

A Local Law Amending Town Code Provisions

Be it enacted by the Town Board of the Town of Greenfield as follows:

ARTICLE I. Authority. This Local Law is adopted pursuant to Municipal Home Rule Law Section 10.

ARTICLE II. Amendments. The Code of the Town of Greenfield (Town Code) is hereby amended as follows:

A. Chapter 30, Right –to-Farm Law is hereby added:

Section 30-1. Legislative Intent and Purpose

The Town Board recognizes farming is an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the Town of Greenfield. The Town Board further declares that it shall be the policy of this Town to encourage agriculture and foster understanding by all residents of the necessary day to day operations involved in farming so as to encourage cooperation with those practices. The Right-to-Farm Law shall not supersede Town Law.

It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agri-businesses, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in the Town of Greenfield, it is necessary to limit the circumstances under which farming may be deemed to be nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

Section 30-2. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL PRACTICES - Those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop production methods, and construction and use of farm structures.

AGRICULTURAL PRODUCTS - Those products as defined in section 301(2) of Article 25AA of the State Agriculture and Markets Law, including but not limited to:

- Field crops, including corn, wheat, rye, barley, hay, potatoes and dry beans.
- Fruits, including apples, peaches, grapes, cherries and berries.
- Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.

- Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, llamas, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk and milk products, eggs, furs, and poultry products.
- Maple sap and sugar products.
- Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
- Aquaculture products, including fish, fish products, water plants and shellfish.
- Short rotation woody crops raised for bioenergy.
- Production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.

FARM OPERATION - Shall be defined in section 301 (11) in the State Agriculture and Markets Law.

FARMER - Any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock.

FARMLAND - Land used in agricultural production, as defined in subdivision four of section 301 of Article 25AA of the State Agriculture and Markets Law.

Section 30-3. Right-to-Farm Declaration

Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge, research and improved technologies. Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

- Reasonable and necessary to the particular farm or farm operation,
- Conducted in a manner which is not negligent or reckless. Animal owners shall provide adequate shelter, food and security for their animals.
- Conducted in conformity with generally accepted and sound agricultural practices,
- Conducted in conformity with all local state, and federal laws and regulations,
- Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person, and
- Conducted in a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways. Nothing in this local law shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow sound agricultural practice, as outlined in this section.

Section 30-4. Notification of Real Estate Buyers

In order to promote harmony between farmers and their neighbors, the Town requires land

holders and/or their agents and assigns to comply with Section 310 of Article 25-AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows: "It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products and also for its natural and ecological value. This notice is to inform prospective residents that the property they are about to acquire lies where farming activities occur. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors." This notice shall be provided to prospective purchasers of property with boundaries within 500 feet of a farm operation. A copy of this notice shall included by the seller or seller's agent as an addendum to the purchase and sale contract at the time an offer to purchase is made.

Section 30-5. Resolution of Disputes

Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for a determination by the Commission or Agriculture and Markets about whether the practice in question is sound pursuant to Section 308 of Article 25AA of the State Agriculture and Markets Law. Any controversy between the parties shall be submitted to the committee within thirty (30) days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.

The committee shall be composed of three (3) members from the Town selected by the Town Board, as the need arises, including one representative from the farm community, one person from Town government and one person mutually agreed upon by both parties involved in the dispute.

The effectiveness of the committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.

The controversy shall be presented to the committee by written request of one of the parties within the time limits specified. Therefore after, the committee may investigate the facts of the controversy but must, within twenty-five (25) days, hold a meeting at a mutually agreed place and time to consider the merits of the matter and within five (5) days of the meeting render a non-binding written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each considers to be pertinent facts. The time limits provided in this subsection for action by the committee may be extended upon the written stipulation of all parties in the dispute.

Any reasonable costs associated with the function of the committee process shall be borne by the participants.

B. Section 54-11 relating to Stop Work Orders is amended to read as follows:

Whenever the inspector has reasonable grounds to believe that the work on any building or structure is being performed in violation of the provisions of the applicable building laws, ordinances, rules or regulations or not in conformity with the provisions of an application or in an unsafe and dangerous manner, he shall notify the owner of the property or the owner's agent to suspend all work and suspend all building activities until the stop order has been rescinded. Such order and notice shall appear in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to him by certified mail at the address set forth in the application for the permission for construction of such building.

C. Chapter 105 of the Town Code, entitled "Zoning" is amended as follows:

1. Section 105-7, entitled "Definitions", the following definitions are hereby added:

ACCESSORY FACILITIES OR EQUIPMENT - Any structure other than a Wind Turbine, Related to the use and purpose of deriving, collecting or distributing energy from such Wind Turbines located on or associated with a Wind Energy Facility, Small Wind Energy Facility, or Wind Measurement Tower.

