Local Law Number 3 of 2012 – Town of Lyme, NewYork

Be it hereby enacted by the Town Board of the Town of Lyme as follows: Section 1: Local Law Number 3 of 2012, entitled, "Industrial Wind Energy Conversion Systems", is hereby adopted in its entirety as follows:

Industrial Wind Energy Conversion Systems Law

Article I.
This Local Law shall be cited as the "Industrial Wind Energy Conversion Systems Law of the Town of Lyme, New York."

Article II. Purpose
The Town Board of the Town of Lyme adopts this Local Law to regulate the placement of Industrial Wind Energy Conversion Systems (WECS) so that the public health, safety, and welfare will be protected.

It is the purpose of this law to provide the regulatory structure that ensures the protection of the Town of Lyme residents and minimizes the impacts on the Town's environment in the siting and operation of Industrial Wind Energy Conversion Systems. Notably, this law will reduce, minimize, or eliminate negative impacts on the unique resources within the Town of Lyme including, among many, the Seaway Trail, Lake Ontario and its contiguous waterways, and the Chaumont Barrens.

Article III. Authority
The Town Board of the Town of Lyme enacts this Local Law under the authority granted by:

1. Article IX of the New York State Constitution, §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 §1O (l)(a)(6), (11), (12), and (14).

4. The supersession 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 variances under this Local Law, to the extent such grant of power is different than under Town Law §267.

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), (ll)(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).

Article IV. Findings

The Town Board of the Town of Lyme finds and declares the following:

1. Wind is a renewable, nonpolluting energy resource.

2. Regulation of the siting and installation of industrial wind turbines is essential for protecting the health, safety, and welfare of the general public and the community at large.

3. Industrial WECS represent significant potential aesthetic impacts because of their large size, noise, lighting, shadow flicker effects, and other related issues.

4. If not effectively regulated, the siting and construction of WECS and their associated infrastructure (e.g., access roads) can cause undesirable and unnecessary impacts to farmland including, but not limited to, excessive removal of topsoil with erosion and sediment damage, and soil compaction.

5. WECS present a risk to birds, bats, and other creature and must be properly sited to minimize impacts.

6. WECS can adversely affect the value of surrounding, non-participating properties. For example, a study examining the effect of wind turbines on neighboring property values was performed by Clarkson University. Property transactions that occurred over a nine year period within Clinton, Lewis, and Franklin counties were analyzed. Findings varied from county to county. In some areas, it was found that values could be depressed by as much as 17% by the presence of wind turbines. (Published in the journals, *Land Economics* and *The B. E. Journal of Economic Analysis and Policy*)

7. WECS are a significant source of noise, including infrasound. If not properly regulated and sited, the sound from WECS can negatively impact the health of residents and eliminate the opportunity to enjoy the quiet surroundings that are characteristic of the region.

8. Construction of WECS will require planning and control to minimize regional traffic problems. Town, county, and state roads will require upgrades to handle heavy equipment and restoration to state standards following completion of construction.

9. WECS can cause electromagnetic interference issues with various types of communications. (Reference: *Wind Turbine Technology: Fundamental Concepts in*

Wind Turbine Engineering, 2nd Edition, 2009; Editor, David A Spera; Chapter 9, "Electromagnetic Interference from Wind Turbines"; Authors, Depak L Sengupta & Thomas B A Senior)

10. The installation and operation of WECS can affect ground water supplies. The Town's sub-structure has areas consisting of unique fractured limestone bedrock with an associated high water table. WECS must be designed and sited to prevent exposing this fragile ground water system to potential pollution.

11. Setback distances must address and mitigate operational hazards including but not limited to ice throws, blade breakage, tower collapses, and fires.

12. WECS siting will affect areas available for future land use such as locations of subdivisions.

13. Industrial wind energy projects (projects) are risky financial ventures. To limit risk to equity partners, these projects are typically organized as limited liability corporations (LLCs). The financial viability of wind project LLCs is highly dependent on state and federal government subsidies, tax breaks, and other favorable treatments. Loss or reduction of any of these benefits could cause LLC bankruptcy. Multiple owners are expected over the lifetime of a project. Cash funds from the Applicant must be in the Town's possession to cover any and all liabilities, including funds to cover decommissioning of the facility.

