

TOWN OF BRISTOL

ONTARIO COUNTY, NEW YORK

LOCAL LAW #1-2007

PROMOTE AND PROTECT THE PUBLIC HEALTH, SAFETY, WELFARE &
AESTHETICS OF THE TOWN OF BRISTOL BY REGULATING THE
INSTALLATION OF ANTENNAS, PARABOLIC DISHES, TOWERS, WINDMILLS &
ENERGY-CREATING DEVICES

SECTION I. Legislative Intent.

In keeping with the *Comprehensive Plan of 2007*, the intent of this Article is to promote and protect the public health, safety, welfare and aesthetics of the Town of Bristol by regulating the installation of antennas, parabolic dishes, towers, windmills and energy-creating devices.

SECTION II. Definitions and Interpretation of Terms.

For the purpose of this Local Law, certain terms or words used herein shall be interpreted as follows:

Active and Continuous Service. Windmill is producing electrical or mechanical power.

Decibel (dba). A unit measuring the volume of sound, as determined by a sound testing instrument. The *NYS Vehicle and Traffic Law* establishes unacceptable noise levels at between 72 db and 90 db.

Facility. Structure(s) designed, constructed and/or installed to provide a service.

Grade. The finished ground level adjoining the building at all exterior walls.

Parcel. An area of land determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres.

Scenic Viewshed. An expansive view possessing natural beauty. (See *Comprehensive Plan of 2007*). The installation and use of a facility should not have an adverse impact on the use and enjoyment of Bristol's viewshed.

Windmill. A device that converts the kinetic energy of the wind, by the use of a set of rotating blades and is usually elevated from ground level on a tower, into electrical or mechanical power.

Windmill-Residential. A windmill that provides electrical or mechanical power to an individual residence and can be either the primary or secondary source of energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.

Windmill-Commercial. A windmill that provides electrical or mechanical power to an individual home occupation, farm, or other single commercial enterprise and can be either the primary or a secondary source of energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.

Windmill-Industrial. A windmill or series of windmills in a facility, whose primary purpose is to generate electricity that is fed to a power grid for sale.

Windmill-Height. The total height of a structure including blades at extreme vertical position.

SECTION III. Permitted Uses.

The following uses are permitted in all use districts in the Town of Bristol, subject to the receipt of a Special Use Permit in accordance with this Local Law:

- A. Facilities under the direct control and ownership, and used exclusively by any Federal, State, County or Local Government Agency.
- B. Facilities used exclusively for emergency services, such as fire and ambulance.
- C. Parabolic dish – non-roof mounted parabolic dishes with a height of less than 15 feet. Any such structures shall be subject to area restrictions set forth in this Local Law.
- D. Non-dish type TV antennas with a height less than 60 feet from grade do not require a building permit.

SECTION IV. Regulating Installation of Antennas, Parabolic Dishes and Towers.

A. **Special Use Permits:**

The following uses are permitted in all districts only upon issuance of a Special Use Permit by the Town of Bristol Zoning Board of Appeals in accordance with the standards set forth in this Local Law:

1. Towers less than 60 feet, except non-dish type antennas.
2. Parabolic dishes which are more than 15 feet, but less than 60 feet in height.

B. **Prohibited Variances:**

The following uses are not permitted in any district in the Town of Bristol and no variance shall be permitted to allow said use:

Facilities except those referred to in this Local Law and which exceed 250 feet.

C. **Area Restrictions:**

1. Number of Facilities:
No more than one free-standing tower shall be located on any parcel.
2. Antennas: (Not including commercial broadcast or communications facilities):
 - a. No free standing-antenna (over 3 feet in diameter) shall be constructed, erected, or maintained except as an accessory structure to an existing residential dwelling.
 - b. All free-standing antennas shall be located in the rear yard at least (10) ten feet from the side and rear lot lines or at a distance equal to the height of the antenna plus (6) six feet, whichever is greater. When measuring side and rear setbacks, all cables, guy wires, or other supports shall constitute a part of the antenna.