NON-GRID ONLY WIND ENERGY FACILITY - A wind energy conversion system consisting of a wind turbine or mill, a tower, and associated control electronics, electrical collection and distribution equipment or mechanical wind mill components, and accessory facilities or equipment, which is less than 35 feet in total height and is not connected to the power grid.

PERMIT - A permit issued pursuant to this law granting the holder the right to construct, maintain, and operate a Wind Energy Facility, Small Wind Energy Facility, or Wind Measurement Tower.

PUBLIC ROAD - Any federal, state, county, city, town or village road which is open to the public, or private road regularly used by multiple persons for access to separate off-site parcels of land, access to which is unrestricted by the owner(s) of said private road.

RESIDENCE - Any dwelling located off-Site which is suitable for habitation on the date a Wind Energy Facility, Small Wind Energy Facility, or Wind Measurement Tower permit application is received by the Town and deemed complete by the Planning Board in accordance with section 105-133-E, and for which a valid certificate of occupancy has been issued or should have been issued prior to such date. A residence may be part of a multi-family dwelling or multipurpose building, and shall include buildings such as hotels or motels, hospitals, day care centers, dormitories, sanitariums and nursing homes.

SETBACK AGREEMENT - Any agreement, contract, easement, covenant or right in land which burdens land for the benefit of an applicant or permittee, such that the burdened land is similar in

character to land on which any Wind Energy Facility is located. A Setback Agreement must expressly release any right which the owner(s) of such burdened land may have in the enforcement of this Law, and acknowledge the applicable requirements of this Law. All Setback Agreements shall run with the land and be recorded to apprise any potential purchasers of such land of the same at least for as long as any Permit issued under this Law shall remain in effect. In the event a Setback Agreement lapses prior to full decommissioning of the Wind Energy Facility, Small Wind Energy Facility, or Wind Measurement Tower, the previously burdened land shall be considered off-Site and the applicant, permittee or owner of the same shall be required to bring the project into conformance with the requirements of this Law.

SITE - The parcel(s) of land where a Wind Energy Facility, Small Wind Energy Facility, Wind Measurement Tower, or Non-Grid Only Wind Energy Facility is to be placed. The Site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a Wind Energy Facility, Small Wind Energy Facility, or Wind Measurement Tower, or has entered an agreement for said facility shall not be considered "off-Site."

SMALL WIND ENERGY FACILITY - A wind energy conversion system consisting of a Wind Turbine, a tower, and associated control or conversion electronics and electrical collection and distribution equipment, and Accessory Facilities or Equipment, which has a nameplate capacity of not more than 100 kilowatts.

TOTAL HEIGHT - The highest point above ground level of any improvement related to a Wind Energy Facility, Small Wind Energy Facility, or Wind Measurement Tower. Total Height as applied to Wind Turbines shall include the highest point of any wind turbine blade above the tower.

WIND ENERGY FACILITY - Any Wind Turbine or array of Wind Turbines designed to deliver electricity to the power grid for sale with a combined production capacity of more than 100 kilowatts of energy, including all related infrastructure, electrical collection and distribution lines and substations, access roads, and accessory structures, including Accessory Facilities or Equipment.

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

WIND MILL - A wind energy conversion facility not involved in the production or distribution of electricity but designed to do mechanical work such as (but not limited to) pumping water or grinding flour.

WIND TURBINE - A wind energy conversion system consisting of a tower, nacelle, and associated control or conversion electronics and equipment contained within or atop the tower.

2. Section 105-7, entitled “Definitions”, the following definitions are amended as follows:

GARAGE APARTMENT - An independent dwelling unit within a private garage that is accessory to a one- or two-family dwelling. The Garage Apartment is restricted to 1000 square feet for the apartment.

STABLE, PUBLIC - Is amended to read as follows: **STABLE, LARGE** - The building and land on which more than five horses are kept. [Amended 7-12-2007 by L.L. No. 2-2007]

3. Section 105-45 Regulation of nonconforming lots is amended as follows:

1. Section 105-45 A. is amended to read:

Single unimproved lots. A single, unimproved, lawfully nonconforming lot held in single ownership as of February 22, 1991, may be used as if it were a conforming lot, provided that all of the following conditions are met:

2. Section 105-45 B. is amended to read:

Multiple unimproved lots. Two or more contiguous, unimproved nonconforming lots held in the same ownership of record as of March 22, 2007, shall be combined to the extent necessary to comply with the space and bulk regulations of the district in which they are located and thereafter shall be considered under the provisions of § 105-45A.

