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

Town of Farmington  
Local Law No. 5 of the year 2010.

A local law amending Chapter 165: Article II, Terminology; Article IV, District Regulations; and Article VIII, Administration and Enforcement Regulations; and Attachment 1, Town of Farmington Zoning Schedule, Lot Area, Bulk and Coverage Requirements of the Town of Farmington Town Code by adopting WEFD Wind Energy Farm District regulations.

Be it enacted by the Town Board of  
The Town of Farmington  
as follows:

**FILED**  
**STATE RECORDS**  
JUN 09 2010  
**DEPARTMENT OF STATE**

Section 1. Title.

This Local Law shall be known as the WEFD Wind Energy Farm District Regulations. This Local Law is adopted pursuant to Municipal Home Rule Law Section 10.

Section 2. Intent.

The intent of this Local Law, when adopted by the Town Board and filed with the Secretary of State, is to promote the safe, effective and efficient use of land for commercial scale Wind Energy Farms by addressing the construction, maintenance and, when it becomes necessary, the future demolition of and site restoration for these utility scale Wind Energy Farm Conversion Systems. The Town of Farmington recognizes that while the Town's topography may not be conducive for the location of several large utility-scale wind energy projects according to the latest mapped information from the American Wind Energy Association, it nevertheless has a limited wind resource for development of commercial wind energy generating systems. Wind energy is a renewable, nonpolluting energy resource and that its conversion to electricity will help to reduce dependence upon non-renewable energy resources and decrease the air and water pollution that can otherwise result from the use of conventional energy resources.

Section 3. Purpose.

The purpose of this local law is to establish criteria, standards and regulations to balance the environmental impacts that result from the physical construction of these commercial scale facilities with any other impacts such use may have upon the health, safety and welfare of the community. At the same time, the purpose of this Section of the Town Code is to preserve and protect the aesthetic qualities within the Town of Farmington.

(1)

Section 4. Chapter 165, Article IV, District Regulations, Section 32, is hereby amended by adding a new Section 32. entitled WEFD Wind Energy Farm District, to read in its entirety as follows:

§ 165-32. WEFD Wind Energy Farm District.

- A. Purpose. To accommodate the larger utility scale Wind Energy Farms while insuring that they protect the character and value of the neighborhood and the quality of life of the residents of the Town.
- B. Floating Zone District. The WEFD Wind Energy Farm District is a floating zone district subject to formal rezoning and Official Zoning Map amendment actions by the Town Board where uses are proposed which are found to be consistent with the regulations set forth herein. In addition, all WEFDs are further subject to Site Plan approval by the Planning Board prior to the Town Clerk formally amending the Official Zoning Map. WEFD Wind Energy Farm Districts are not intended to be identical in that each mapped WEFD is based upon the particular site details identified in any rezoning action by the Town Board and subsequent Site Plan approval action by the Town Planning Board.
- C. WEFD Location. In rezoning property to WEFD Wind Energy Farm Districts, it is intended that the following guidelines be followed:
  - (1) WEFD Wind Energy Farm Districts are to be created only on properties that are zoned A-80 Agricultural District or the RR-80 Rural/Residential District; and upon the applicant obtaining Site Plan Approval from the Town Planning Board for the Wind Energy Farm System; and
  - (2) Wind Energy Farms should not be located on property within 500 feet of the Town's municipal boundary line. In addition, Wind Energy Farms should not be located on property located West of County Road 8.
- D. Permit required; fee; use restriction.
  - (1) No Wind Energy Farm site shall be established unless there is documentation that the proposed Wind Energy Farm System is to be connected to the commercial electrical utility grid for the purpose of generating and selling electric power for off-site use. The applicant for rezoning and site plan approval shall produce a certificate of need for the proposed Wind Energy Farm System from the New York State Public Service Commission. No action shall be taken to approve a Wind Energy Farm Site without such documentation. The electrical energy created on a Wind Energy Farm is not intended to be used primarily for consumption on the premises.

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- (2) No Building Permit may be issued for the construction of a Wind Energy Farm until the Town Board has approved a rezoning, the Town Planning Board has approved a Site Plan and the Town Clerk has certified that the Official Zoning Map has been amended accordingly.
- (3) All applications for rezoning, Site Plan approval and Building Permits shall be accompanied by fees as determined by the Town Board and contained within the Town's Fee Schedule.
- (4) Each Wind Energy Farm site shall be subject to compliance with the approved Wind Energy Farm District zoning resolution and Site Plan resolution. Any physical modification to an existing and permitted Wind Energy Farm site that alters the size, type and number of wind turbines, buildings, electrical substation or stations, roads, or other approved site development matters shall require a permit modification in accordance with the provisions of this Chapter.

