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**ARTICLE I**  
**General**

**1. Title.**

This local law may be cited as the "Renewable Energy Facilities Law of the Town of Dryden, New York."

**2. Purpose.**

The Town Board of the Town of Dryden adopts this local law to promote the effective and efficient use of the Town's renewable non-polluting energy resources through renewable energy conversion systems (RECS) and wind energy conversion systems (WECS), without harming public health and safety, and to avoid jeopardizing the welfare of the residents.

**3. Authority.**

The Town Board of the Town of Dryden enacts this local law under the authority granted by:

1. New York State Constitution, Article IX, §2(c)(6) and (10).
2. New York Statute of Local Governments, § 10 (1), (6), and (7).
3. New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and §10 (1)(a)(6), (11), (12), and (14).
4. The supercession authority of New York Municipal Home Rule Law, § 10 (2)(d)(3), specifically as it relates to determining which body shall have power to grant special use permits under this local law, to the extent such grant of power is different than under Town Law §274-b.
5. New York Town Law, Article 16 (Zoning).
6. New York Town Law §130(1)(Building Code), (3)(Electrical Code), (5)(Fire Prevention), (7)(Use of streets and highways), (7-a)(Location of Driveways), (11)(Peace, good order and safety), (15)(Promotion of public welfare), (15-a)(Excavated Lands), (16)(Unsafe buildings), (19)(Trespass), and (25)(Building lines).
7. New York Town Law §64(17-a)(protection of aesthetic interests), (23)(General powers).

**4. Findings.**

The Town Board of the Town of Dryden finds and declares that:

- A. Residents of the Town of Dryden may face energy shortages and increasing energy prices and the local generation of electricity and promotion of alternative home heating resources can provide the community with clean and reliable electricity and home heating, contribute to local and state-wide energy self reliance and diversify and strengthen the local economy.

- B. 1. The generation of electricity from properly sited small wind turbines and other renewable energy sources can be a cost effective mechanism for reducing on-site electric costs with a minimum of environmental impacts.
- 2. Large-scale multiple-tower Wind Energy Facilities may present significant potential impacts on viewsheds, wildlife and neighboring properties because of their large size, lighting, shadow flicker effects and noise level.
- C. The use of other small-scale renewable energy conversion systems (other than small wind turbines) can reduce reliance on petroleum based home heating products and electricity generated from fossil fuels, thereby decreasing the air and water pollution that results from the use of conventional energy sources and contributing to the long term health of global ecosystems.
- D. Permitting and regulating the use of renewable, nonpolluting energy and regulating the location and installation of small wind turbines and other renewable energy conversion systems is necessary to protect and promote the safety and welfare of town residents.

## **5. Definitions.**

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

EAF – means the Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

MECHANICAL WIND TURBINE – means a Wind Energy Conversion System that converts wind energy to mechanical power.

RENEWABLE ENERGY CONVERSION SYSTEM (RECS) – means a Renewable Energy Conversion System other than a WECS and includes but is not limited to solar panels, geothermal heat pumps, wood, wood pellet, hay and other types of biomass stoves.

RENEWABLE ENERGY FACILITY – means a Small Wind Energy Conversion System or a Small Renewable Energy Conversion System as those terms are defined herein.

SEQRA – means the New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

SITE – means the parcel of land where the WECS or RECS is to be placed. The Site could 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.

SMALL RENEWABLE ENERGY CONVERSION SYSTEM ("Small RECS") – means a Renewable Energy Conversion System designed for on-site home, farm, or commercial use primarily to reduce on-site consumption of public utility energy.

SMALL WIND ENERGY CONVERSION SYSTEM ("Small WECS") – means a Wind Energy Conversion System consisting of a wind turbine, a tower, and associated control or conversion electronics, which is intended to primarily reduce on-site consumption of utility power.

TOTAL HEIGHT – means the height of the tower and the furthest vertical extension of the WECS or RECS.