3. Towers and Commercial Broadcast and Communications Facilities:

- a. Tower Placement: Towers may be erected only in A-C Zoned Districts. A radius and/or distance of eight thousand (8,000) feet must be maintained between any new tower and any pre-existing tower in the Town of Bristol or its adjoining municipalities.
- b. No more than one (1) tower shall be located on any parcel for each Special Use Permit applied for and granted. Minimum lot size shall be equal to 2.4 times the tower height plus any extensions in width or depth, but not less than eighty-thousand (80,000) square feet. The tower, including any extensions, shall be located no closer than 1.25 times its height to any boundary line. When measuring side and rear setbacks, all cables, guy wires or other supports, shall constitute a part of the antenna.

D. Application Process.

Special Use Permit:

All applicants for a Special Use Permit to construct or maintain a facility within the Town of Bristol must make application to the Code Enforcement Officer on forms prescribed for that purpose. In addition, the applicant must provide the following:

1. Specific site data placed on a map, acceptable in form and content to the Code Enforcement Officer, which shall be prepared to a scale of not smaller than 1 inch to 50 feet, and in sufficient detail and accuracy so as to accurately depict the placement of all component parts of the tower or antenna (including guy wires, underground utilities and/or enclosures) in relation to:
 - a. The location of property lines and permanent easements.
 - b. The location of all structures on the site and all structures on any adjacent property within two hundred (250) feet of the property lines.
 - c. The location of all utility lines, trees or other natural or artificial structures.
 - d. The location, nature, and extent of any proposed fencing, buffering, plantings, or other screening measures, if any.
2. All information prepared by the manufacturer of the facility for which a permit is being sought, including, but not limited to the following:
 - a. Make and model.
 - b. Manufacturer's suggested installation instructions.
 - c. Manufacturer's suggested maintenance and/or inspection procedures.
3. The applicant shall also submit to the Zoning Board of Appeals, documentation that shared use of existing towers is or is not feasible.

4. The applicant shall give notice by Certified Mail, "Return Receipt Requested" to all property owners within 1500 feet of the parcel upon which the proposed facility is to be constructed or maintained. Such notice must contain the following information: the street address of the property in question, a scale sketch of the location of the facility on the property, and the date, time and place of the Public Hearing on said application.
5. The applicant shall submit certification of approval from the Federal Communications Commission (FCC) to the Zoning Board of Appeals that the proposed facility meets with Federal Communications Commission (FCC) approval.

E. **Special Use Permit Standards.**

No Special Use Permit shall be granted unless evidence is presented which establishes that:

1. The proposed facility is located within the geographic area permitted under this Local Law.
2. The proposed facility complies with all other use and area requirements of this Local Law.
3. The locating property must be free of all property violations.
4. The proposed facility is adequately screened and buffered from neighboring properties in order to minimize the impact on said properties.
5. The installation and use of the facility will not have an adverse impact on the use, enjoyment and value of neighboring property.
6. The non-ionizing electromagnetic radiation (NEMR) emitted from the facility does not result in a ground level exposure at any point outside said facility which exceeds the lowest applicable exposure standards established by any regulatory agency of the United States Government or the American National Standards Institute (ANSI).

F. **Maintenance of Existing Facilities.**

Existing facilities may be repaired and maintained without restriction. However any modification to any such facility, whether or not incidental to repair or maintenance, which may result in a change in the surface, sub-surface, or air space occupied by such facility, including any device used in connection with same, shall be subject to the provisions of this Local Law. No existing facility shall be modified in any way which will result in any substantial increase in the level, intensity, or direction of any NEMR emission existing on the effective date of this Local Law, and further, that at no time shall such modification result in any increase in the level of NEMR over the applicable NEMR standards established by any regulatory agency, private (such as ANSI) or governmental, whichever is lower, and further provided that such emissions from the proposed modifications will not cause some other site to exceed the standards because of the cumulative effect. The NEMR emissions do not result in a ground level exposure at any point outside such facility which exceeds the lowest

applicable exposure standards established by any regulatory agency of the United States Government or the American National Standards Institute.

G. Abandonment or Discontinuance of Use and Operation.

In the event that the owner or lessee of any facility ceases for a period of six (6) months to use or operate the said facility, then in that event, such facility shall be dismantled and removed from the site and the site shall be restored to its natural state by the owner. Failure to dismantle and remove a facility and restore the site to its natural state within thirty (30) days after said facility has been declared abandoned by the Town Board will result in forfeiture of said Letter of Credit or cash bond posted by said owner or lessee of said facility.