4. Section 105-124 relating to In-Law and Garage Apartments is amended as follows:

In-law and garage apartments shall be permitted as specified in the Schedule of Uses, Article III, Attachment 4, Table 1, and Use Regulations¹⁶. An in-law apartment meeting the following standards shall be considered to be part of a single-family dwelling and shall not be considered to be a dwelling unit. A garage apartment meeting the following standards shall be considered to be a single-family dwelling and shall conform to the space and area regulations as specified in Area Regulations, Article III, Attachment 5, and Table 2¹⁶.

- A. An In-law apartment shall be accessory to the single-family dwelling, and only one in-law apartment shall be created in a single-family dwelling.
- B. An in-law apartment shall be contained inside an existing single-family dwelling.
- C. The total floor area of an in-law or garage apartment shall be a maximum of 1000 square feet and shall be no more than 40% of the gross floor area of the principal building.
- D. The creation of the in-law or garage apartment shall not alter the single-family character of the property. The following standards shall be met in creating the unit:
 - 1. The in-law apartment shall not be clearly identifiable from the exterior as a result of the design of the structure.
 - 2. The in-law apartment shall not have a separate front entrance from the outside.

¹⁶ Editor’s Note: See S 105-14, District Regulations

3. Provisions for parking, service areas and storage shall not exceed the levels found in adjacent single-family residences.
4. Adequate water and sewage disposal systems shall be required.
 - a. In Law Apartment: Existing septic systems shall be verified by a New York State Licensed PE as to system capacity and condition.
 - b. A garage apartment shall have a separate septic system from that of the single-family dwelling and comply with Appendix A310.3...
5. All construction shall meet the requirements of the New York State Building Codes.

E. In-Law apartment, Garage Apartment – There shall be only one in-law apartment or garage apartment per lot.

5. Section 105-133 Wind Energy Facility is hereby added:

A. Purpose

The purpose of the law is to guide the construction and operation of Wind Energy Facilities, Small Wind Energy Facilities, Wind Measurement Towers, and Non-Grid Only Wind Energy Facilities in the Town of Greenfield, Saratoga County, subject to reasonable conditions that will protect the public health, safety and welfare.

B. Applicability

The requirements of this law shall apply to all Wind Energy Facilities, Small Wind Energy Facilities, Wind Measurement Towers, and Non-Grid Wind Energy Facilities proposed, operated, modified, or constructed within the municipal boundaries of the Town of Greenfield, Saratoga County. Wind Energy Facilities, Small Wind Energy Facilities, and Wind Measurement Towers shall be allowed throughout all areas of the Town subject to the requirements of this law.

C. Permits

A special permit application is to be filled with the Planning Board at least two weeks (14 days) prior to the Planning Board meeting IAW section 105-52. Exemption: The Town’s Building Department shall have the sole discretion to review, consider and issue a Non-Grid Only Wind Energy Facility Permit.

D. Application Requirements – Small Wind Energy Facility Permit

A complete application for a Wind Energy Facility Permit, Small Wind Energy Facility Permit, or Wind Measurement Tower Permit shall include:

1. A special permit application is to be filled with the Planning Board at least two weeks (14 days) prior to the Planning Board meeting IAW section 105-52. Exemption: The Town’s Building Department shall have the sole discretion to review, consider and issue a Non-Grid Only Wind Energy Facility Permit.

2. A site plan prepared by a licensed professional engineer, including:
 - 2.1 Property lines and physical dimensions including a topographic map of the Site; Location, approximate dimensions and types of existing structures and uses on the Site, public
 - 2.2 Roads and adjoining properties within 300 feet of the boundaries of any proposed wind turbines.
 - 2.3 Location of each proposed Wind Turbine, Wind Measurement Tower and Accessory Facilities or Equipment;
 - 2.4. Location of all above and below ground utility lines on the Site as well as transformers, the interconnection point with transmission lines, and other ancillary facilities or structures, including, without limitation, Accessory Facilities or Equipment;
 - 2.5. Locations of setback distances as required by this law;
 - 2.6. All other proposed facilities, including, without limitations, access roads, electrical substations, storage or maintenance units, and fencing;
 - 2.7. All site plan application materials required under section 105-133 of the Zoning Law of the Town of Greenfield; and
 - 2.8. Such other information as may be required by the Planning Board.

E. Wind Turbine Specifications.

The proposed make, model, picture and manufacturer's specifications of the proposed Wind Turbine and tower model(s), including noise decibel data, and material safety data sheet documentation for all materials used in the operation of the equipment shall be provided for each proposed Wind Turbine. If a particular Wind Turbine has not been selected by the applicant at the time of application due to a constraint as to the availability of equipment or the inability of the applicant to obtain appropriate supplier commitments, such information shall nevertheless be provided to the Planning Board with an acknowledgement that the type of Wind Turbine may be modified during application review.