E. Minimum Lot Size. The minimum acreage for each Wind Energy Turbine Structure located within a WEFD Wind Energy Farm District site shall be one (1) acre. This acreage includes the lands required for roads, pad, turbine, and necessary rights of way. This minimum spacing between the turbines is the minimum design standard to allow for uninterrupted wind flow.

F. Harmonic power distortion.

Where a power converter is to be used for grid interconnection, Wind Turbines are required to be tested and meet the International Electrotechnical Commission (IEC) standard IEC 61400- 21. Documentation to this requirement shall be provided as part of any WEFD rezoning application.

G. Noise limitations.

The level of noise produced during the operation of a Wind Energy Farm System shall not exceed 50 dBA beyond the present ambient sound levels at pre-construction levels, as measured at the boundaries of the parcel on which the system is located. The applicant will be required to submit technical data to the satisfaction of the Planning Board as to meeting this noise limitation requirement. This obligation shall be a continuing obligation with exceptions only for short-term events such as utility outages and severe windstorms. In the event of a complaint being filed by an adjacent property owner, the Town Code Enforcement Officer shall order noise level readings at the subject property line for determining whether there is a violation of the 50 dBA limit. Should there be a violation the CEO shall direct the applicant to appear before the Planning Board with a remedy to the violation.

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H. Sound pressure level.

The resulting sound pressure level generated by a Wind Energy Farm site shall be equal to or less than 50 dBA at the property line. Documentation to this effect will be required as part of any submission to the Town Board for rezoning of land to WEFD.

I. Transmission facilities.

All electrical connections to a local utility company transmission lines or the transmission grid installed to support the Wind Energy Farm shall be constructed underground.

J. Wind Energy Farm System Height.

The maximum height of a Wind Energy Farm Structure shall be 200 feet above existing grade and shall be based upon site specific wind documentation. In addition, any Wind Energy Farm Structure shall meet all the requirements of the Federal Aviation Administration (FAA) Regulations.

K. Site Wind Documentation.

Each application for a WEFD Wind Energy Farm District shall contain a minimum of one year's worth of on-site wind data collected from a temporary tower located on the site of the proposed Wind Energy Farm.

L. Preliminary Site Plan.

All applications for WEFD Wind Energy Farm District shall be accompanied by a preliminary Site Plan in accordance with the provisions contained in Chapter 165, Sections 100 and 100.1 of the Town Code.

M. Visual Assessment.

A complete Visual Assessment Form (VAF) shall accompany Part I of the Full Environmental Assessment Form as is first required under the provisions of the State Environmental Quality Review Act (SEQRA). The VAF shall include a panoramic view shed analysis from the proposed Wind Energy Farm Site, up to the 5 mile limit on the VAF, to enable the Town Board to designate locations from which photo simulations are to be prepared by the applicant. The selection of such locations shall be based upon the scenic views and vistas document in the Town of Farmington Comprehensive Plan and the determination of other existing public viewpoints and adjacent land uses which may be impacted by a proposed Wind Energy Farm.

N. Ownership.

Ownership of the Wind Energy Farm System must be either the owner of the fee interest in the real property upon which it is situated or an applicant having written permission from the owner of the fee interest in the real property. In the event of transfer of ownership of the premises, the ownership of the Wind Energy Farm Conversion System must also be transferred to same or the tower must be decommissioned and removed.

O. Net metering requirements.

The applicant shall certify that he/she will comply with the requirements contained in the New York State Net Metering Law and accompanying regulations regarding connection to the public utility grid.

P. Proximity to radio, television, telephone and wireless Internet systems.

Wind Energy Farm Systems shall not be located in any area where their proximity interferes with existing fixed broadcast, retransmission systems such a cell phone towers or wireless Internet transmission systems.

Q. Non-operational.

Should the Wind Energy Farm System be non-operational for a continuous six-month period, the Site Plan approvals granted shall be deemed void and the Wind Energy Farm System shall be decommissioned subject to the following provisions in this Subsection.