H. Registration and Reporting.

1. The owner, manager, or other beneficial party in interest shall file a statement of registration of any commercial broadcast or communication facility defined in this Local Law with the Code Enforcement Officer within ninety (90) days of the effective date of this Local Law. Such statement shall contain the following information:
 - a. Nature of the facility, including a description of its function and purpose.
 - b. Names of the owners, managers, and other parties who are responsible for the control and operation of the facility. This shall also include the names of any persons on whose property the facilities are located.
 - c. Emission data pertaining to NEMR, including levels, direction, and orientation of emissions, and hours and dates of operation.
 - d. Names, telephone numbers, and addresses of persons who may be contacted in the event of any emergency shall be displayed on the compound.
 - e. Names of any regulatory agencies who are involved in any way in the licensing or regulation of the facility, including a statement of any violation cited against the facility and corrective measures mandated.
 - f. Names of any insurance companies providing protection against loss or damage to persons or property resulting from the operation or maintenance of the facility.
 - g. Any changes in the information or data required to be furnished by this Local Law shall be provided within thirty (30) days of any such changes by the filing of an amended registration form to be provided by the Town Board. Such filing shall not, however, be interpreted to authorize any violation of the provisions of this law or of any permit issued pursuant to same.
2. The owner, manager, or other beneficial party in interest shall submit to the Code Enforcement Officer of the Town of Bristol not less than annually, a

report including the hours of operation of those facilities, and certifying on a form to be provided by the Town of Bristol, that during the previous year, there have been no NEMR emissions from such facilities at power levels, frequencies, durations, and directional concentrations as would exceed the standards so as to constitute any health hazard to the citizens of the Town of Bristol. Further, the applicant shall provide to the Code Enforcement Officer of the Town of Bristol any other reports filed with any governmental or regulatory agencies related to the use and operation of these facilities.

I. Fees.

1. Application Fees:

Each application for a permit shall be accompanied by a fee, paid in cash or certified check, in an amount equal to the fee established by the Town Board, as the same may from time to time, be amended and established.

2. Annual Registration Fees:

Every owner/colocator/lessee of a facility subject to the requirements of this Local Law shall pay an annual fee in January of each year. Delinquent accounts shall be subject to late fees. The annual fee shall be established by the Town Board as the same may, from time to time, be amended and established.

J. Miscellaneous Provisions.

1. Inspection:

Each facility subject to this Local Law may be inspected on a periodic basis by the Fire Marshall, Code Enforcement Officer or other person appointed by the Town Board to ensure compliance with this Local Law.

2. Abandonment Letter of Credit or Cash Bond:

Every owner/colocator/lessee of a facility subject to the provisions of this Local Law shall post a Letter of Credit or cash bond in an amount determined by the Town Board. Said Letter of Credit or cash bond shall be applied by the Town Board to pay for costs incurred during removal of a facility and restoration of the site to its natural state, should the owner/colocator/lessee of said facility fail to do the same within thirty (30) days after said facility has been declared abandoned.

3. Insurance:

Every owner/colocator/lessee of a facility, subject to the requirements of this Local Law, shall be required to obtain an insurance policy, naming the Town of Bristol as insured, to protect the Town of Bristol from liability arising out of said facility. The value of the policy shall be determined by the Town Board.

K. Penalties.

1. Revocation of Special Use Permit:

Any Special Use Permit granted hereunder may be revoked by the Zoning Board of Appeals. After due hearing with not less than ten (10) days' notice

to the person holding such permit in the event that the use violates any of the conditions or restrictions of this Local Law or any conditions or restrictions imposed by the Zoning Board of Appeals upon the issuance of such permit, or shall have become a nuisance.

2. Enforcement Proceedings:
The Town of Bristol shall have all enforcement remedies allowed by law including, but not limited to, criminal enforcement in Justice Court and civil enforcement by injunction in Supreme Court.

SECTION V. Regulating Installation of Residential, Commercial & Industrial Windmills.