F. Lighting Plan.

A proposed lighting plan to be submitted to and reviewed by the Federal Aviation Administration for any structure equal to or more than 200 feet above ground, or as may otherwise be required by the Federal Aviation Administration or local, state or federal law or regulation.

G. Construction Schedule.

A construction schedule describing anticipated commencement and completion dates, including a traffic analysis with a description of the routes to be used by construction and delivery vehicles.

H. Operation & Maintenance Schedules.

An operations and maintenance plan providing for regular periodic maintenance schedules, any special maintenance requirements. Procedures and notification requirements for restarts during icing events should be proposed and established by the Planning Board.

I. Adjacent Property Owners.

List of property owners, with their mailing address, within (300 feet) feet of the outer boundaries of the proposed Site.

J. Application Requirements – Wind Energy Facilities

1. A decommissioning plan that provides for an estimation of decommissioning costs, the method of ensuring that funds shall be available for decommissioning and restoration of the Site and any off-site areas disturbed by or utilized during decommissioning, the method by which the decommissioning cost estimate shall be kept current, and the manner in which the Wind Energy Facility shall be decommissioned.
2. A complaint resolution process to address complaints from nearby residents.
3. A transportation plan describing routes to be used in delivery of project components, equipment and building materials and those to be used to provide access to the site during and after construction. Such plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, as well as measures which will be taken to restore damaged/disturbed access routes following construction.
4. A fire protection and emergency response plan to address emergency response and coordinate with local emergency response providers during any construction or operation phase emergency, hazard or other event.
5. Predicted Wind Turbine Only Sound Analysis:
 - (i) A sound level analysis shall be prepared to determine predicted sound at off-site property lines and residences from operation of Wind Turbines. Such analysis shall be referred to as "Wind Turbine Only Sound." Wind Turbine Only Sound shall be predicted based upon appropriate ambient sound levels obtained from field or laboratory measurements of the Wind Turbine proposed to be installed, as well as appropriate background sound levels of the Site and nearby off-site areas.
 - (ii) Except as otherwise provided herein, Wind Turbines shall be located so that predicted

Wind Turbine Only sound at ground level property lines shall not exceed 8dB (A) above the ambient noise level established under this section and Wind Turbine only sound at Residences shall not exceed 4dB (A) above such ambient noise level. In the event the Wind Turbine Only sound produces a "pure tone" condition (existing when an octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels at ground level) such Wind Turbine Only sound shall not exceed by 3dB (A) above the ambient sound level at the property line.

- (iii) The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed wind energy conversion facility, measured in decibels Len (logarithmic scale, accounting for greater sensitivity at night), for the following:
1. Existing, or ambient: the measurements of existing noise.
 2. Existing plus the proposed wind energy conversion facility: maximum estimate of noise from the proposed facility plus the existing noise environment.

Such statement shall be certified and signed by a qualified engineer, stating that noise measurements are accurate and meet the Noise Standards of this Bylaw and applicable state requirements.

6. A post construction noise monitoring plan shall be developed which, at a minimum, require annual certification by a qualified engineer of the permittee or applicant that the Wind Energy Facility remains in conformance with the requirements of this Law. If no complaints regarding noise are received in a five (5) year period from operation, the applicant may request that the annual certification is suspended.

K. Environmental Review

1. Compliance with the State Environmental Quality Review Act ("SEQRA") shall be required.
2. Applicants shall submit the following materials to the Town of Greenfield Planning Board:
 1. Small Wind Energy Facilities and Wind Measurement Towers: Applicants shall be required to prepare and submit Part 1 of a State Environmental Quality Review Act (SEQRA) Form.
 2. Wind Energy Facilities: Applicants shall be required to prepare and submit a Full State Environmental Quality Review Act (SEQRA) Form which, unless a lead agency other than the Planning Board has already been established in accordance with the requirements of the State Environmental Quality Review Act, shall be distributed by the Planning Board to all involved agencies prior to any determination of significance by the lead agency. All Environmental Impact Statements for wind energy facilities shall contain, but not be limited to:

(i) Visual Impact Analysis, including:

- a. Mapping of scenic resources of statewide significance, as defined by the NYS

Department of Environmental Conservation Visual Policy (Policy DEP-00-2.), and of local significance, as officially listed by the relevant municipality within the study area.

- b. View shed mapping and/or cross section analysis to identify areas (including the significant resources identified above) with potential views of the project.
- c. Description of the character and quality of the affected landscape.
- d. Photographic simulations of what the proposed project will look like from a reasonable number of representative viewpoints within the 5 mile radius study area to be selected in consultation with the Planning Board.
- e. Evaluation of the project's visual impact based on the view shed mapping and photographic simulations described above.
- f. Recommended visual mitigation measures (in accordance with DEC Policy DEP -00-2), if warranted, based on the results of the impact evaluation described above. Avian Impact Study: Appropriate bird and bat migration, nesting and habitat studies shall be submitted. The Applicant shall solicit input from the New York State Department of Environmental Conservation on such studies and shall follow any required protocols established, adopted or promulgated by the Department.

