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

## **Town of Sheldon**

### **Local Law No. 2 of the year 2011**

The Town Board of the Town of Sheldon adopts this Local Law to promote the personal use of wind towers not intended for commercial use.

#### **Section 1 - Title**

A Local Law Entitled "The Town of Sheldon Small Wind Energy Conversion Systems Law."

#### **Section 2 - Purpose and Intent**

The purpose of this Article is to provide standards for small wind energy conversion systems and any non communication tower designed for home and small commercial use on the same parcel, and that are primarily used to reduce consumption of utility power at that location. The intent of this Article is to encourage the development of small wind energy systems and to protect the public health, safety, and community welfare. A Special Use permit is required as is outlined in Section 4 – Applications below.

#### **Section 3 - Exclusivity**

The wind energy conversion systems referred to in Section 2 herein shall be the only wind energy conversion systems permitted in the Town of Sheldon.

#### **Section 4 - Applications**

Applications for a Special Use Permit for small wind energy conversion systems wind energy conversion systems in the Town of Sheldon shall include:

1. Name, address, street, road, house number and telephone number of the applicant. Do not use a post office box number. If the applicant will be represented by an agent; the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.

2. Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
3. Address of each proposed tower location, including Tax Map section, block, and lot number.
4. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
5. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Uniform Fire Prevention and Building Code.
6. Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.
7. Written evidence that the electric utility service provider that serves the proposed Site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.
8. A visual analysis of the small wind energy conversation system as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence. The visual analysis will be made by the Town of Sheldon Planning Board Chairperson or other person designated by Planning Board personnel.
9. Any party submitting an application under the terms of this local law shall submit a nonrefundable \$250.00 application fee. In the event of two or more landowners submitting an application, the \$250.00 non-refundable fee is per owner.
10. Any party submitting such application shall be responsible for the reasonable engineering and professional expenses incurred by the Town in connection with reviewing the submitted application and the reasonable expenses of the Town incurred in connection with the review of the application under the State Environmental Quality Review Act if such a review is deemed necessary. This is in addition to the fee in paragraph #9.

#### **Section 5 - Development Standards.**

All wind energy systems shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this Article that are not in conflict with the requirements contained in this section.

- A. A system shall be located on a lot a minimum of two acres in size, however, this requirement can be met by multiple owners submitting a joint application.

B. Only one small wind energy system tower per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one lot for purposes of this Article. In the event of an application by joint property owners, the requirements of Section 6 item A shall apply such that the system shall not be located closer to a non-applicants property line than 200 feet.

C. Tower heights may be allowed as follows:

1. 65 feet or less on parcels up to four acres or less.

2. 120 feet or less on parcels of five or more acres.

3. The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.

D. The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.

E. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.

F. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.

G. All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the decision-maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.

H. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.

I. Signs shall be posted, visible from all directions, on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery, and giving a local contact number in case of emergency. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator, or tail vane where it would be visible from the ground. except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

J. Towers shall be constructed to provide one of the following means of access control. or other appropriate method of access:

1. Tower-climbing apparatus located no closer than 12 feet from the ground.

2. A locked anti-climb device installed on the tower.

3. A locked, protective fence at least six feet in height that encloses the tower.

K. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

L. Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after completion of installation.

M. To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a 250 foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

N. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Code.

O. All small wind energy systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

#### **Section 6 - Standards.**

A small wind energy system shall comply with the following standards:

A. Setback requirements: A small wind energy conversion system shall not be located closer to a property line than 200 feet.

B. Noise: Except during short-term events including utility outages and severe wind storms, a small wind energy conversion system shall be designed, installed, and operated so that noise generated by the system shall not exceed 50 decibels (dbA), as measured at the closest neighboring property line.

#### **Section 7 - Abandonment of Use.**

A. Small wind energy conversion system which is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Town of Sheldon.

B. All small wind energy conversion systems shall be maintained in good condition and in accordance with all requirements of this section.

### **Section 8 - Enforcement; Penalties and Remedies for Violations.**

A. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this Local Law.

B. Any person or small commercial business owning, controlling or managing any building, structure or land who shall undertake a wind energy conversion facility or non communication tower in violation of this Article, or in noncompliance with the terms and conditions of any permit issued pursuant to this Article, or any order of the enforcement officer. and any person who shall assist in so doing. shall be guilty of an offense and subject to a fine of not more than \$350 or to imprisonment for a period of not more than fifteen days. or subject to both such fine and imprisonment for a first offense; for a second offense (both within a period of five years), a fine not less than \$350 nor more than \$700, or imprisonment not to exceed six months, or both; and for a third or more offense (all of which occurred within five years), a fine not less than \$700 nor more than \$1,000, or imprisonment not to exceed six months, or both. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amounts set forth herein for each violation and each week said violation continues shall be deemed a separate violation.

C. In case of any violation or threatened violation of any of the provisions of this local law, including the terms and conditions imposed by any permit issued pursuant to this local law, in addition to other remedies and penalties provided here, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving, and/or use, and to restrain, correct, or abate such violation, to prevent the illegal act.

D. In order to ensure the veracity of the application as well as enforcement of the conditions set forth herein, the Town and anyone hired by it for this purpose, shall be entitled upon 24 hours written or verbal notice, to enter upon the property of the applicant(s) for purposes of non-destruction inspection.”

### **Section 9 - Severability**

Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

### **Section 10 • Effective Date**

This local law shall become effective upon the filing with the New York State Department of State.