #: _____

Description and Schedule of Planned Activity/Work:

in the Town of Venice, New York, Cayuga County

In accordance with the map and plan hereto attached, and pursuant to the conditions and regulations, whether general or special, which are hereinafter set forth: all forming a part hereof. This applicant will obtain any and all other consents and permits that may be necessary to accomplish the purposes set forth herein, as it is understood that in granting such permit, this Department/Town Board of Trustees merely expresses its assent insofar as it is authorized.

Applicant shall furnish and pay for the insurance required. The Applicant shall prior to the commencement of Work, furnish to the Town a certificate of Insurance as evidence of the existence of such coverage, and name the Town of Venice as a named insured thereupon.

PERMIT

For the installation of any and all pipelines, including but not limited to, gas lines, telephone, telecommunications, data and internet installations.

PERMISSION IS HEREBY GRANTED/NOT GRANTED (circle one), conditioned upon full payment of all Permit Application fees as are established by the Venice Town Board, and provision of all insurance certificates and other documents at set forth below.

PERMIT FEE REQUIRED \$_____.

PERMIT SECURITY FEE REQUIRED \$_____.

To above applicant (hereinafter referred to as "Permittee"), to proceed as set forth and represented in the attached and pursuant to the conditions and regulations, whether general or special, which are hereinafter set forth; all forming a part hereof, to-wit:

CONDITIONS AND REGULATIONS:

1. The privilege granted by this permit does not authorize any infringement of Federal, State or Local laws or regulations, and is limited to the extent of the authority of this department in the premises. Such permit shall not be assigned or transferred without the written consent of the Town Board of Trustees, or its authorized representative.

2. The work authorized by this permit shall be performed under the supervision and to the satisfaction of the Highway Superintendent, or his authorized representative.

3. The Highway Superintendent, or his representative, shall be given one week's notice by said Permittee of the day when it intends to begin the work authorized by this permit and prompt notice of its completion.

4. The said Permittee shall be responsible for all damages resulting in bodily injury, including death, and/or property damage liability due to the installations, maintenance, use or existence of any facility of the Permittee, or which arises out of the activities of the Permittee, its contractors, subcontractors of either or both, agents or employees, in connection with any act or omission hereunder; and the said Permittee does hereby expressly agree to indemnify and save, and hold harmless the County of Cayuga and the Town of Venice, and their representatives, officers, agents, and employees, from any and all claims, suits, actions, damages and costs of every name and nature and description, arising out of or resulting from any act or omission hereunder of either the said Permittee or the Town of Venice, and its agents, servants, officers, agents and employees, and the said Permittee does hereby further expressly agree to pay any damages because of injury to or destruction of part or all of any bridges or structures owned and maintained by the County of Cayuga, and/or the Town of Venice, or which may be caused, directly or indirectly by any occurrences and arising out of the existence, maintenance or use of any facility or the matter and contents thereof as such facility, matter and contents are authorized for the installation, connection, maintenance, transportation or transmission on and across any bridge or structure, pursuant to the terms of this permit.

5. Unless expressly waived, in writing, by the Highway Superintendent, or his representative, the Permittee shall furnish with the application filed in order to obtain this permit, a Protective Liability Insurance Policy issued to and covering the liability of the County of Cayuga and the Town of Venice with respect to all operations under this permit by the Permittee or by anyone acting by, through or for the Permittee, including omissions and supervisory acts of the Town of Venice, if any. The limit of liability in such policy shall be not less than \$2,000,000.00 of all damages arising out of bodily injury, including death, at any time resulting therefrom sustained by one person in any one accident and subject to that limit for each person not less than \$4,000,000.00 for all damages arising out of bodily injury, including death, at any time resulting therefrom sustained by two or more persons in any one accident, and not less than \$500,000.00 for all damages arising out of injury to or destruction of property in any one

accident and subject to that limit per accident not less than \$1,000,000.00 for all damages arising out of injury to or destruction of property during the policy period. Such policy shall state that it will not be changed or cancelled until ten (10) days' written notice has been given to the Town of Venice.

6. The Enumeration in this permit of the kind and amount of insurance shall not abridge, diminish, or affect the Permittee's legal responsibility for the consequences of accidents arising out of or resulting from the operations of the Permittee under this permit.

7. Any cash undertaking or a certified check deposited with the Town of Venice before or at the time of the issuance of this permit, shall be deemed to include and be used as security so that the streets, roadways, sidewalks and abutments, or any part(s) thereof, will be restored to their original condition where disturbed at the expense of the Permittee, and as soon as the work has been completed and the said Highway Superintendent, or his authorized representative is hereby authorized to expend all or as much of such deposit as may be necessary for that purpose should the said Permittee neglect or refuse to perform the work.