A. Residential and Commercial Windmills.

1. Application Process:
 - a. Special Use Permit is required:
 - (1) All applicants for a Special Use Permit to construct or maintain a facility within the Town of Bristol must make application to the Code Enforcement Officer on forms prescribed for that purpose.
 - (2) No Special Use Permit shall be granted unless evidence is presented which establishes that the proposed facility complies with all provisions of Article Seventeen and Article Eighteen Section I, subsections A and B of the *Zoning Ordinance of the Town of Bristol*.
 - b. A Site Plan Review is required before a building permit may be issued for a residential or commercial windmill.
 - c. SEQR. A SEQR review is required. All applications for windmills shall be considered a Type I SEQR action with a full environmental review.
2. Placement:
 - a. Setbacks, Ice and Blade Throw: Setbacks from adjacent property lines, right-of-ways, easements, public ways or power lines (not to include individual residential feed lines) shall be two times the maximum windmill height or one and one fourth times the maximum engineer-calculated ice or blade throw distance to the maximum point of impact, whichever is greater.
 - b. Allowed Zoning Districts: LR, AC, MR, LI.
 - c. Number of Windmills Allowed per Parcel: There shall be a limit of one per parcel.
 - d. Noise Level Limit: Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the boundaries of all of the closest parcels as those boundaries exist at the time of the Special Use Permit application.

- e. Guy Wires and Anchors: All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for anchor points, for guy wires or cables, shall be 50 feet from any property line.
- f. Lighting: No windmill shall be lighted artificially unless such lighting is required by a State or Federal agency.
- g. Scenic View Shed Impact: No windmill shall be installed in a location where the Planning Board determines the windmill to be detrimental to the general neighborhood character, regardless which zoning district is being proposed. No individual tower facility shall be installed in any location that would substantially detract from or block the view of a portion of a scenic view shed, as viewed from any public road right-of-way, publicly owned land or privately owned land within the Town of Bristol. (Refer to *Comprehensive Plan* adopted in 2007).
- h. Broadcast Interference:
 - (1) No individual tower facility shall be installed in any location along the major axis of an existing microwave communication link where its operation is likely to produce electromagnetic interference in the link's operation.
 - (2) No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast transmission or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
 - (3) The recipient of the Special Use Permit must correct any unforeseen interference to the satisfaction of the Code Enforcement Officer within sixty (60) days of any complaint.

3. Specifications.

- a. Maximum Height Limit: Maximum height limit shall be no greater than one-hundred twenty (120) feet.
- b. KW Limit: 20 KW, Maximum operating output.
- c. Color: Shall be determined during Site Plan Review unless an agency of the State or Federal government mandates otherwise.
- d. Structure: Lattice or solid tube.
- e. Design and Specifications: Detailed design and specification will be required during Site Plan Review.
- f. Ice Buildup Sensors: Ice buildup sensors are not required.
- g. Connecting Cables: All power transmission lines from the windmill electricity generation facilities shall be underground.

- h. Blade to Ground Distance: The lowest portion of the blade may not be closer than 25 feet to the ground.

4. Notice and Safety Considerations.

- a. Fencing: Access to the tower shall be limited either by means of a fence six (6) feet high around the tower base with a locking gate or by limiting tower climbing apparatus to no lower than twelve (12) feet from the ground.
- b. Limit Tip Speed: No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, turbine components.

5. Operating Considerations.

- a. If transmission service from a windmill is discontinued for an anticipated period exceeding six (6) months, the owner of such windmill shall notify the Code Enforcement Officer within thirty (30) days of the date of such discontinuance.
- b. Removal is Not Operational: Any windmill which has not been in active and continuous service for a period of one (1) year shall be removed from the premises to a place of safe and legal disposal. Additionally, all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to a natural condition as instructed by the Code Enforcement Officer. Such removal shall be completed at the owner's expense.
- c. Building and Grounds Maintenance: Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in an on-site storage building. All maintenance equipment, spare parts, oil, etc., shall also be kept in said on-site storage building.
- d. Ownership Changes: If the ownership of a windmill operating under a Special Use Permit changes, the Special Use Permit shall remain in force. All conditions of the Special Use Permit, including bonding, letter of credit, or continuing certification requirements of the original owner will continue to be obligations of succeeding owner. However, the change in ownership shall be registered with the Code Enforcement Officer.
- e. Windmill Modification: Any and all modifications, additions or deletions to windmills that operate under a Special Use Permit, whether structural or not, shall be made with an additional Special Use Permit, except that such Special Use Permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

6. Certifications.

- a. National and State Standards: The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmill are being complied with. Windmills shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant for a windmill Special Use Permit shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York that such windmill is in compliance with these standards.
- b. Lightning Strike/Grounding: The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmill have been or are being complied with.
- c. Wind Speed/Wind Load: Certification is required by a licensed professional engineer or manufacturer's certification stating the tower design is sufficient to withstand wind-load requirements for such structures as established by the Building Code of New York State.
- d. Continuing Obligations: All requirements detailed in this Local Law shall remain in force for the life of the Special Use Permit.