14. The Town of Lyme is unique, encompassing an area offering year-round freshwater and land based recreational opportunities, a small town environment, and nature's scenic beauty and serenity. The Town of Lyme is exceptional with 53 miles of waterfront on Lake Ontario and its inland bay, Chaumont Bay. Residences line the shorelines, experiencing extensive views of Lake Ontario, Chaumont Bay, and inland regions. The Town is relatively small in total area with generally flat topography. There are uninterrupted views to the horizon that can extend to 15 miles. Structures over the tree line (approximately 60 feet high) are visible for many miles.

15. The Town of Lyme conducted a detailed survey of Lyme's permanent and part-time residents in 2011 to determine residents' perspectives regarding the placement of WECS in Lyme. The majority of residents stated that WECS are inappropriate for siting within Lyme. Consequently, any law allowing the siting of WECS must reflect stringent requirements that will ensure protection of the local population and the environs.

16. In consideration of all of the above factors, there may be limited areas where WECS can be safely constructed and operated. These areas are within the Town of Lyme Wind Overlay District, the boundaries of which are defined in Section 305 of the Zoning Ordinance of the Town of Lyme.

Article V. Enactment

The Town Board of the Town of Lyme hereby amends its Zoning Ordinance as follows:

1. Section 210 of the Zoning Ordinance of the Town of Lyme is hereby amended to add the following definitions:

AMBIENT SOUND – all sound present in a given environment, generally a composite of sounds from many sources near and far. It includes intermittent noise events, such as nearby aircraft, barking dogs, wind gusts, mobile farm or construction machinery, and vehicles traveling along nearby roads. Ambient sound also includes insect and other sounds from birds and animals or people. Audible transient events are part of the ambient sound environment but are not considered part of the long-term background sound.

BACKGROUND SOUND (L90) – sounds heard during lulls in the ambient sound environment present at least 90% of the time, i.e., when transient sounds from flora, fauna, and winds are not present. Background sound levels vary with time of day. Background sound levels of interest for this law are those during quieter periods which typically occur early evening and night.

Decibel (dB) – unit of sound level based on a reference where 0 dB represents the threshold of hearing at 1000 Hz for a healthy young adult. The suffix, A (i.e., dBA) denotes that the frequencies have been adjusted to represent the relative loudness of sounds in air as perceived by the human ear. Specifically, sounds at low frequencies are reduced because the human ear is less sensitive at low audio frequencies, especially below 1000 Hz. The suffix, C (i.e., dBC) denotes that the frequencies have not been adjusted to reflect the sound frequency response of the human ear.

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

EXTRANEOUS NOISE - sound from animals, wind, insects, birds, aircraft, unusual traffic conditions, or any other infrequent component of the ambient noise.

IMPULSIVE NOISE - sound from impulse sources comprising a single pressure peak or sequence of peaks, or a single burst with multiple pressure peaks with amplitude decaying with time, or a sequence of such bursts.

LOW FREQUENCY NOISE - noise with perceptible and definite content in the audible frequency range below 250 Hz.

NOISE - any loud, discordant, or disagreeable sound or sounds. In an environmental context, noise is an unwanted sound.

NON-PARTICIPANT – any landowners not hosting a WECS or owning property that is part of the WECS site.

PARTICIPANT – a landowner who is hosting a WECS on his/her tax map ID or a landowner who has entered into an agreement with the WECS licensee to become part of the WECS site.

RESIDENCE - a habitable dwelling. A residence may be part of a multi-dwelling or multipurpose building, and includes structures such as hunting camps, seasonal residences, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

ROTOR DIAMETER –two times the length of a rotor blade as measured from the center of the hub.

ROTOR SWEPT AREA – the area swept by the rotor blades, in square feet; also called the 'capture area'. (Area Swept by the Blades= pi times blade length in feet, squared)

SCENIC CORRIDOR - A roadway and its right-of-way with scenic views and scenic sites with generally a high percentage of open landscape within and alongside it.

