

**A LOCAL LAW # 2 FOR THE YEAR 2006  
AMENDING THE ZONING LAW OF THE TOWN OF COHOCTON, NEW YORK TO  
REGULATE WINDMILLS AND WINDMILL FACILITIES**

**NOW THEREFORE**, be it enacted by the Town Board of the Town of Cohocton as follows:

**Article III, section 310 of the Town of Cohocton Zoning Law is hereby amended to include the following allowed uses by special permit:**

1. Residential and/or Commercial Windmills and Industrial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton Agricultural-Residential District as a Special Permit Use.
2. Residential and/or Commercial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton Low-Density Residential District as a Special Permit Use.
3. Residential and/or Commercial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton General Business District as a Special Permit Use.
4. Residential and/or Commercial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton Interchange Commercial District as a Special Permit Use.
5. Residential and/or Commercial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton Industrial District as a Special Permit Use.

**Article III, Zoning Schedule of the Town of Cohocton Zoning Law is hereby amended to allow maximum height and required setbacks as follows:**

1. Residential and/or Commercial Windmills Maximum Height - one hundred (100) feet.
2. Industrial Windmills Maximum Height - five hundred (500) feet.

**Article X, section 1010 of the Town of Cohocton Zoning Law is hereby amended include the following definitions.**

1. Windmills -- Residential AND/OR Commercial -- a windmill that provides electrical or mechanical power to an individual residence, operating farm or 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.

2. Windmill - Industrial - a windmill, or series of windmills in a facility, whose purpose is to generate electricity that is fed into a power grid for sale.
3. Windmill Facilities - infrastructure related to Residential and/or Commercial Windmill or Industrial Windmill, or a series of Windmills, including electrical lines and substations, access roads and accessory structures necessary to operate said windmill and transmit the electrical power which is generated.
4. Windmill Height - the total height of the structure including blades, above the existing ground level.

**Be it further enacted that a new Article XI of the Zoning Law of the Town of Cohocton shall be added as follows:**

### **1100 PURPOSE**

This Article is intended to regulate and restrict the height, size, location and other features of windmills and windmill facilities, and will, after reasonable consideration of the character of the Town of Cohocton and its peculiar suitability for particular uses, conserve and enhance natural resources and land values and protect existing properties and the environment.

### **1110 REQUIRED APPROVALS**

1. Special Use Permit.

Applicants shall submit an application and be required to obtain special use permit approval from the Town of Cohocton Planning Board to install or operate a Residential and/or Commercial Windmill, or Industrial Windmill or Windmill Facilities in the Town of Cohocton.

2. Site Plan.

- (a) Applicants shall submit an application and be required to obtain site plan approval from the Town of Cohocton Planning Board before a building permit may be issued for the construction or operation of a Residential and/or Commercial Windmill, or Industrial Windmill or Windmill Facilities in the Town.
- (b) A site plan drawn in sufficient detail to show the following, shall be required:
  - i. Location of the tower(s) on the site and the tower height, including blades, rotor diameter and ground clearance.
  - ii. Utility lines, both above and below ground, within a radius equal to the proposed tower height, including blades.

- iii. Property lot lines and location and dimensions of all existing structures and uses on site within 500 feet of Windmill Facilities
- iv. Surrounding land use and all structures within 1000 feet of the location of towers,
- v. Dimensional representation of the various structural components of the tower construction, including base and footing,
- vi. Design data indicating the basis of design, including manufacturer's dimensional drawings and installation and operation instructions,
- vii. Certification by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the New York State Uniform Fire Prevention and Building Code,
- viii. Industrial Windmill site plan applications shall include a separate plan for each tower location,
- ix. The Planning Board may require any further information it finds may be necessary to review the application.

## **1120 ENVIRONMENTAL REVIEW**

1. Compliance with the State Environmental Quality Review Act shall be required.
2. Applicants shall submit the following materials to the Town of Cohocton Planning Board:
  - (a) Residential and/or Commercial Windmill  

Applicants shall be required to prepare and submit Part 1 of a full Environmental Assessment Form.
  - (b) Industrial Windmill  

Applicants shall be required to prepare and submit a Draft and Final Environmental Impact Statement;
3. For Residential and/or Commercial Windmills, Industrial Windmills, and Windmill Facilities, the Applicant in consultation with the Planning Board will prepare:
  - (a) Visual Impact Analysis
    - i. Mapping of scenic resources of statewide significance, as defined by the NYS Department of Environmental Conservation (DEC) Visual Policy (Policy DEP-00-2.), and of local significance, as officially listed by the relevant municipality within the study area.