(ii) Archaeological and Architectural Impact Analysis: The Applicant shall solicit input from the New York State Historic Preservation Office, Town of Greenfield Historical Society and/or the Town Historian.

(iii) Fiscal and Economic Impact Analysis.

(iv) An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems, 911 and other wireless communication.

(v) An assessment of potentially impacted wetland, surface and groundwater resources, and the geology and land use of the Site, as well as an assessment of construction phase impacts, traffic impacts and adverse sound impacts which may arise from project construction or operation.

(vi) An assessment of potential shadow flicker at off-site residences.

L . Application Review Process

1. Twelve copies of the application shall be submitted to the Town Building Department or other Town designee. Payment of all application fees shall be made at the time of submission.

2. The Planning Board shall hold at least one public hearing on the application. Notice shall be published in the Town's official newspaper, no less than 10 days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication shall be required. The public hearing may be combined with public hearings on any Environmental Impact Statement or requested waivers. All

adjoining property owners within 1500 feet of the outer boundary of the Site shall be given written notice of a public hearing via certified mail at the expense of the applicant.

3. Notice of the project shall also be given in accordance with General Municipal Law.
4. Following the holding of the public hearing and completion of the State Environmental Quality Review Act (SEQRA) process, the Planning Board may approve, approve with conditions, or deny the Permit application, in accordance with the standards in this law. All approvals and denials shall be in writing setting forth competent reasons for such approval or denial.
5. A copy of the applicant lease agreement (if one exist) shall be provided to the Planning Board at the start of the review process.

M. Wind Energy Facility Development Standards

The following standards shall apply to Wind Energy Facilities only.

1. Unless an environmental constraint prohibits burial, all power transmission lines from the tower to any building, substation, or other structure shall be located underground in accordance with National Electrical Code Standards, unless an environmental constraint requires such transmission lines to be located above ground.
2. Wind Turbines and towers must be white in color.
3. No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.
4. No tower shall be lit except to comply with Federal Aviation Administration (FAA) requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the Wind Energy Facility development plan.
5. The Wind Energy Facility shall be designed to minimize the impacts of land clearing and the loss of important open spaces. Development on agricultural lands shall follow the Guidelines for Agricultural Mitigation for Wind Power Projects published by the New York State Department of Agriculture and Markets.
6. Storm water run-off and erosion control shall be managed in a manner consistent with all applicable local, state and federal laws and regulations and such standards as shall be applied by the Planning Board on the advice of the Town consultants.
7. Wind Turbines shall be located in a manner that minimizes shadow flicker on residences.
8. No large scale herbicides or insecticides application shall be used on or off Site during or following construction.

N. Setbacks, Noise and Height Limits

1. Except as provided herein, each Wind Turbine associated with a Wind Energy Facility shall be set back as follows:

1.1. A distance no less than 1,000 feet from Residences.

1.2. A distance no less than 300 feet from off-Site property boundaries.

1.3. A distance no less than 300 feet from centerline of any Public Road.

2. Small Wind Energy Facility Wind Turbines and Wind Measurement Towers shall be setback from off-Site property boundaries and Residences at least a distance equal to the total tower height.

3. Except as provided herein, the sound pressure level generated by a Wind Energy Facility or Small Wind Energy Facility shall not exceed the sound levels required and established in accordance with section 7(J) (5) (iii) of this Law. Compliance shall periodically be determined by the Town Code Enforcement Officer, or such other officer or employee which the Town Board may designate. This shall be the only project operation phase noise requirement applicable to a project under this Law, except that the Planning Board may impose appropriate additional requirements in accordance with section 14 of this Law.

4. There is no Total Height restriction for a Wind Energy Facility, A Small Wind Energy Facility and wind measurement tower is restricted to 100 feet total height (blades included), or wind measurement tower (A Non-Grid Only Wind Energy Facility shall not exceed thirty-five (35) feet).

5. Prior to issuance of a building permit for a Small Wind Energy Facility, Wind Measurement Tower, or Wind Energy Facility, the applicant shall provide the Town proof of initial and annual insurance, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might be caused by or result from the operation or maintenance of such Wind Energy Facility.

O. Required Site Safety Measures for Wind Energy Facilities, Small Wind Energy Facilities, and Wind Measurement Towers

1. All Wind Turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure on the tower structure, rotor blades and turbine components.