SCENIC SITE - A building, structure, field, resource, natural condition or other feature that has scenic qualities and which has been specifically identified by the Town in the environment and natural resources chapter of its comprehensive plan or other inventory and assessment as worthy of protection because of its scenic qualities.

SCENIC VIEW - A scene that is attractive for viewing from roads and other public access locations.

SEQRA - 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.

SHADOW FLICKER – the on-and-off strobe light effect caused by the shadow of moving blades cast by the sun.

SITE - The continuous land area defined for the purpose of meeting all siting requirements for a single or multiple WECS, including but not limited to sound, setback, and shadow flicker limits. A site can consist of multiple contiguous parcels owned by different individuals or entities. A site cannot contain non-participant parcels. Any loss of participant land continuity will require the establishment of another site.

SOUND – a disturbance or oscillation that propagates outwardly from the source.

SOUND FREQUENCY – the number of oscillations per second expressed in hertz (Hz).

- Audible or tonal sound – sound frequencies between 20-20,000 Hz.
- Broadband – a wide range of frequencies above 100 Hz.
- Low-frequency – sound with frequencies below 100 Hz, including audible sound and infrasound.
- Infrasound – sound frequencies below 20 Hz, which, if sufficiently intense, may be perceived by individuals.

SOUND LEVEL – the A-weighted or C-weighted sound pressure level in decibels as measured using a sound level meter that meets the requirements of a Type 2 or better precision instrument according to ANSI S1.4.

TOTAL HEIGHT - The distance from the ground to the tip of an upward pointing vertical turbine blade.

VIEWSHED - The area that can be seen from a viewpoint.

WIND ENERGY CONVERSION SYSTEM ("WECS") - A commercial machine with a generating capacity equal to or greater than 500kw that converts the kinetic energy of wind into electricity (also called a "wind turbine").

WIND ENERGY FACILTY - Any Wind Energy Conversion System, including all related infrastructure, electrical lines and substations, access roads, wind measurement tower(s), and/or accessory structures.

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

WIND OVERLAY DISTRICT – Those areas within the Town of Lyme where wind energy conversion systems (WECS) and related infrastructure, electrical lines and substations, access roads and accessory structures may be sited.

A new Section 770 – Wind Energy Conversion Systems is hereby added as follows:

Section 770: Wind Energy Conversion Systems

Article 1

1. Permits Required

A. No WECS shall be constructed, reconstructed, modified, or operated in the Town of Lyme, except in compliance with this Local Law.

B. No WECS shall be constructed, reconstructed, modified, or operated in the Town of

Lyme, except in a Wind Overlay District.

C. No WECS Permit shall be issued allowing construction, reconstruction, modification or operation of a WECS, until all other permits as may be required (e.g., FAA, DEC, etc.) have been issued and evidence of same provided.

D. No Wind Measurement Tower shall be constructed, reconstructed, modified, or operated, except in compliance with this Local Law.

E. Exemptions. No permit or other approval shall be required under this Local Law for mechanical, non-electrical WECS utilized solely for on-site agricultural operations.

2. Applicability

WECS may be regarded as either a principal or an accessory use. Any existing use or existing structure on a Site shall not preclude the installation of a Wind Energy Facility or a part of such facility on the Site.

Article II.

1. Creation of Wind Overlay District

The Town of Lyme has designated areas for siting WECS and related infrastructure, electrical lines, transmission lines and substations, access roads and accessory structures. It consists of the Wind Overlay District which is defined as follows:

Section 305 of the Zoning Ordinance of the Town of Lyme is hereby amended, adding a new subparagraph 4 – Wind Overlay District.

Section 310 of the Zoning Map is hereby amended and restated as follows:

The boundaries of the above named District are shown on the map entitled "Zoning Map, Town of Lyme" which is by reference made a part of this Law.

2. Applications for Wind Energy Conversion Systems (WECS) – A complete application for a WECS or group of WECS known as a project shall include:

A. APPLICATION: A package containing all of the information required as described below.

B. LOCATION MAP: A section of the most recent USGS Quadrangle Map at a scale of 1:24,000 or similar showing the proposed WECS Site, associated roadways,

transmission lines and the area within two miles from the proposed site boundaries.