- ii. Viewshed mapping and/or cross section analysis to identify areas (including the significant resources identified above) with potential views of the project.)
- iii. Description of the character and quality of the affected landscape.
- iv. 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.
- v. Evaluation of the project's visual impact based on the viewshed mapping and photographic simulations described above.
- vi. Recommended visual mitigation measures (in accordance with DEC Policy DEP -00-2), if warranted, based on the results of the impact evaluation described above.

(b) Bird Migration Study

Appropriate bird migration studies shall be submitted. The Applicant shall solicit input from the New York State Department of Environmental Conservation on such studies.

(c). Predicted Windmill Only Noise Analysis:

- i. A noise level analysis shall be prepared to determine predicted windmill-only noise and pure tone components at property lines of the wind development project which abut non-project parcels and existing residences.
- ii. Windmill only noise shall be predicted based upon appropriate reference noise levels obtained from field measurements of the windmill proposed to be installed.
- iii. Except as otherwise provided herein, windmills shall be located so that predicted windmill only noise at non-project property lines shall not exceed 50 dB(A), and windmill only noise at existing residences located on non-project parcels shall not exceed 45 **dB(A)**.
- iv. In the event that the noise generated by any windmill contains a pure tone component, as set forth herein, windmills shall be located so that predicted windmill only noise at non-project property lines shall not exceed 45dB(A), and windmill only noise

at existing residences located on non-project parcels shall not exceed 40 dB(A).

A pure tone is defined to exist when a one-third (1/3) octave band noise level exceeds the arithmetic average of the two adjacent one-third (1/3) octave band levels by the following:

<u>Band Range</u>	<u>Exceedence</u>
31.5-125 Hz	15dB(A)
160-400 Hz	8dB(A)
500 - 8,000 Hz	5 dB(A)

## 1130 REVIEW STANDARDS

The following shall govern the siting, size, dimension, appearance, operation and use of windmills in the Town of Cohocton:

### 1. Residential and/or Commercial Windmills, (a)

Placement:

#### (i) Setbacks, Ice and Blade Throw.

Setbacks from adjacent property lines, rights-of-way, easements, public ways or power line (not to include individual residential feed lines) shall be the structure height plus one-hundred (100) feet. Structure height shall be measured from the ground surface level to the maximum height of the blades above the nacelle.

#### (ii) Number of Windmills Allowed per Lot: One (1). (iii)

Windmill Noise Level Limit.

#### v. Windmill only noise levels at non-project property lines shall not exceed 50.0 dB(A), except as set forth herein.

In the event that the noise generated by any windmill contains a pure tone component, as set forth herein, windmills shall be located so that predicted windmill only noise at non-project property lines shall not exceed 45dB(A). A pure tone is defined to exist when a one-third (1/3) octave band noise level exceeds the arithmetic average of the two adjacent one-third (1/3) octave band levels by the following:

<u>Band Range</u>	<u>Exceedence</u>
31.5-125 Hz	15 dB(A)
160-400 Hz	8 dB(A)
500 - 8,000 Hz	5 dB(A)

(iv) Guy Wires and/or 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 any windmill tower from any property line shall be a distance of fifty (50) feet from any anchor point for guy wires or cables.

(v) Lighting.

No windmill tower 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, with consideration of existing residential or Commercial uses within 2000 feet of each tower for which such strobe lighting is proposed.

(vi) Broadcast Interference.

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.

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 personnel communication systems would produce electromagnetic interference with signal transmission or reception.

The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.

(vii) Location on Lot

Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

(b) Specifications:

(i) Maximum Height Limit.

Maximum height limit shall be no greater than 100 feet,

(ii) Kilowatt Limit: 10KW (iii) Color

Residential and commercial windmills color will be determined by the planning board unless an agency of the state or federal government mandates something different.

(iv) Structure. Solid tube,

(v) Type.