2. With the exception of electrical collection and distribution lines, Accessory Facilities or Equipment shall be gated, fenced or secured appropriately to prevent unrestricted public access to the facilities.

3. Warning signs shall be posted at the entrances to the Wind Energy Facility and at the base of each tower warning of electrical shock or high voltage and containing emergency contact information.

4. The minimum distance between the ground and any part of the rotor or blade system shall be 30 feet for any Wind Turbine associated with a Wind Energy Facility, and 15 feet for any Wind Turbine associated with a Small Wind Energy Facility.

5. Wind Energy Facilities shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

6. Prior to issuance of a building permit for Wind Energy Facilities only, the applicant shall provide the Town proof of initial and annual insurance, in the form of a duplicate insurance policy or a certificate issued by insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might be caused by or result from the operation or maintenance of such Wind Energy Facility.

P. Traffic Routes and Road Maintenance for Wind Energy Facilities

The provisions of this section shall apply to Wind Energy Facilities only.

1. Designated traffic routes for construction and delivery vehicles to minimize traffic impacts, wear and tear on local roads and impacts on local business operations shall be proposed by the applicant and reviewed by the Planning Board.

2. To the extent the designated traffic routes will include use of Town, County, or State roads, the applicant is responsible for executing a Road Use Agreement with the appropriate agency which shall provide for the remediation of damaged roads upon completion of the installation or maintenance of a Wind Energy Facility, and for adequate maintenance of the roads during construction of the Wind Energy Facility such that the roads will remain open and passable. Prior to the issuance of any building permit, the cost of remediating road damage shall be secured in the form of a bond, letter of credit or other surety acceptable to the appropriate agency and sufficient to compensate the agency for any damage to public roads.

3. The applicant shall provide pre-development and post-development photographic evidence of the condition of Town, County, or State roads to be traveled upon by construction and delivery vehicles.

Q. Issuance of Wind Energy Facility, Small Wind Energy Facility and Wind Measurement Tower Permits and Certificates of Conformity.

1. The Planning Board shall, within 180 days of either issuing State Environmental Quality Review Act (SEQRA) findings or a SEQRA negative declaration or conditioned negative

declaration, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated. This time period may be extended with consent of the applicant.

2. The Planning Board is hereby expressly empowered to impose conditions governing the issuance of the Permit as well as construction and operational phases of the project which it deems necessary and appropriate to ensure compliance with this Law, the State Environmental Quality Review Act, conformity of project construction and operation with representations made by the applicant during the application review process, as well as with any determinations or findings issued by the Planning Board or any other involved agency under the State Environmental Quality Review Act, compliance any other federal, state or local laws or regulations applicable to the project, and as may be necessary to promote the public health, safety and welfare.

3. If approved, the Planning Board shall direct the Town Building Department or other designee authorized by the Town Board to issue a permit upon satisfaction of any and all conditions precedent set forth under this Law, the terms of approval or conditions of the permit or any additional requirement of the Town Board imposed in connection with any other project approval or agreement deemed necessary to the issuance of the Permit.

4. The decision of the Planning Board shall be filed within 5 days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.

5. If any approved Wind Energy Facility, Small Wind Energy Facility or Wind Measurement Tower is not substantially commenced within one year of issuance of the Permit, the Permit shall expire unless the Planning Board shall have granted an extension.

6. Upon commissioning of the project, which for purposes of Wind Energy Facilities and Small Wind Energy Facilities shall mean the conversion of wind energy to electrical energy for on-Site use or distribution to the electrical grid, and for purposes of Wind Measurement Towers shall mean the collection of wind speed and/or other data by the Wind Measurement Tower equipment, the Town Building Department or other designee authorized by the Town Board shall determine whether the project is in compliance with the Permit. If the Town Building Department or other designee determines the project is in compliance with the Permit, a certificate of conformity shall be promptly issued to the permittee.

7. With the change of ownership of the structure the new owner shall comply with all environmental, site plan review or special use permit requirements shall be followed.

R. Abatement

1. If any Wind Turbine stops converting wind energy into electrical energy and/or Distribution of that energy for on-Site use or transmission onto the electrical grid for a continuous period of twelve (12) months, the applicant / permittee shall remove said system at its own expense following, if applicable, the requirements of the decommissioning plan required under this Law or any Permit. The Town Board may grant an extension to this time period for one (1) year or less.

2. At such time that a wind energy conversion facility is scheduled to be abandoned or discontinued, the applicant will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that an applicant fails to give such notice, the facility shall be considered abandoned upon such discontinuation of operations.

3. Upon abandonment or discontinuation of use, the carrier shall physically remove the wind energy conversion facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

3.1) Removal of all machinery, equipment, equipment shelters, and security barriers from the subject property.