R. Decommissioning.

- 1) The applicant, as part of any application for WEFD Wind Energy Farm District rezoning shall submit to the Planning Board a letter of intent committing the owner, and his or her successors-in-interest, to notify the Code Enforcement Officer (CEO) within 30 days of the discontinuance of the use of the Wind Energy Farm Energy System. This letter of intent shall be filed with the CEO prior to the issuance of a Building Permit. The owner or his/her successors-in-interest shall have 30 days from the date of the notice to the CEO to prepare a decommissioning plan and to submit it to the CEO for the project files. The CEO shall issue a decommissioning permit based upon the submitted decommissioning plan within five (5) business days of his/her receipt of the notice. The owner shall then have 60 days from the date of issuance of the decommissioning permit to complete the decommissioning process.

- 2) The owner, at his/her expense, shall remove from the site the unused Wind Farm Energy System, including turbines, buildings, cabling, electrical components, roads, foundations to a depth of 42 inches, and any other accessory structures within one year of the discontinuance. All removed material shall be disposed of in a manner approved by the Town Code Enforcement Officer. The date of discontinuance shall be confirmed with records from the local public utility service to the property.
- 3) Disturbed earth on the site shall be graded and reseeded, unless the landowner requests, in writing, that the access roads and other land surface areas not be restored. Said request shall be made to the Planning Board and said Board shall make a decision whether or not to grant such request.
- 4) An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning (decommissioning costs), without regard to salvage value of the equipment, and the cost of decommissioning with the net salvage value of the equipment (net decommissioning costs). Said estimates shall be submitted to the Farmington Town Board for their acceptance. The Town Board shall review each Decommissioning Bond after the first year of operation to determine if any changes are warranted and then every fifth year thereafter. Should the Town Board determine a change is warranted in an existing Decommissioning Bond the applicant shall have 30 days from the date of such determination to change the Bond, or the Town Code Enforcement Officer shall be directed to cite the applicant with a violation to these provisions.
- 5) The Wind Energy Farm System operator or owner shall post and maintain decommissioning funds in an amount equal to net decommissioning costs, provided that at no point shall decommissioning funds be less than 25% of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or federal- or state-chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within New York State and is approved by the Farmington Town Board.
- 6) Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable by the Farmington Town Board.

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- 7) If the facility owner or operator fails to complete decommissioning within the period prescribed in Subsection 1) above, the landowner shall have an additional thirty (30) days to complete decommissioning.
- 8) If neither the facility owner or operator nor the landowner completes decommissioning within the periods prescribed in Subsections 1) and 7), then the Town of Farmington may take such measures as necessary to complete decommissioning. In the event that the facility owner or operator is also the landowner said responsible party is not entitled to any additional time to complete the decommissioning process. The entry into and submission of evidence of a participating landowner agreement to the Town of Farmington shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Town of Farmington may take such action as necessary to implement the decommissioning plan.
- 9) The escrow agent shall release the decommissioning funds when the facility owner or operator has demonstrated and the Town concurs that decommissioning has been satisfactorily completed or upon written approval of the Town Board in order to implement the decommissioning plan.

S. Wind Energy Farm System Equipment.

All Wind Energy Farm System Equipment shall be new equipment commercially available. Used, experimental or prototype equipment still in testing shall be approved by the Town of Farmington Consulting Engineers, as part of the required Site Plan Approval Process set forth below herein.

Section 5 . Site Plan Review/Approval Requirements. Chapter 165, Article VIII, Site Development Plan, is hereby amended by adding the following new Section 100.1 to read as follows:

§ 165-100.1. Site Plan Review/Approval.

A. Application.

The Planning Board shall review the accompanying Site Plan for any application for WEFD Wind Energy Farm District rezoning. The following submission requirements are in addition to the Site Plan requirements set forth in elsewhere in the Chapter, in Section 100 and must be observed regarding a Site Plan application for a Wind Energy Farm System:

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- 1) Completed application form as supplied by the Town of Farmington for Site Plan approval for a Wind Energy Farm System; and
- 2) Proof of ownership of the premises involved or proof that the applicant has written permission of the owner to make such application; and
- 3) A plot plan and development plan drawn in sufficient detail, as prepared by a licensed engineer or surveyor, clearly describing:
  - (a) Property lines and physical dimensions of the proposed site, including contours at five-foot intervals; and
  - (b) Properties adjacent to the site where the Wind Energy Farm System will be located; and
  - (c) Location, approximate dimensions, and types of existing structures and uses on the site, including all set backs from property lines; and
  - (d) Location and elevation of each proposed Wind Farm Energy System; and
  - (e) Location of all substations, electrical cabling from the Wind Energy Farm System to the substations, ancillary equipment, including permanent meteorological towers, associated transmission lines and layout of all structures within the geographical boundaries of any applicable setback required on the site; and
  - (f) Location of all roads and other service structures proposed as part of the installation; and
  - (g) Soils at the construction site.
- 4) Placement. All towers shall be located in such a manner as to minimize visual impacts to residential sites located within 2500 feet of the subject property lines, taking into account the locations of existing structures as well as the size and configuration of the parcel on which the Wind Energy Farm System will be located.
- 5) Color. Neutral paint colors (i.e. gray) to achieve visual harmony with the surrounding area.
- 6) Guy wires. Anchor points for guy wires for the Wind Energy Farm System tower shall be located within the required setback lines for accessory structures and not on or across any above ground electric transmission or distribution lines. All anchor points of guy-wires and along guy-wires from the ground up to a height of ten (10) feet shall be visible, reflective, colored objects, such as flags, reflectors or tapes.
- 7) All Wind Energy Farm Systems shall not be climbable up to fifteen (15) feet above existing ground.

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- 8) All Wind Energy Farm System access doors to Wind Turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
- 9) All applications shall be accompanied by a completed Part I, signed by the applicant, of the State Environmental Quality Review Regulations Full Environmental Assessment Form. The following additional material may be required by the Planning Board:
  - (a) Project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance of 5 miles from the subject property boundaries; and
  - (b) No fewer than four (4) color photos taken from locations within the 2500 foot distance specified above herein.
- 10) All Site Plan Applications shall be accompanied by a detailed Noise Analysis prepared by a competent acoustical consultant documenting the noise levels associated with the proposed Wind Energy Farm. The Analysis shall document noise levels at the property lines and the nearest residence not on the site. The Noise Analysis shall include low frequency noise.
- 11) All Site Plan Applications shall be accompanied by a Shadow Flicker Analysis. Said Analysis shall identify locations where Shadow Flicker may be caused by the Wind Energy Farm System and the expected durations of the Flicker at these locations. The Analysis shall also identify where Shadow Flicker may interfere with residences and describe measures that shall be taken to eliminate or mitigate the problems.
- 12) All Site Plan Applications shall be accompanied by a Lighting Plan showing illumination patterns on the site which are to be in accordance with the Town's Lighting Standards set forth in § 165-64 of the Town Code.
- 13) Documentation from the Wind Energy Farm System's manufacturer that includes specifications, installation and operation instructions.
- 14) Certification by a registered Professional Engineer that each Wind Energy Farm System tower and base design is sufficient to withstand wind and ice load requirements.
- 15) Documentation on the drawings certifying that all necessary access easements and utility easements shall be recorded in the Office of the Ontario County Clerk prior to the issuance of any Building Permits.

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- 16) A re-vegetation plan that complies with the New York State Department of Agriculture and Markets restoration guidelines and that addresses how areas that are temporarily disturbed during construction will be restored, as well as restoration after decommissioning.
- 17) A drainage plan for construction and operation as well as an erosion plan.
- 18) A written plan for storage, usage and disposal of all hazardous materials, lubricants, cleaning supplies, etc., in accordance with the New York State Department of Environmental Conservation (DEC) regulations and the written plan shall be approved by the DEC.
- 19) No Wind Energy Farm System under this provision shall be artificially lighted, unless so required by the FAA. Use of nighttime, and overcast daytime conditions, stroboscopic lighting to satisfy tower facility lighting requirements for the FAA may be subject to on-site field testing before the Planning Board as a pre-requisite to the Board's Site Plan approval with specific request to existing residential uses located within 2,000 feet of each tower for which such strobe lighting is proposed.

B. Public Safety Emergency Communications Towers.

Every Wind Energy Farm System shall not be allowed to compromise the effectiveness of public safety emergency communications towers. As part of each Site Plan Approval, the Ontario County Office of Emergency Preparedness shall be required to provide written confirmation of any Wind Energy Farm System's effect upon the effectiveness of the emergency communications system's being compromised.