All types of windmills will be allowed,

(vi) Ice Buildup Sensors.

Ice buildup sensors are not required for residential and/or commercial windmills.

(vii) Connecting Cables.

All power transmission distribution lines from the windmill electricity generation facilities shall be underground from the windmill electric generation facilities to the collection station. All other circumstances would be reviewed during the site plan process.

(viii) Blade to Ground Distance.

The lowest portion of the blade may not be closer than (30) feet to the ground.

(ix) Windmill Design.

Only upwind design windmills are allowed in the Town.

(x) Signage

No advertising signs are allowed on any part of Residential and/or Commercial Windmills and Windmill Facilities.

(c) Notice and Safety Considerations and Requirements:

(i) Fencing.

Access to the tower shall be limited by secured entry to the tower base.

(ii) 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, and turbine components.

(d) Operating Considerations and Requirements:

(i) Removal if Not Operational.

Any windmill, which has been out of 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, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(ii) Landscaping

Upon completion of installation the site shall be returned as close as possible to its natural state. Seeding of disturbed areas is a minimum.

(iii) Buildings and Grounds Maintenance

Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a fenced designated storage area or legally disposed of. All maintenance equipment and spare parts, etc shall also be kept fenced in a designated storage area. Oil shall be disposed of legally.



(iv) 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, letters 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.

(v) 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.

(vi) Windmill Noise Level Limit

Windmill only noise levels at non-project property lines shall not exceed 50 dB(A) at non-project property lines, when measured at the minimum wind speed at which the windmill will achieve its rated electric output as set forth in the project related special use permit.

As set forth herein, compliance with windmill-only noise level requirements shall periodically be determined by the Town Code Enforcement Officer, or such other officer or employee which the Town Board may designate. The Code Enforcement Officer, or such other designated officer or employee of the Town, shall take three successive A-weighted fifteen (15) second  $L_{eq}$  measurements at an appropriate position on non-project property lines. If an arithmetic average of higher than 50 dB(A) is measured, then the project sponsor shall cease operation of the nearest windmill, and the Code Enforcement Officer, or such other designated officer or employee of the Town, shall take another series of three, 15-second  $L_{eq}$  measurements. Appropriate places from which to take the sound measurements include areas where background noise is minimized and constant.

Windmill only noise shall be determined based upon the following formula:

$$10\text{Log}_{10}\{10^{01c}-10^{01A}\}$$

\*C = the recorded ambient noise level when the turbine is on; A  
= the recorded noise level when the turbine is off.

Windmill only noise levels at non-project property lines may exceed the thresholds set forth herein only if the affected non-project property owner provides written consent to the Town Code Enforcement Officer.

(e) Certifications

(i) Routine Inspection Report

An inspection report prepared by the turbine supplier/manufacturer licensed in the State of New York will be required at the time of installation and every three (3) years thereafter. The inspection report required at the time of installation and thereafter will be for the structure and the electronics and will be given to the Code Enforcement Officer.

(ii) 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 have been met or 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 such standards.

(iii) 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.

(iv) Wind Speed / Wind Load

Certification is required by a registered 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.

(f) Sureties.

(i) Performance Bond (Removal).

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 if the use of the windmill is discontinued.

If transmission/ distribution service from a windmill is to be discontinued for a period exceeding six (6) months, the owner of such windmills shall notify the Code Enforcement Officer within thirty (30) days of the date such discontinuance commenced.

Any windmill which has been out of active and continuous service for a period of one (1) year shall be removed from the premises to a place of sale and legal disposal. Any and all structures, guy cables, guy anchors and/ or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(ii) Insurance - Liability.

Prior to issuance of a building permit, the application shall provide the Town proof, 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 result from the failure of a tower or any other part(s) of the generation and transmission/distribution facility.

(iii) Environmental Contamination by Oil.

A performance bond will be required to deal with this situation. 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. An Engineer selected by the Town and the Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.

2. Industrial Windmills,

(a) Placement:

(i) Setbacks, Ice and Blade Throw from Property Line.

Setbacks from adjacent property lines, rights-of-way, easements, public ways or power line (not to include individual residential feed lines) shall be the structure height plus one-hundred (100) feet. Structure height shall be measured from the ground surface level to the maximum height of the blades above the nacelle.