WIND ENERGY CONVERSION SYSTEM ("WECS") – means a machine that converts the kinetic energy in the wind into electrical or mechanical energy (commonly known as a "wind turbine" or "windmill").

WIND ENERGY FACILITY - Any Wind Energy Conversion System, Small Wind Energy Conversion System, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND MEASUREMENT TOWER — a tower used for the measurement of meteorological data such as temperature, wind speed and wind direction. Temporary (no more than 2 years) towers may be allowed as part of a Small WECS application, where the requested tower meets all height, setback and other requirements of this local law.

## **6. Permits Required.**

A. No Renewable Energy Facility shall be constructed, reconstructed, modified, or operated in the Town of Dryden except in compliance with this local law.

B. 1. No WECS other than a Small WECS shall be constructed, reconstructed, modified, or operated in the Town of Dryden. No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated in the Town of Dryden, except in conjunction with and as part of an application for a Small WECS.

2. No RECS other than a Small RECS shall be constructed, reconstructed, modified, or operated in the Town of Dryden.

C. No Small WECS shall be constructed, reconstructed, modified, or operated in the Town of Dryden except pursuant to a Special Use Permit issued pursuant to this local law.

D. No Small RECS shall be constructed, reconstructed, modified, or operated in the Town of Dryden except pursuant to a Special Use Permit issued pursuant to this local law.

E. This local law shall apply to the area of the Town of Dryden outside the Village of Dryden and the Village of Freeville.

F. No transfer of the real property on which a Small WECS or Small RECS is situated shall eliminate the liability of the owner of such property from compliance with this local law and the conditions of the Special Use Permit issued for such WECS or RECS.

G. Notwithstanding the requirements of this Section, replacement in kind or modification of a Small WECS or Small RECS may occur without Town Board approval when (1) there will no

increase in Total Height; (2) no change in the location of the Small WECS; (3) no additional lighting or change in facility color; and (4) no increase in noise produced by the Small WECS.

## **7. Applicability.**

A. The requirements of this local law shall apply to all Renewable Energy Facilities proposed, operated, modified, or constructed after the effective date of this local law.

B. Renewable Energy Facilities constructed and placed in operation prior to the effective date of this local law, shall not be required to meet the requirements of this local law; provided, however, that no modification or alteration to an existing Renewable Energy Facility shall be allowed without full compliance with this local law.

C. Renewable Energy Facilities are allowed as accessory uses. Renewable Energy Facilities constructed and installed in accordance with this local law shall not be deemed expansions of a nonconforming use or structure.

D. Notwithstanding anything to the contrary in this local law, no Special Use Permit shall be required for mechanical wind turbines less than 50 feet tall; solar panels mounted to the building being served; tower, pole or other independently structurally mounted RECS with a total height less than the structure served, or for geothermal heat pumps, wood, wood pellet, hay and other types of biomass stoves.

## **8. Abandonment of Use.**

A Small WECS or Small RECS which is not used to produce electricity for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner within 24 months after notice from the Town Board. Failure to comply with this section or with any and all conditions that may be attached to a Special Use Permit shall constitute grounds for the revocation of the permit by the Town of Dryden, after notice and a hearing before the Town Board.

## **9. Hearing Required.**

A. Public hearing and decision on Special Use Permits. The Town Board shall conduct a public hearing within sixty-two days from the day a complete application is received. Public notice of said hearing shall be printed in the official newspaper at least five days prior to the date thereof. The Town Board shall decide the application within sixty-two days after the close of the public hearing. The time within which the Town Board must render its decision may be extended by mutual consent of the applicant and the board. The decision of the Town Board on the application after the holding of the public hearing shall be filed in the office of the town clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant.

B. Notice to applicant, county planning agency and adjacent owners. At least ten days before such hearing, the Town Board shall mail notices thereof to the applicant and to the county planning agency, as required by town law section two hundred seventy-four-b and general municipal law section two hundred thirty-nine-m, which notice shall be accompanied by a full

statement of such proposed action. The Town Board shall also mail notice of such application and public hearing to the owners of all property adjacent to the proposed tower Site and/or within 500 feet of the proposed tower Site.