3.2) Proper disposal of the waste materials (including hazardous liquids) from the site in accordance with local and state solid waste disposal regulations.

3.3) Restoring the location of the wind energy conversion facility to its natural condition, except that any landscaping, grading or below grade foundation shall remain in the after-condition.

4. If an applicant fails to remove a wind energy conversion facility in accordance with this law, the Town shall have the authority to enter the subject property and physically remove the facility. Cost incurred by the town shall be paid by the applicant. The town reserves the right to recover said cost by any legal means available.

5. For a Wind Energy Facility only, the Town Board shall require the applicant to post a bond at the time of construction to cover costs of the removal in the event the Town must remove the facility. The amount of such bond shall be reviewed and approved by the Town Board under the approved decommissioning plan.

S. Permit Revocation

All Wind Energy Facilities, Small Wind Energy Facilities and Wind Measurement Towers shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a Wind Turbine or Wind Measurement Tower become inoperable, or any part of a Wind Energy Facility or Small Wind Energy Facility be damaged, or should a violation of a permit condition occur, the permittee, owner or operator shall remedy the failure within 90 days. Upon a failure to perfect a timely remedy, project operation shall cease. Application of this section of the Law shall in no way extend or toll any time periods set forth under section 15 of this Law.

T. Fees

The Applicant shall pay for reasonable Attorneys and Engineering fees associated with this application as per Fee Schedule, Chapter A210.

U. Enforcement and Penalties

1. Enforcement Officer. The Town of Greenfield Town Code Enforcement Officer shall be considered the Enforcement Officer for purposes of this Law.
2. Penalties. Any person owning, controlling, operating or managing a Wind Energy Facility, Small Wind Energy Facility or Wind Measurement Tower in violation of this law or in noncompliance with the terms and conditions of any permit issued pursuant to this law, or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of a violation of this law and subject to a fine of not more than \$1,000.00 per day per violation.
3. Special Proceeding. The designated enforcement officer may, with the consent of the Town Board, institute an action or proceeding available at law to prevent, correct or abate any unlawful construction, erection, structural alteration, reconstruction, modification and/or use of a Wind Energy Facility, Small Wind Energy Facility or Wind Measurement Tower in the Town. This shall be in addition to other remedies and penalties herein provided or available at law.

V. Exemption from above law for a NON-GRID USE ONLY WIND ENERGY FACILITY.

A wind energy conversion system consisting of a wind turbine (or mill), a tower, and associated control electronics, electrical collection and distribution equipment or mechanical wind mill components, and accessory facilities or equipment, which is less than Thirty-five (35) feet in total height with the minimum distance between the ground and any part of rotor or blade system not less than fifteen (15) feet, and is not connected to the power grid shall be exempt from this law and shall require only a regular building permit and fee from Town Building Department providing the following conditions have been met:

1. A completed application for a Permit on a form provided by the Town Building Department.
2. A site plan map showing property lines and physical dimensions of site including location, approximate dimensions and types of existing structures and uses on the site; public roads; and adjoining properties within 300 feet of the boundaries of any proposed wind turbine or wind mill. The site plan shall show the location of each proposed wind turbine or mill the locations of setback distances. Setback from property lines shall equal no less than total tower height.
 - 2.1 If guy wires are to be used, location and type of fencing used to enclose them shall be shown on site plan.
 - 2.2 Such other information as may be required by the Town Building Department.
3. Professional Engineer Stamped plans are required.

6. Section 105-145 Outdoor Furnaces is amended as follows:

A. Permit required. No person shall cause, allow or maintain the use of an outdoor furnace within the Town of Greenfield without first having obtained a permit from the Building Department. Application for permit shall be made to the Building Department on the forms provided.

B. Existing furnaces. An outdoor furnace in existence on the effective date of this chapter shall be permitted to remain without the need for a permit or compliance with the requirements of Subsection C, D, or E of this section, except for Subsection C(1). “Existing” or “in existence” means that the outdoor furnace is in place on the site.

C. Specific requirements

- (1) Permitted fuel. Only firewood and untreated lumber are permitted to be burned in any outdoor furnace. Burning of any and all other materials in an outdoor furnace is prohibited.
- (2) Permitted zones. Outdoor furnaces shall be permitted in all Zoning Districts except OR and TC.
- (3) With respect to any outdoor furnaces installed, such outdoor furnaces must be set back a minimum of 50 feet from any property line.
- (4) Outdoor furnace users must follow all operating instructions supplied by the manufacturer.
- (5) Outdoor furnace users must follow the manufacturer’s written instructions for recommended loading times and amounts.
- (6) Lighter fluids, gasoline, or chemicals to start the outdoor furnace are prohibited.
- (7) The outdoor furnace must be located with due consideration to the prevailing wind direction.
- (8) Stack location.
 - a. If located 50 feet to any residence, the stack must be at least two feet higher than the eave line of that residence.
 - b. If located more than 50 feet but no more than 100 feet to any residence, the stack must be at least 75% of the eave line of that residence, plus an additional 2 feet.
 - c. If located more than 100 feet but no more than 200 feet to any residence, the stack height must be at least 50% of the height of the eave line of that residence, plus an additional 2 feet.