The property line setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds the following: (1) both properties on each side of the property line in question will have electric generation or transmission facilities constructed on them as part of the project review, or (2) the owner of the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback is consented to, and construction within, and use of the easement area is appropriately restricted.

(ii) Setbacks, Ice and Blade Throw From Dwellings.

The minimum setback distance between each production wind power electric generation unit (wind turbine tower) from adjacent dwellings, areas or structures customarily used by the public shall be 1500 ft. Structure height includes the blades. The dwelling setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds the following: (1) both properties on each side of the property line in question will have electric generation or transmission facilities constructed on them as part of the project review, or (2) the owner or the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback in consented to, and construction within, and use of the easement area is appropriately restricted.

(iii) Windmill Noise Level Limit

Windmill only noise levels at non-project property lines shall not exceed 50.0 dB(A), except as set forth herein.

In the event that the noise generated by any windmill contains a pure tone component, as set forth herein, windmills shall be located so that predicted windmill only noise at non-project property lines shall not exceed 45dB(A). A pure tone is defined to exist when a one-third (1/3) octave band noise level exceeds the arithmetic average of the two adjacent one-third (1/3) octave band levels by the following:

<u>Band Range</u>	<u>Exceedence</u>
31.5-125 Hz	15dB(A)
160-400 Hz	8dB(A)
500 - 8,000 Hz	5 dB(A)

(iv) Guy Wires and/or 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 any windmill tower from any property line shall be a distance of (50) feet from any anchor point for guy wires or cables.

(v) Lighting.

Towers shall be lit according to State and Federal agency guidelines. Anything over 200' presently requires lighting.

(vi) Broadcast Interference

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.

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, televised or wireless phone or other personnel communication systems would likely to produce electromagnetic interference with signal transmission or reception.

The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.

(vii) Location on Lot

Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

(viii) Substations and/or Switch yards and connecting Distribution/Transmission Lines.

Planning Board shall review locations and visual considerations at time of site plan approval.

(b) Specifications:

(i) Maximum Height Limit

Maximum height limit shall be no greater than 500 feet.

(ii) Color

Industrial windmills must be color approved by the Planning Board unless an agency of the state or federal government mandates something different.

(iii) Structure. Solid tube,

(iv) Type.

All types of windmills will be allowed, (v)

Ice Buildup Sensors

No wind turbines shall be permitted which lack an automatic shutdown feature in the event of blade icing.

(vi) Connecting Cables

All power transmission/distribution lines from the windmill electricity generation facilities shall be underground from the windmill electric generation facility to the collection station. All other circumstances would be reviewed during the site plan process.

(vii) Blade to Ground Distance.

The lowest portion of the blade may not be closer than thirty (30) feet to the ground.

(viii) Windmill Design.

Only upwind design windmills are allowed in the Town,

(ix) Signage

No advertising signs are allowed on any part of Industrial Windmills and Windmill Facilities.

(c) Notice and Safety Considerations:

(i) Fencing.

Access to the towers shall be limited by secured entry to the tower base.

(ii) 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, and turbine components.

(d) Operating Considerations

(i) Removal if Not Operational.

Any windmill, which has been out of 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, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(ii) Landscaping

Upon completion of installation the site shall be returned as close as possible to its natural state. Seeding of disturbed areas will be a minimum.

(iii) Buildings and Grounds Maintenance

Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a fenced designated storage area or legally disposed of. All maintenance equipment and spare parts, etc shall also be kept in a fenced designated storage. Oil shall be legally disposed of.

(iv) 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, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. The change in ownership shall be registered with the Code Enforcement Officer.

(v) 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.

(vi) Windmill Noise Level Limit.

Windmill only noise levels at non-project property lines shall not exceed 50 dB(A), when measured at the minimum wind speed at which the windmill will achieve its rated electric output as set forth in the project related special use permit.