8. It shall be deemed the responsibility of the Permittee for the payment of any and all claims and damages arising out of operations by this permit which may result because of any dangerous conditions created by the existence of any debris or obstruction left on the pavement, sidewalks, or roadside during the progress of the work which may be either within the streets, roadways, sidewalks, right of way, or on adjacent property. Should the Highway Superintendent, or his representative, discover any hazardous condition so created, he may issue verbal instructions or written notice to the Permittee to eliminate the cause. In the event the Permittee fails to take immediate action to remove such hazardous condition, the Town of Venice reserves the right to take such action as it may deem necessary to safeguard the public.

9. Work authorized by this permit shall be commenced within thirty (30) days from the date of permit and shall be performed in a workmanlike, safe, and expeditious manner without unreasonable delay or interference with public travel. The Permittee shall provide all necessary and suitable safeguards so as to reduce to an absolute minimum any dangerous condition hazardous to life, limb or property.

10. The Permittee shall submit with the application filed in order to obtain a permit to said Highway Superintendent, or his representative, a detailed plan of any structure to be built, if any, with a description of the proposed method of construction before any work hereunder is started.

11. Traffic shall be maintained, and if necessary, a flagman provided by the applicant and/or Permittee during the period of time the work is in progress and until its final completion. The applicant and/or Permittee assume full responsibility for all traffic control and are required to place adequate warning signs in accordance with the New York State Manual of Uniform Traffic Control Devices.

12. The Permittee expressly agrees that the rights of abutting property owners in fee to the center line of the roadways shall not be encroached upon, and that any drainage, sewer or water pipes or appurtenances which are laid under this permit shall be placed at least four (4) feet below, and in such a manner as in no way to interfere with the pavement, shoulders or drainage ditches of the highway, and that portion of the pipe which passes under the pavement shall be left in as good condition as before the work was performed and to the complete satisfaction of the Town of Venice.

13. The applicant and Permittee agree to keep in good repair all pipes, hydrants or appurtenances which may be placed within the bounds of the streets/roadways under the terms of this permit, and agree to save Town of Venice and Cayuga County harmless from any and all damages which may accrue by reason of the location in the street(s)/roadway(s) whether due to negligence of the said Permittee or the negligence of the Town of Venice, its agents, servants and employees, and upon notice from the Highway Superintendent, the said Permittee agrees to make any and all repairs required for the protection and preservation of the highway, and said applicant and Permittee further agrees that upon failure of said applicant and/or Permittee to make such repairs, they may be made by the Town of Venice at the sole expense of the applicant and such expenses shall be a prior lien upon the land benefited by and from the use of the highway for such pipes, hydrants and appurtenances. It is further agreed by the applicant and Permittee that any injury or disturbance of the paved portion of the highway, its shoulders or drainage ditches, which may occur hereafter by reason of the laying of any facilities, lines, cable and/or other improvements and their appurtenances, shall be repaired and at the expense of the applicant and Permittee and to the complete satisfaction of the Town of Venice.

14. If the street and/or roadway upon which this permit is issued is at any time repaired, improved or reconstructed by New York State, Cayuga County or any other municipality, the applicant, Permittee or any successor in interest to said applicant and Permittee shall, upon the written request of the Town of Venice before its improvement, at the applicant and Permittee's own expense, remove any drainage, sewer or water pipe or appurtenances which may have been placed under this permit and will relay the same in conformity with the directions of the engineer in charge of such improvement and in accordance with any rules and regulations as may be laid down at the time of said improvement.

15. It is understood and provided that this permit shall not be effective as regards any highway, street, avenue or bridge over which the Town of Venice has no jurisdiction.

16. Pursuant to Chapter 731 of the Laws of 1953, as amended, it is mandatory that before discharging explosives in the ground or excavations where gas lines may be located, that the Permittee must notify at least 72 hours in advance, the person or municipality distributing gas in that area.

17. The rules and regulations covering the method of performing work and which are attached hereto and made a part hereof and hereby regarded and made a part of this permit insofar as they are specifically modified herein.

METHOD OF PERFORMING WORK

(1) All installation locations shall be approved by the Highway Superintendent. Special permission will be required to use trees for guy wires.

(2) All pipes or mains crossing highway pavement shall, wherever possible, be driven beneath the roadway without disturbance to the pavement. The point of driving shall not be less than five (5) feet from edge of pavement. Such cross-over pipes shall, whenever possible, be enclosed in sleeves, or larger pipes so that repairs or replacements may be made in the future without further disturbance of the roadway pavement.

If the boring method in the driving of cross-over pipes is found to be impracticable, the Highway Superintendent shall be consulted to determine the manner of placing the pipe by the open-cut method. Tunneling will be permitted only under exceptional circumstances, and then only if shoring and

1:15 concrete backfill is provided or if hand placed rock backfill is provided to avoid future settlement. Voids in the lower layers of such rock backfill may be sand filled but the top layer adjacent to the pavement shall be filled with 1 to 2 parts of Portland Cement grout, either placed from the sides with a cement gun or forced in from the top through holes drilled in the pavement.