C. Wind Energy Farm System Site Plan Review Criteria.

In addition to the above, no Site Plan shall be approved unless the Planning Board determines that the proposed Wind Energy Farm System is oriented in its location upon the site as to layout, coverage, screening, means of access and aesthetics so that:

- 1) There shall be reasonable compatibility on all respects with any structure or use in the neighborhood, actual or permitted, which may be directly substantially affected; and
- 2) That there should not be any unreasonable detriment to any structure or use, actual or permitted, in the neighborhood; and
- 3) The design of each Wind Energy Farm System shall not allow for climbing by the public for a minimum height of fifteen (15) feet above existing ground level; and

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- 4) All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for anchor points, guy wires, or cable shall be fifty (50) feet from any property line; and
- 5) To the greatest extent possible, existing roadways shall be Used for access to the location of the Wind Energy Farm System. Where these roadways are used any damage Caused by heavy construction equipment and/or damage resulting from the on-going use of said roadways shall be documented by the Town. The property owner of the Wind Energy Farm shall be notified in writing of any such roadway damage. All repairs required to return the roadway to its original condition shall be charged against the property owner on the following year's tax bill. In the case of constructing any roadways necessary to access the Wind Energy Farm System, they shall be constructed in a way that allows for the passage of emergency vehicles in the event of an emergency. Each application shall be accompanied by correspondence from the responding fire department and emergency care provider as to the acceptability of the proposed ingress and egress to the tower unit; and
- 6) Wind Energy Farm Systems shall be set back a distance equal to twice the height of the tower plus blade length from all property lines, public roads, power lines, easements, and existing structures. Setback distances shall be measured from the base of each tower. Additional setbacks may be required by the Planning Board in order to provide for the public's safety, including the possibility of ice thrown from the unit's blades; and
- 7) No lettering or logo advertisement shall be allowed on either the blades or other structural portion of a Wind Energy Farm System that can be seen by a person of normal vision in normal day-light from more than fifty (50) feet away; and
- 8) Each Wind Energy Farm System shall be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. This shall be documented on the Site Plan and stamped by a licensed Professional Engineer; and
- 9) Each Wind Energy Farm System shall be located so that Shadow Flicker caused by the blades interrupting sunlight will not strike off site residences or adjacent site residences located within 2,500 feet of the Wind Energy Farm property line for more than five (5) minutes per day. Shadow Flicker of longer duration may be allowed if the owners of such property where Shadow Flicker occurs signs an agreement with the Wind Energy Farm owner that they accept the proposed duration of such Shadow Flicker, and a description

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- of the duration of such Shadow Flicker on their property calculated and bearing the signed stamp of a licensed Professional Engineer. Such agreement shall be filed in the office of the Ontario County Clerk prior to the issuing of any Building Permit. Such agreement shall remain in effect and shall not be removed as long as the Shadow Flicker affect remains from the Wind Energy Farm System; and
- 10) No Wind Energy Farm System shall:
    - (a) Operate along the major axis of an existing microwave communication link where its' operation is likely to produce electromagnetic interference in the link's operation; and
    - (b) Operate where its' proximity with existing fixed broadcast transmission or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception; and
  - 11) All pad-mounted transformers and substations shall have a clearly visible warning sign concerning voltage at the base of each unit; and
  - 12) In the event a Meteorological (MET) Tower is to be placed upon a Wind Energy Farm System Site, said tower shall be monopole rather than lattice construction; and
  - 13) The minimum distance between the existing ground and any part of the rotor blade for a Wind Energy Farm Structure must be twenty (20) feet; and
  - 14) The applicant shall post an emergency telephone number on each Wind Energy Farm Structure device so that the appropriate entities may be contacted should any Wind Energy Farm System turbine need immediate repair or attention. This telephone number should be clearly visible on a permanent structure or post located outside of the fall zone of the tower. Location should be convenient and readily noticeable to someone likely to detect a problem. Further, no wind turbine shall be permitted which lacks automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding and excessive pressure on the tower instruments, rotor blades and turbine components or enclosed shelter.
  - 15) All Wind Energy Farm Systems shall have lightning protection as part of each unit.
  - 16) All Wind Energy Farm Systems shall have Maintenance Plan that is to include proper disposal of used/broken/defunct components of the Wind Energy Generating System.