As set forth herein, compliance with windmill only noise level requirements shall periodically be determined by the Town Code Enforcement Officer, or such other officer or employee which the Town Board may designate. The Code Enforcement Officer, or such other designated officer or employee of the Town, shall take three successive A-weighted fifteen (15) second  $L_{eq}$  measurements at an appropriate position on non-project property lines. If the arithmetic average of noise at non-project property lines is equal to or below 50 dB(A), then the project shall be considered in compliance with this Article. If an arithmetic average of higher than 50 dB(A) is measured, then the project sponsor shall cease operation of the nearest windmill, and the Code Enforcement



Officer, or such other designated officer or employee of the Town, shall take another series of three, 15-second  $L_{eq}$  measurements. Appropriate places from which to take the sound measurements include areas where background noise is minimized and constant.

Windmill only noise shall be determined based upon the following formula:

$$10\text{Log}_{10}\{10^{0.1C}-10^{0.1A}\}$$

\*C = the recorded ambient noise level when the turbine is on;

A = the recorded noise level when the turbine is off.

Windmill only noise levels at non-project property lines may exceed the thresholds set forth herein only if the affected non-project property owner provides written consent to the Town Code Enforcement Officer.

(e) Certifications

(i) Routine Inspection Report

An inspection report prepared by the turbine supplier/manufacturer licensed in the State of New York will be required at the time of installation and every (3) years thereafter. The inspection reports required at the time of installation and thereafter will be for the structure and the electronics and will be given to the Code Enforcement Officer.

(ii) 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 have been met or 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 such standards.

(iii) 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 windmills have been or are being complied with.

(iv) Wind Speed

Certification is required by a registered 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.

(f) Sureties

i. Performance Bond (Removal)

The owner of a windmills, 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 if the use of the windmills is discontinued. An Engineer selected by the Town and the 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 herein.

If transmission/distribution service from the windmill is discontinued for a period exceeding six (6) months, the owner of such windmill shall notify the Code Enforcement Officer within (15) fifteen days following the expiration of the (6) six month discontinuance period.

Any windmill which has been out of 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, guy cables, guy anchors and/ or enclosures accessory to such windmills shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill. Any foundation left must be at least 3' below surface land or facilities shall be left at the discretion of the land owner.

ii. Insurance - Liability

Prior to issuance of a building permit, the applicant shall provide the Town proof, 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 result from the failure of a tower or any other part(s) of the generation and transmission facility.

iii. Environmental Contamination by Oil

A performance bond will be required to deal with this situation. The owner of the windmills 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. An Engineer selected by the Town and Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.

iv. Road Repairs

The turbine supplier and associated contractors will be responsible for any road repairs that may be necessary upon construction completion. The project developer shall document local road conditions prior to construction for all roads to be utilized in connection with the project, and shall submit a quarterly report to the Town Highway Superintendent which identifies all material changes in the condition of roads so utilized, which report shall be verified by the Town Highway Superintendent. Project approval should stipulate that the developer shall restore any road damage to the documented pre-construction conditions.

**1140 Modifications and Waivers**

1. The Planning Board, in addition to the foregoing section, may require such additional provisions and conditions that appear to promote further understanding of the applicant's proposal and are necessary for the purposes of ultimately protecting the health, safety and general welfare of the town's residents.
2. The Planning Board may, at its discretion, judge that certain requirements of this Article are not applicable in its approval of a site plan or special use permit, and may therefore, modify the applicable requirements and allow the applicant to submit only those elements which it deems necessary to the review and approval of the particular application.

**1150 Duration of Special Use Permit and Continuing Obligations**

Any special use permit approved pursuant to this Article shall remain in force and effect unless or until the windmill related windmill facilities are removed in accordance with the foregoing sections.

## **1160 Enforcement**

This local law shall be enforced by the Code Enforcement Officer of the Town of Cohocton or such enforcement officer duly empowered by the Town of Cohocton.

## **1170 Penalties**

In addition to Penalties and Remedial Actions allowed pursuant to Section 756 of these Regulations, the Code Enforcement Officer of the Town or such enforcement officer duly empowered by the Town of Cohocton may assess a civil penalty in an amount not to exceed \$1,000 for any and all violations of this Article. Each day the violation continues once notice of the same is provided to the responsible party shall constitute a separate violation.

**BE IT FURTHER RESOLVED THAT,** this local law shall supersede all prior inconsistent local laws, ordinances or regulations.

**BE IT FURTHER RESOLVED THAT,** this local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

DATED: September 21, 2006