C. Compliance with SEQRA. The Town Board shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations.

D. Conditions attached to the issuance of special use permits. The Town Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed Special Use Permit. Upon its granting of said Special Use Permit, any such conditions must be met in connection with the issuance of any other required permits to be issued by the town.

#### **10. Fees.**

A non-refundable Application Fee of \$250 shall be paid to the Town of Dryden when the application for Special Use Permit is submitted.

#### **11. Enforcement; Penalties and Remedies for Violations.**

A. The Town Board shall by resolution appoint such Town employees, including the code enforcement officers, to enforce this local law. Such appointees shall have the authority to issue appearance tickets pursuant to the provisions of the Criminal Procedure Law.

B. 1. Any person owning, controlling or managing any building, structure or land who shall undertake a wind energy facility in violation of this local law or in noncompliance with the terms and conditions of any permit issued pursuant to this local law, 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 \$1,000 or to imprisonment for a period of not more than six months, or subject to both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each day such violation shall continue.

2. The Town may also institute a civil proceeding to collect civil penalties in the amount of \$350 for each violation. 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 special use permit issued pursuant to this local law, in addition to other remedies and penalties herein provided, 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, or to prevent any illegal act.

#### **12. 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.

**13. Effective Date.**

This local law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

**ARTICLE II**

**Small Wind Energy Conversion Systems (WECS)**

**14. Intent.**

This Article regulates and provides standards for Small Wind Energy Conversion Systems (WECS) designed for on-site home, farm, and commercial use, and that are primarily used to reduce on-site consumption of public utility generated and distributed electricity. 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.

**15. Permitted Areas.**

Small WECS may be permitted upon issuance of a Special Use Permit on any parcel meeting the standards of this local law in any zoning district.

**16. Applications.**

Applications for Small WECS Special Use Permits shall include:

1. Name, address, telephone number of the applicant. 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 is required.

2. (a) Name, address, 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.

(b) The names and mailing addresses of all owners of all property adjacent to the proposed tower Site and/or within 500 feet of the proposed tower Site.

3. Address of each proposed tower Site, including tax map parcel number.

4. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.

5. (a) A completed Short EAF and a Visual EAF Addendum.

(b) The Board may require submission of a more detailed visual analysis based on the results of the Visual EAF Addendum including 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.

(c) Applicants must have a pre-application conference with the Town Code Enforcement Officer to address the scope of the required visual assessment.

## **17. Development Standards.**

All Small WECS shall comply with the following standards. 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.

1. Only one Small WECS (or, where authorized, a temporary wind measurement tower) per lot shall be allowed. Adjoining lots shall be treated as one lot for purposes of this limitation. More than one Small WECS per lot may be allowed if the applicant adequately demonstrates that the electrical or mechanical power needs of the individual user exceed the power generation capability of one WECS.
2. Small WECS shall be used primarily to reduce the on-site consumption of public utility-provided electricity, or as a primary source of electricity when the applicant is not connected to the electricity grid.
3. Tower heights shall be limited to a maximum of 140 feet.
4. 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.
5. The maximum turbine power output is limited to 10 kW unless the applicant demonstrates to the reasonable satisfaction of the Town Board that a larger turbine is necessary to meet the historical and/or projected energy needs of the applicant. The applicant shall submit documentation supporting the increased turbine size including copies of electrical bills, an energy audit or electrical power requirements of any new or proposed equipment.
6. The system's tower and components 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.
7. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails) and from adjacent properties.
8. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.