D. Compliance with Uniform Building Code and National Electric Code.

- 1) All Building Permit Applications shall be accompanied by standard drawings of structural components of the Wind Energy Farm System, including support structures, tower, base and footings. Drawings and any necessary calculations shall be certified, in writing, by a New York State registered professional engineer that the system complies with the New York State Fire Prevention and Building Code. This certification may be supplied by the manufacturer.
- 2) Where the structure, components or installation vary from the standard design or specification, the proposed modification shall be certified by a New York State Registered Professional Engineer for compliance with the seismic and structural design provisions of the New York State Fire Prevention and Building Code.
- 3) All Building Permit applications shall be accompanied by a line drawing identifying the electrical components of the Wind Energy Farm System to be installed in sufficient detail to allow for a determination that the manner of installation conforms with the current New York State adopted National Electric Code. The applicant shall include a statement from a New York State Registered Professional Engineer indicating that the electrical system conforms with good engineering practices and complies with the National Electric Code, as well as applicable state and local electrical codes. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.
- 4) Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State Registered Professional Engineer for compliance with the requirements of the current New York State adopted National Electric Code and good engineering practices.

E. Insurance.

The applicant, owner, lessee or assignee shall maintain a current insurance policy, with a duplicate insurance policy or a certificate issued by an insurance company, naming the Town of Farmington an Additional Insured and Certificate Holder of a level to be determined by the Town Board in consultation with the Town's insurer to cover damage or injury which may result from the failure of a tower or towers, or any other parts of the generation and transmission facility. Said policy shall provide a minimum of \$3,000,000.00 property and personal liability coverage.

F. Power to impose conditions.

In granting any Site Plan approval for an Wind Energy Farm System, the Planning Board may impose reasonable conditions to the extent that such Board finds that such conditions are necessary to minimize any adverse effect or impacts resulting from the proposed use on neighboring properties.

G. Fees.

Fees for applications and permits under this Article shall be established by resolution of the Farmington Town Board.

H. Maintenance and Inspections.

- 1) The owner or operator of a Wind Energy Farm System must submit, on an annual basis, a summary of the operations and maintenance reports to the Farmington Town Board. In addition, to the summary of operations, the owner or operator must furnish such operation and maintenance reports as the Town Board reasonably requests. Copies of all summary reports shall be filed with the Town Clerk and the Town Code Enforcement Officer. A copy of each annual summary report shall be placed in the property files.
- 2) Any physical modification to the Wind Energy Farm System that alters the mechanical load, mechanical load path, or major electrical components shall require an amended Site Plan approval by the Planning Board. Like-kind replacements shall not require an amended Site Plan approval by the Planning Board. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with the Code Enforcement Officer to determine whether the physical modification requires formal Town Board or Town Planning Board Action.
- 3) The Town Code Enforcement Officer, along with licensed third-party professionals retained by the Town for the specific purpose of conducting inspections of the Wind Energy Farm System shall have the right, once annually and with sufficient prior notice, to accompany the owner or operator, or his/her agent, on the premises where a Wind Energy Farm System has been constructed to inspect all parts of said Wind Energy Farm System and to require that repairs or alterations be made. The owner or operator of a Wind Energy Farm System may retain a licensed third-party professional engineer familiar with the specific wind facility system to prepare and submit to the Town Board a written report which addresses the repairs or alterations requested and which suggests alternate methods for addressing

the concerns or provides evidence that said repairs or alterations are unnecessary. This report must be submitted within 30 days after receiving notice from the Town Code Enforcement Officer that repairs or alterations are requested unless both parties have agreed to a longer period of time. The Town of Farmington Town Board will consider any such written report and determine whether the repairs or alterations should be made as originally requested in the Code Enforcement Officer's written report or as suggested in the owner or operator's report.

- 4) Inspections, at a fee determined by the Town of Farmington and paid by the applicant, may be made by the Town of Farmington Code Enforcement Officer, or by a qualified inspector for equipment of this type selected by the Town Board, no more than once annually to certify the safety and maintenance of the Wind Energy Farm System and accessory structures.

Section 6. Amend Chapter 165, Article II, Section 10. Definitions. by adding the following definitions of terms in alphabetical order:

HUB HEIGHT -- The distance measured from the surface of the tower foundation to the height of the wind turbine hub, to which the blade is attached.

NON-PARTICIPATING LANDOWNER -- Any landowner except those on whose property all or a portion of a wind energy facility is located or who has an agreement with facility owner or operator.

OPERATOR -- The entity responsible for the day-to-day operation and maintenance of the Wind Energy Farm Facility.

OVERSPEED CONTROL -- A mechanism used to limit the speed of blade rotation to below the design limits of a Wind Energy Conversion System.