B. Industrial Windmills.

1. Application Process:

- a. Special Use Permit is required:
 - (1) All applications for a Special Use Permit to construct or maintain a facility within the Town of Bristol must make application to the Code Enforcement Officer on forms prescribed for that purpose.
 - (2) No Special Use Permit shall be granted unless evidence is presented which establishes that the proposed facility complies with all provisions of the *Zoning Ordinance of the Town of Bristol*.
- b. Site Plan Review: A Site Plan Review by the Planning Board is required before a building permit may be issued for an industrial windmill.
- c. SEQR: SEQR review is required. All applications for industrial windmills conforming to the provisions shall be considered a Type 1 SEQR action with a full environmental review.

2. Placement:

- a. Setbacks, Ice and Blade Throw: Setback from adjacent property lines, right-of-ways, easement, public ways, power lines, or areas or structures customarily used by the public shall be four times the maximum

structure height or one and one quarter (1 ¼) times the maximum engineer-calculated ice or blade throw distance to the maximum point of impact, whichever is greater. A residence found on the site parcel must be located 1,500 feet (minimally) from the wind tower.

- b. Allowed Districts: AC District Only.
- c. Noise Level Limit: Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA measured at the boundaries of all the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcel as those boundaries exist at the time of the Special Use Permit application.
- d. Distance between Towers: Shall be a distance of 8,000 feet.
- e. Lighting: No windmill shall be lighted artificially unless such lighting is required by a state or federal agency. Use of nighttime and overcast daytime condition stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board as a prerequisite to that board's approval.
- f. Scenic View Shed Impact: No windmill shall be installed in a location where the Planning Board determines the windmill to be detrimental to the general neighborhood character. No individual tower facility shall be installed in any location that would substantially detract from or block view of a portion of a scenic view shed, as viewed from any public road right-of-way, publicly owned land or privately owned land within the Town of Bristol.
- g. Broadcast Interference:
 - (1) No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
 - (2) No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission reception.
 - (3) The recipient of the Special Use Permit must correct any interference to the satisfaction of the Code Enforcement Officer within sixty (60) days of complaint.
- h. Transmission lines to power grid and between shall be underground.

3. Specifications:
- a. Maximum Height Limit: Maximum height limit shall be no greater than 250 feet.
 - b. Tower Limit: Maximum 1.5 megawatt – maximum operating output.
 - c. Color: Industrial windmills must be battleship gray unless an agency of the State or Federal government mandates otherwise.
 - d. Structure: Solid tube.
 - e. Design and Specifications: Detailed design and specifications will be required during Site Plan Review.
 - f. Bird Migration Study: Bird migration shall be addressed through SEQR review.
 - g. Ice Buildup Sensors: Ice buildup sensors shall be required for industrial windmills.
 - h. Connecting Cables: All power transmission lines from the windmill electricity generation facilities shall be underground.
 - i. Blade to Ground Distance: The lowest portion of the blade may not be closer than 25 feet to the ground.

4. Notice and Safety Considerations.

- a. Signs:
 - (1) Caution Signs: Caution signs shall be placed at the setback limits warning of ice and blade throws. Signs shall be placed at 50-foot intervals and be 4 to 6 feet high (at eye level). Signs shall be a minimum of one foot square and no larger than two feet square in size and shall have the words “CAUTION: FALLING OBJECTS” and emergency telephone numbers.
 - (2) Other Signs: There shall be no other signs affixed to the windmills, accessory buildings or enclosures.
- b. Fencing: Access to the tower shall be limited either means of a fence, six (6) feet high around the tower base with a locking gate, or by limiting tower climbing apparatus to no lower than twelve (12) feet from the ground or locked door to internal stairs.
- c. Limit Tip Speed: No wind turbine shall be permitted that lacks 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.
- d. Use of Public Roads:
 - (1) An applicant, owner, or operator proposing to use any (county, municipality or township) road(s) for the purpose of transporting

parts and/or equipment for construction, operation or maintenance shall: identify all such public roads; and obtain applicable weight and size permit from relevant government agencies prior to construction.