9. 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 Town Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
10. 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.
11. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm therefrom. No brand names, logo or advertising shall be placed or painted on the tower or components where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system housing in an unobtrusive manner.
12. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
  - a. Tower-climbing apparatus located no closer than 12 feet from the ground.
  - b. A locked anti-climb device installed on the tower.
  - c. A locked, protective fence at least six feet in height that encloses the tower.
13. 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.
14. The minimum height above the ground of the lowest part of the wind turbine blade shall be at least 15 feet.
15. All Small RECS tower structures shall be designed and constructed to be in compliance with applicable provisions of the New York State Uniform Fire Prevention Building Code, National Electric Code and generally accepted engineering practices.
16. All Small WECS 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.
17. No WECS shall be so constructed or operated so as to create artificial habitat for raptors or raptor prey. Electrical boxes, perching opportunities, etc., shall to the maximum extent practicable be minimized.
18. A Small WECS shall not be located closer to any adjacent property's line, right of way, easement, public highway or power line than the Total Height of the facility plus ten feet.
19. Small WECS shall be set back at least 1,000 feet from any Important Bird Area as identified by New York Audubon and from State-listed wetlands. The Town Board may

consider applications for Small WECS within 1,000 feet of an Important Bird Area or State-listed wetland upon a recommendation from the Conservation Board.

20. All Small WECS shall be maintained in good condition and in accordance with all requirements of this section.

### **ARTICLE III**

#### **Small Renewable Energy Conversion Systems (RECS)**

##### **18. Intent.**

This Article regulates and provides standards for Small RECS, designed for on-site home, farm, and small commercial use, and that are primarily used to reduce on-site consumption of public utility generated and distributed electricity. The intent of this Article is to encourage the development of such renewable energy systems and to protect the public health, safety, and community welfare.

##### **19. Permitted Areas.**

Small RECS may be permitted upon issuance of a Special Use Permit on any parcel meeting the standards of this local law in any zoning district.

##### **20. Small RECS Not Regulated.**

Small RECS mounted on the structure being served, are not regulated under this local law. Small RECS mounted on a tower, pole or structure other than the structure being served, and whose total elevation is not higher than the highest elevation of the structure served are not regulated under this local law.

##### **21. Applications.**

Applications for Small RECS Special Use Permits shall include:

1. (a) Name, address, telephone number of the applicant. 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 is required.

(b) The names and mailing addresses of all owners of all property adjacent to the Site and/or within 500 feet of the proposed Site.

2. Name, address, 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 the proposed Small RECS Site, including tax map parcel number.

4. If proposed structure will exceed the height of the roofline of the building being served, application must be accompanied by an engineer's drawing.

5. (a) A completed Short EAF and a Visual EAF Addendum.

(b) The Board may require submission of a more detailed visual analysis based on the results of the Visual EAF Addendum including 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.

(c) Applicants must have a pre-application conference with the Town Code Enforcement Officer to address the scope of the required visual assessment.

## **22. Development Standards.**

All Small RECS shall comply with the following standards. 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.

1. Only one Small RECS per lot shall be allowed. Adjoining lots shall be treated as one lot for purposes of this limitation. More than one Small RECS may be allowed if the applicant adequately demonstrates that the electrical or mechanical power needs of the individual user exceed the power generation capability of one RECS.

2. Small RECS shall be used primarily to reduce the on-site consumption of public utility-provided electricity or as a primary source of electricity when the applicant is not connected to the electricity grid.

3. Pole height shall be limited to a maximum fifteen (15) feet.

4. 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.

5. The system's structure and components 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.

6. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails) and from adjacent properties.

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

8. All on-site electrical wires associated with the RECS 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 Town Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.

9. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm therefrom. No brand names, logo or advertising shall be placed or painted on the tower or components where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system housing in an unobtrusive manner.

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

- a. Tower-climbing apparatus located no closer than 12 feet from the ground.
- b. A locked anti-climb device installed on the tower.
- c. A locked, protective fence at least six feet in height that encloses the tower.

11. 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.

12. All Small RECS tower structures shall be designed and constructed to be in compliance with applicable provisions of the New York State Uniform Fire Prevention Building Code, National Electric Code and generally accepted engineering practices.

13. A Small RECS shall not be located closer to any adjacent property's line, right of way, easement, public highway or power line than the Total Height of the facility plus ten feet.

14. All Small RECS shall be maintained in good condition and in accordance with all requirements of this section.