(3) Backfill of excavated areas shall be performed in the following manner:

a. Pavement Cuts - Wherever the pavement is cut and including paved driveways, the following procedure must be followed:

(1) Pavements must be first cut with a saw to eliminate any damage to the adjacent pavement.

(2) Backfill for the entire depth of the trench shall consist of a dry mixture of one (1) part cement to fifteen (15) parts run-of-bank gravel except the top twelve (12) inches which will consist of one (1) part cement to fifteen (15) parts crushed gravel. The backfill must be compacted to NYSDOT standards every twelve (12) inches.

(3) Temporary pavement restoration shall consist of three (3) inches bituminous concrete. It shall be flushed with the existing pavement until permanent restoration of the pavement is made.

After consolidation of the trench has been attained, a finished pavement shall be installed in the following manner:

(1) On concrete pavements, as specified by the Highway Superintendent, or his authorized representative, slabs partly undermined, or broken shall be completely replaced with 4000 psi high early strength concrete, except, if slabs are more than forty (40) feet long, not less than twenty (20) feet shall be required to be replaced for transverse disturbance. In all such cases the pavement shall be replaced for a distance of at least 4 feet from the edge of the cut.

(2) On block pavements, a reinforced 4000 psi high early strength concrete foundation and new block shall be placed over the trench and 18" beyond each side of it where the trench is less than two (2) feet deep, and 24" on each side where the trench is of greater depth.

(3) Any concrete installation shall be reinforced by steel rods 3/8" in diameter and reinforced 6" from center to center.

(4) On macadam pavements, acceptable bituminous top course consisting of four (4) inches of NYSDOT Type 3 binder and one and one-half (1-1/2) inches of NYSDOT Type 7F top.

b. Excavation Within Shoulder Area - Wherever the edge of the trench excavation is within 5 feet of the edge of the pavement or paved gutter and/or within areas normally used by traffic, the backfill shall be placed in 12-inch layers and each layer thoroughly compacted; the top 12 inches of backfill shall consist of run-of-bank gravel.

Where the depth of the trench excavation is greater than the distance from edge of pavement to edge of the trench sheeting may be required and left in place if so ordered by the Highway Superintendent. The backfilling of the sheeted area shall proceed as stated above.

c. Excavation Within Areas Outside of Pavement and Shoulder - The backfill in trenches beyond the shoulder and pavement areas but within the roadway area shall be compacted by rolling with heavy

equipment. All trench backfill within the roadway area shall be maintained level with the original surface at all times. All surplus material between the ditch line shall be removed.

(4) The Permittee shall be required to restore shoulders and ditches and clean up the highway as his work progresses. All driveways shall be restored with material in kind and to their original condition, or better. Outside of the pavement area the work shall be carried on in such manner that not more than 50 feet of trench remains open at the end of day's work. During Winter conditions highway shoulders shall be maintained free of obstructions which would interfere with snow removal and ice control.

(5) Maintenance and Protection of Traffic - Traffic is to be maintained at all times during the progress of this work. Adequate signs, barricades, and lights, in accordance with the standards of the Highway Superintendent necessary to protect the public shall be provided. Flagmen to direct traffic shall be employed continuously during periods when only one-way traffic can be maintained or when equipment is operated back and forth across the pavement area.

No construction materials or equipment shall be left on the shoulders or pavement after working hours, nor shall any construction equipment or material be placed in any manner or location that obstruct highway or railroad warning signs.

No pavement cuts are to be left unfilled overnight, except in emergencies, and in such cases, adequate precautions must be exercised to protect traffic.

Soft Shoulder Signs of adequate size, not less than 30" square, shall be erected and maintained on all backfill trenches with the shoulder area until the backfill is thoroughly settled. These signs shall be located at the beginning of each section of work, at intersections and at a distance not greater than 1000 feet apart.

(6) Shoring shall progress with the excavation to prevent cave-ins.

(7) Service Connections - Where service connections are made the trench shall be backfilled within two days from time of opening, and suitable barricades shall be maintained during this time, with yellow warning lights displayed at night.

(8) Manhole frames and covers shall be of a weight approved by the Highway Superintendent and set in a workmanlike manner flush with the surface of the highway.

(9) All surplus earth and rubbish shall be cleaned up and removed from the highway right of way upon completion of the work, and highway left in a neat and orderly condition.

(10) Any and all underground and overhead facilities encountered shall not be disturbed in any manner without proper authority from the owner.

(11) The applicant agrees, in consideration of this permit, that any present or future injury to or disturbance of the highway, its slopes or gutters, caused by placing mains and service pipe shall be repaired by the applicant at his own expense and in accordance with the requirements of the Town of Venice.

TOWN OF VENICE, NEW YORK

Supervisor

By: _____

Date: _____

Highway Superintendent

By: _____

Date: _____

In consideration of the granting of the within permit, the Undersigned hereby accepts the same subject to the restrictions, conditions and regulations therein described.

_____(COMPANY NAME)

Signature of Applicant

By: _____

Title: _____

Date: _____, 20__