PARTICIPATING LANDOWNER -- Any landowner on whose property all or a portion of a Wind Energy Farm Facility is located or who has an agreement with the facility owner or operator.

SHADOW FLICKER -- The visible flicker effect when rotating turbine blades cast shadows on the ground and/or nearby structures causing the repeating pattern of light and shadow.

SWEPT AREA -- The largest area of the Wind Energy Conversion System which extracts energy from the wind stream. In a conventional propeller-type WECS, there is a direct relationship between the Swept Area and the rotor diameter.

TOWER HEIGHT -- The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

TURBINE HEIGHT -- The distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

WIND ENERGY CONVERSION SYSTEM (WECS) -- A machine that converts the kinetic energy in the wind into a usable form (commonly known as a “wind turbine”). The WECS includes all parts of the system except the tower and the transmission equipment; the turbine may be on a horizontal or vertical axis, rotor or propeller.

WIND ENERGY FARM FACILITY OWNER -- The entity or entities having an equity interest in the wind energy farm, including their respective successors and assigns.

WIND ENERGY FARM SYSTEM -- An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

WIND TURBINE -- A Wind Energy Conversion System that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle (a structure which houses all of the generating components, gearbox, drive train, etc.), rotor, tower, and pad transformer, if any.

WIND ENERGY FARM SYSTEM HEIGHT -- The combination of tower height plus blade length.

WIND ENERGY FARM -- Multiple, large-scale “WECS” sited upon a single parcel, or adjacent parcels, designed to generate and sell electricity for off-premises use or to a public utility company.

Section 7. Amend Town of Farmington Town Code Index. The Index for the Farmington Town Code is hereby amended by adding indexing to the Wind Energy Farm System regulations.

Section 8. Amend Zoning Law Table of Content. The Table of Content, page 165:3 of the Town of Farmington Town Code is hereby amended by adding reference to Chapter 165, Section 32. WEFD Wind Energy Farm District.

Section 9. Amend Chapter 165, Attachment 1, Town of Farmington Zoning Schedule. Chapter 165, Attachment 1, Town of Farmington Zoning Schedule, Lot Area, Bulk and Coverage Requirements, is hereby amended by a new footnote 9 to the Lot Area, Yard, Lot Coverage and Height Limitations, from Schedule I. Footnote 10 to read as follows:

10 See § 165-32. WEFD Wind Energy Farm District for regulations of Wind Energy Farm Systems.

Section 10. Severability. The invalidity of any clause, sentence, paragraph or provision of this Section shall not invalidate any other clause, sentence, paragraph or part thereof.

Section 11. Effective Date. This local law shall take effect upon filing in the office of the New York State Secretary of State or as otherwise provided by law.

(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 number 5 of 2010 of the Town of Farmington was duly passed by the Farmington Town Board on May 25, 2010, in accordance with the applicable provisions of law.

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 number of 2010 of the Town of Farmington was duly passed by the .....  
On ..... 2010, and was (approved) (not approved) (repassed after disapproval) by the ..... and was deemed duly adopted on  
(Elective Chief Executive Officer\*)  
..... 2010, 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 number of 2010 of the Town of Farmington was duly passed by the Farmington Town Board on 2010, and was (approved)(not approved)(repassed after disapproval) by ..... on 2010. Such local law was  
(Elective Chief Executive Officer\*)  
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 2010, 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 number of 2010 of the Town of Farmington was duly passed by the Farmington Town Board on 2010, and was (approved)(not approved)(repassed after disapproval) by the ..... on 2010. Such local law  
(Elective Chief Executive Officer\*)  
was subject to permissive referendum and no valid petition requesting such referendum was filed as of 2010, in accordance with the applicable provisions of law.

- 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 number \_\_\_\_\_ of 2010 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 \_\_\_\_\_ 2010, became operative.

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

I hereby certify that the local law annexed hereto, designated as local law number \_\_\_\_\_ of 2010 of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 2010, 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.

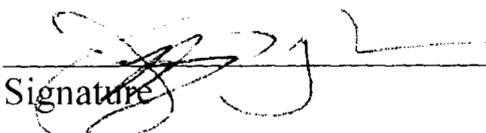
  
Clerk of the Town of Farmington  
Date: May 25, 2010

(Seal)

(Certification to be executed by Town Attorney.)

STATE OF NEW YORK  
COUNTY OF ONTARIO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
Signature  
Town Attorney  
Title  
Town of Farmington  
Date: 6/2/10