- (2) To the extent an applicant, owner, or operator must obtain a weight of size permit from the county, municipality, or township the applicant, owner, or operator shall:

Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and secure financial assurance, in a reasonable amount agreed to by the relevant parties, for the purpose of repairing any damage to public roads caused by constructing, operating or maintaining the windmill.

5. Operating Considerations:

- a. Removal if Not Operational: Any windmill, which has not been in active and continuous service for a period of one (1) year, shall be removed from the premises to a place of safe and legal disposal. Any and all structures, and/or any enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal requires a Demolition Permit and shall be completed within six (6) months of the cessation of active and continuous use of such windmill.
- b. Building and Grounds Maintenance: Any damaged or unused parts shall be removed from the premises within thirty (30) days, or kept in an on-site storage building. All maintenance equipment, spare parts, oil, etc., shall also be kept in said on-site storage building.
- c. Ownership Changes: If the ownership of a windmill operating under a Special Use Permit changes, the Special Use Permit shall remain in force. All conditions of the Special Use Permit, including bonding, letter of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. However, the change in ownership shall be registered with the Code Enforcement Officer.
- d. Windmill Modifications: Any and all modifications, additions, deletions or changes to windmills that operate under a Special Use Permit, whether structural or not, shall be made by Special Use Permit, except that such Special Use Permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

6. Certification:

a. Inspection:

- (1) An inspection report prepared by an independent professional engineer licensed in the State of New York will be required at the time of installation. The inspection report required at the time of installation will be for the structure and the electronics and will be filed with the Code Enforcement Officer.

- (2) The owner, manager, or other benefiting party in interest shall complete, through an independent licensed engineer, an annual inspection report on forms to be provided by and filed with the Code Enforcement Officer.
 - (3) Each facility subject to this Local Law may be inspected on a periodic basis by the Fire Marshall, Code Enforcement Officer, Town Engineer or any other person appointed by the Town Board to ensure compliance with this Local Law.
- b. Insurance Liability: Prior to issuance of a building permit, the applicant shall provide the Town, in the form of a duplicate insurance policy or a Certificate of Coverage issued by an insurance company authorized to conduct business in New York, for liability insurance of a level to be determined by the Town Board in consultation with the Town's insurer. This liability policy shall indemnify the Town against damage to persons and property.
- c. National and State Standards: The applicant shall show that all applicable manufacturers, New York State and U.S. standards for construction, operation and maintenance of the proposed windmill have been met and are being complied with. Windmills shall be constructed, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant for a windmill Special Use Permit shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York that such windmill is in compliance with such standards.
- d. Performance Bond (Removal):
- (1) The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit a Letter of Credit or other acceptable surety sufficient to ensure the removal of the windmill. The Town Engineer and Town Attorney shall judge this Letter of Credit or other surety adequate and satisfactory before a building permit is issued. Said Letter of Credit shall be forfeited if removal is not completed by the deadline specified in subdivision (e) below.
 - (2) Any windmill which has not been active and continuous service for a period of one (1) year shall be removed from the premises to a place of safe and legal disposal. Any and all structures and/or enclosures accessory to such windmill shall also be removed, with the issuance of a Demolition Permit. The site shall be restored to as natural a condition as possible. Such removal shall be completed within six (6) months of the cessation of active and continuous use of such windmill.
- e. Environmental Contamination: The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit the maximum amount Letter of Credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. The Town Engineer and Town Attorney shall judge the

Letter of Credit or other surety adequate and satisfactory before a building permit is issued.

- f. Wind Speed/Wind Load: Certification is required by a licensed professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures, as established by the *Building Code of New York State*.
- g. Continuing Obligations: All requirements detailed in the subdivisions above remain in force for the life of the Special Use Permit.

SEVERABILITY CLAUSE:

If any section, paragraph, subdivision or provision of this Local Law shall be held invalid, such invalidity shall apply only to this section, paragraph, subdivision or provision adjudged invalid, and the rest of this Local Law shall remain valid and effective.

5/2007