- d. If located more than 150 feet but no more than 200 feet to any residence, the stack height must be at least 25% of the height of the eave line of that residence, plus an additional 2 feet.

D. Spark arrestors. All outdoor furnaces shall be equipped with properly functioning spark arrestors.

E. Nothing contained in this Section shall be construed to limit the rights of any resident to commence an action against the permittee to abate a private nuisance.

7. Section 105-147 Temporary Data Collection Structures is hereby added:

A. Construction, erection, installation and operation of temporary data collection structures and equipment, including meteorological and other data collection towers and accessory structures, shall be permitted in the PR Zoning District subject to Site Plan Review by the Planning Board pursuant to Article IX hereof .

B. The approval of the Planning Board may be granted for a period of not more than twelve (12) months and may be renewed by the Planning Board for one (1) additional 12-month period.

C. Data collection towers shall either comply with all existing setback requirements of the Zoning District or shall be located with a minimum setback from any property line equal to one-half(1/2) the height of the tower, whichever is greater, to substantially contain on-site any ice fall or debris from tower failure. Accessory structures shall comply with the minimum setback requirements of the Zoning District.

D. All proposed temporary data collection structures shall be located on a single parcel. If the land is to be leased, the entire area required shall be leased from a single parcel unless the Planning Board determines that this provision may be waived.

E. Minimum lot size for parcels containing temporary data collection structures shall be determined by the amount of land required to meet the setback requirements.

F. Data collection towers and accessory structures shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings. No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company information.

G. Existing on-site vegetation shall be preserved to the maximum extent possible.

H. All temporary data collection structures shall be enclosed by a fence unless the Planning Board determines that a fence is not necessary to ensure the security of the facility and protect the health, safety and welfare of the public.

I. The applicant shall submit to the Planning Board a letter of intent committing the owner of a temporary data collection structure and any successors in interest to notifying the Building

Inspector within thirty (30) days of the discontinuance of use of the structure. Towers and accessory structures shall be removed from the site within thirty (30) days of such notification or of expiration of the Planning Board approval and any extensions.

8. Attachment 4 – Table 1, Use Regulations is amended as follows:

1. “Garage Apartment” is amended to read:

	LDR	MDR1	MDR2	TC	OR	IM	PR
Garage apartment	SPR	SUP	SUP	SUP	SUP	SUP	SUP

2. The following uses are to be added:

	LDR	MDR1	MDR2	TC	OR	IM	PR
Non-Grid Wind Tower	PP	PP	PP	PP	PP	PP	PP
Outdoor Furnaces (4)	SPR	SPR	SPR	n/a	n/a	SPR	SPR
Small Wind Turbine	SUP	SUP	SUP	n/a	n/a	SUP	SUP
Temporary Data							
Collection Structures	n/a	n/a	n/a	n/a	n/a	n/a	SPR
Wind Turbine Facilities	n/a	n/a	n/a	n/a	n/a	n/a	SUP

Notes:

(4) Not required if lot is greater than 2 acres

9. Attachment 5 – Table 2, Area Regulations is amended as follows:

Zoning Districts MDR1, MDR2, TC, OR and PR are amended as follows:

“Private Stables” changed to read Stable, Small

“Public Stables” changed to read Stable, Large

10. Chapter A210 Fee Schedule is amended by adding the following:

§ A210-11. Wind Tower Fees

Upon application for a Wind Energy Facility Permit, the applicant shall pay a permit fee equal to \$500.00 per megawatt of proposed nameplate capacity of a project. Upon application for a Small Wind Energy Facility Permit or Wind Measurement Tower Permit, the applicant shall pay a permit fee of \$100.00. This permit fee shall be used to off-set any internal costs the Town may occur in administering a Permit and shall be in addition to any application fee or other fees or Host Community Payments required of the applicant. The applicant shall pay for reasonable Attorneys and Engineering fees generated by the Town associated with this application.

ARTICLE III. Severability. The invalidity of any clause, sentence, paragraph or provision of this Local Law shall not invalidate any other clause, sentence, paragraph or part thereof.

ARTICLE IV. Repealer. All Local Laws or ordinances or parts of Local Laws or ordinances in conflict with any part of this Local Law are hereby repealed.

ARTICLE V. Effective Date. This Local Law shall take effect upon filing in the office of the New York State Secretary of State.