C. SITE PLAN: A site plan prepared by a Licensed Land Surveyor, Professional Engineer, Landscape Architect or Architect (as appropriate for the scope of practice and in compliance with New York State Education Law), including:

1) A description of the project, including the number of WECS and the power rating of each WECS.

2) Property lines and physical dimensions of the site.

3) Location, approximate dimensions and types of major existing structures and uses on the site; public roads and properties within 2,640 feet beyond the site boundaries; the Wind Overlay District boundaries.

4) Location, GPS coordinates, and elevation of each proposed WECS.

5) On-site locations of transmission lines with interconnection points, transformers, and all ancillary facilities or structures.

6) Plots of topographic contour lines, roads, rights of way, land cover, wetlands, streams, water bodies and areas proposed to be temporarily cleared of vegetation, areas to be permanently cleared of vegetation, areas of grading, and areas of cut and fill.

7) Location of residential structures within the site and their distance from each proposed tower.

8) Plans for long-term ingress and egress to the proposed project site, including:
   (a) A description of the access route from the nearest state, county, and/or town-maintained roads to include:
      (i) Road surface material, stating the type and amount of surface cover.
      (ii) Width and length of the access route.
      (iii) Dust control procedures
   (b) A road maintenance schedule.

9) Landscaping plan, depicting existing land features and contours, average height of brush, trees, forest cover and other vegetation, and describing all proposed changes to existing features, the area to be cleared and the specimens proposed to be added, identification by species and size of the specimen at installation, and their locations.

10) Construction Access Plan, prepared by a Professional Engineer licensed to practice in New York State, reviewed in advance by the Jefferson County Highway Department, the Town Highway Department, the Chaumont Fire

Department, and the Three Mile Bay Fire Dept. The Access Plan shall include the following:

(a) Identification of all roads, including seasonal roads, and rights of way within the Town to be used for Site access during construction, and a plan for marked detours where necessary, so traffic to residences and businesses can continue unobstructed,
(b) Estimate of the number of vehicle trips over each road by vehicle type and gross weight.
(c) Indicate any areas where clearing of trees, road widening, or realignment is necessary.
(d) The engineer shall provide an analysis of potential road damage.
(e) A video of the current condition of all roads to be used for construction and long term access.
(f) The anticipated staging areas.
(g) The execution of Highway Use document X per Appendix ____.

The final, approved version of this plan is not expected to be complete at the time of the application submittal. It shall be available prior to final project approval.

11) A fire protection and emergency response plan must be created in consultation with the fire department(s) having jurisdiction over the proposed site and the Jefferson County Office of Fire and Emergency Management.

12) An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems, the 911 emergency notification system, and other wireless communication must be conducted by an independent contractor, following all applicable FCC requirements.

13) An assessment, pre- and post-installation, must be performed to determine the potential existence of stray voltage problems on the site and on neighboring properties within one mile of the project boundary and to establish mitigating actions.

14) A geotechnical report must be prepared that includes: soils engineering and geologic characteristics of the site using sampling and testing; a bedrock profile within one mile of the site boundary; information on depth and average flow rates of wells and, with permission by owner, performance of water quality tests for all wells within two miles of the site; grading criteria for ground preparation, cuts and fills, soil compaction, and a slope stability analysis.

15) The Town shall require the applicant to deposit funds to cover the amounts by which the Town's customary and reasonable costs of review of the applications exceed the application fees paid by the Applicant. Those costs shall include, but

not be limited to, engineering fees, legal fees, and the fees and/or costs of special consultants, as may be required.

16) Proof of continuous liability insurance in the amount of $5,000,000 per occurrence with a total policy minimum of $20,000,000 per year shall be provided. The policy shall be submitted to the Town indicating coverage for potential damages and injury to landowners.

17) For any financial interest held by a Municipal Officer or employee or his or her relative in any wind development company or its assets within ten years prior to the date of an application for a permit under this local law, the Applicant shall disclose in a separate section of the application the Municipal Officer and his or her relative, the addresses of all persons included in the disclosure, and the nature and scope of the financial interest of each person. The disclosure shall include all such instances of financial interest of which the Applicant has knowledge, or through the exercise of reasonable diligence should be able to have knowledge, and the format of the submission shall be subject to the approval of the Town Board.

