

Law #2 of the Year 2018

Amendment to Local Law #1 of the Year 2008

Governing Wind Energy Facilities in the Town of Fremont

8.10 Standards for WECS

8.10 (A) 10. Shall be amended to:

The WECS shall be sited in a manner that minimizes significant negative impacts on animal species in the vicinity, particularly bird and bat species. Applicant must follow all NYS DEC regulations.

8.10 (A) 13. Shall be amended to:

The maximum Total Height of any WECS shall be 500 feet.

8.10 (A) 14. Shall be amended to:

Construction will take place during the hours of 7am to 7pm Monday thru Friday with the exception of Holidays allowing for after-hour construction of turbine erection requiring special wind and temperature conditions not attainable during this time frame, this afterhours activity will be restricted to onsite construction only not causing additional construction traffic as a result. Exceptions may be granted by the Town Board.

8.10 (A) 18. Shall be added: Shadow Flicker and Ice Throw

Shadow Flicker- All WECS shall be modeled so Shadow Flicker is kept to a minimum. To establish this, all off site receptors will be subject to less than 20 hours per year. If the modeling during the project's design shows limits may be close or possibly exceeded, the WECS shall be equipped with a sensor with the ability to shut down during times of Shadow Flicker or Off-Site Receptor can opt to sign a Good Neighbor Agreement with the applicant. All off site receptors and Roads over 10 hours per year shall be reviewed with the Town Board. Documentation shall be on file with the town with full modeling results and demonstration of compliance for all non-participating off-site receptors modeled to exceed the 20 hour threshold. The Town will not be held responsible for any accidents caused by Shadow Flicker across Town, County, and State Roads.

Ice Throw- The applicant shall install and utilize ice sensing/detection equipment. This equipment shall be warranted by the manufacturer and be able to trigger an ice warning alarm that can automatically shut down the turbine. The town will not be held responsible for any damages caused to persons, property or vehicles. Applicant shall furnish insurance for the life of the project.

Section 8.13 Setbacks for Wind Energy Conversion Systems

8.13 (A) Shall be amended to:

A Level Noise

The sound pressure level generated by a WECS shall not exceed 50 dBA $L_{eq(8hr)}$ measured at all off-site property lines. The sound pressure shall not exceed 45 dBA $L_{eq(1hr)}$ at the exterior walls of any off site residence. The annual nighttime average for non participating residences will be 40 dBA. The developer will install the lowest noise model available within the selected manufacture's options. The turbine will have serrated blades installed to reduce the overall noise impact. Independent certification shall be provided before and after construction demonstrating compliance with this requirement.

Low Frequency noise:

The WECS shall not be operated so low frequency and infrasound sound adversely affects the habitability or use of any dwelling. In order to establish this, the applicant will follow the guide lines of the indoor standard of ANSI/ASA S2.71-1983 for vibration. The WECS shall not exceed 65 dBZ $L_{eq(1hr)}$ at the exterior walls of an Off-Site Residence at 16 Hz, 31.5 Hz and 63 Hz.

8.13 (E). Shall be amended to:

1. From Property Lines: 1.5 times the height of wind turbine to wing tip, in most upright position, measured horizontally and perpendicular from a point at the center of turbine tower to nearest boundary property line.
2. From Public Roads: 1.5 times the height of wind turbine to wing tip, in most upright position, measured horizontally and perpendicular from a point at the center of turbine tower to the right of way line of public road or highway.
3. From Residences: 1500 feet from the nearest off-site residence existing at the time of application, measured horizontally perpendicular from a point at the center of the tower to the nearest point of such residence. Applicant must furnish names of all residences within 2000 feet.

8.13 (E) 5. Shall be added:

5. From Communication Towers: 1.1 times the height of wind turbine to wing tip, in most upright position, measured horizontally and perpendicular from a point at the center of turbine tower to the nearest point of communication tower, positioned not to disrupt signals / magnet fields from either shadow, flicker, reflection, scattering, radiation or blockage.

8.14 Noise and Setback; Variances

8.14 (A) 4. Shall be added:

Noise and Setback Easements; Variances

The developer shall provide waiver agreements with participating residents to the Town. The amount of compensation for signing the agreement should be redacted from this document.

8.16 Abatement

8.16 (C). Shall be amended to:

Decommissioning: The applicant, or successors, shall continuously maintain a letter of credit from a NYS licensed financial institution payable to the Town of Fremont. This fund will be used for the sole purpose of removing non-functional towers and appurtenant facilities for the period of the life of the facility. This fund will be determined by a qualified independent engineer chosen by the Town of Fremont. The fund will be adjusted every five years to meet inflation. This shall be in place 90 days prior to the construction.

8.17 (C). Shall be added:

During the review process, the Town Board shall meet with the applicant to review each WECS site. All WECS modeling will be reviewed and a written plan will be supplied to the town for any areas that are out of compliance.

8.18 Testing Fund; Permit Revocation

8.18 (D). Shall be added: Complaint Resolution within 1 mile of turbine location:

For non-participating landowners modeled to be above 42 dBA Leq (1 hr) at the exterior wall of their residence, Developer will communicate the sound impact and provide a good neighbor agreement to the landowner. Developer will make good faith efforts to sign a good neighbor agreement; however there is no obligation for the landowner to sign the good neighbor agreement. 180 days before construction, developer shall provide the town with a final model and list of all non participants that are modeled over 42 dBA (1 hr)

The project operator must provide detailed reports on each complaint by non-participating land owners to the Town. The reports shall include the nature of complaint, initial steps taken to mitigate the problem, on site testing data including SCADA data for weather / wind speeds and NRO mode 30 days before testing and during the testing periods. If the problem persists after 120 days, the Town may enlist an independent acoustician for further testing. This will be paid for by the applicant.

After 360 days of unsuccessful mitigation for A level noise, Low Frequency noise, or Shadow Flicker thresholds as specified in this local law, said complainant may opt to have the applicant/project operator purchase the parcel with the following stipulations:

1. Documentation must be filed for the past 360 days, showing property owner compliance with all testing and the hiring of a real estate agent. Property owner must provide proof of continuous effort to market and sell parcel.
2. Property will be appraised by a licensed NYS appraiser agreed on by the property owner and the Applicant. The purchase price will be 100% of the final appraisal. Property will be considered the dwelling and any acreage on the same tax parcel.

Section 2

This amendment rescinds Local Law # 1 of 2017, Amendment to Local Law # 1 of 2008 Regulating Wind Energy Facilities in the Town of Fremont.