18) Copies of all applications and proposed plans should be made available to the public within seven days of receipt by the Town Clerk and placed in the Town Library and Town Clerk's office as well as on the Town of Lyme website.

D. ELEVATIONS: A drawing of a WECS showing total height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing is sufficient to depict all WECS of the same type and total height. The make, model, picture and manufacturer's specifications, including noise (in decibels) data, and Material Safety Data Sheet documentation for all materials used in the operation of the equipment shall be provided for each proposed WECS design.

E. LIGHTING PLAN: Lighting Plan showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure. However, if such determination is not available at the time of the application, no WECS permit for any lighted facility may be issued until such determination is submitted. Lighting shall be directed up and horizontal, minimizing the downward component to the extent permitted by FAA regulations. The Applicant must utilize any methods and equipment allowed by the FAA that minimize the time that the warning lights would be illuminated.

F. STORM WATER MANAGEMENT PLAN: Erosion and sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, as applicable, and to standards that may be established by the Town of Lyme.

G. CONSTRUCTION SCHEDULE: A construction schedule describing commencement and completion dates, beginning and ending hours of daily construction, a traffic analysis with a description of the routes and times to be used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles. This schedule shall also include a construction plan detailing the staging processes. The final version of this schedule is not expected as part of the initial application but must be complete prior to issuance of the WECS permit.

H. DECOMMISSIONING PLAN: Decommissioning Plan that includes information required by this law.

I. PROPERTY OWNER LIST: List of property owners, with their mailing address, within one mile of the site boundary.

J. COMPLAINT RESOLUTION: A complaint resolution process that follows the process described in Article V, Section 1 of this law.

K. TRANSPORTATION PLAN: A description of impacts anticipated during construction, reconstruction, modification or operation of WECS on the local transportation infrastructure shall be prepared. Transportation impacts to be considered shall include potential damage to local road surfaces, road beds and associated structures; traffic impacts caused by haulers of WECS materials; effects on school bus routes; impacts of visitors to the WECS facilities. Local roads shall include all state, county, and town highways, and village streets, which will or may be used by the applicant. The transportation plan must describe routes used for delivery of project components, equipment and building materials, and for access to the Site during and after construction. The plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, and measures to restore damaged/disturbed access routes following construction.

L. EMERGENCY SHUTDOWN PROCEDURES: A description of emergency and normal shutdown procedures.

M. FULL EAF: A Full Environmental Assessment Form, as provided by the New York State Environmental Quality Review Act (SEQRA) shall be prepared for the Wind Energy Facility. If the Board decides the project could have potentially significant environmental impact(s), then an Environmental Impact Statement (EIS) shall be prepared, and at a minimum, shall include the following assessments, studies, reports and\or plans:

1) A study of potential Shadow Flicker, including a graphic to identify locations where Shadow Flicker may be caused by the Wind Turbines and expected durations of the flicker at these locations. The study shall identify areas where Shadow Flicker may affect residences and describe measures to be taken to eliminate Shadow Flicker problems. There shall be no Shadow Flicker on off-site

properties.

2) A visual impact study of the proposed WECS, as installed, shall be prepared that includes digital simulations of views from the following vantages: major roadways, public recreation areas, state parks, wildlife management areas, and residences within one (1) mile of the site boundary. Color photographs of the site depicting pre-construction conditions shall be included. The visual analysis shall also describe exterior treatment of system components and any visual screening to reduce the system's visual prominence.

3) An analysis of impacts on local wildlife shall be prepared, describing impacts anticipated during construction, reconstruction, modification or operation of WES. Wildlife impacts to be considered shall include, at a minimum, anticipated impacts on flying creatures (birds, bats, and insects), ground inhabiting creatures, and flora. The scope of such assessment shall be developed in consultation with the New York State Department of Environmental Conservation and the United States Fish and Wildlife Service and must include at least two years of pre-construction data. Literature surveys for threatened and endangered species that provide relevant information on critical flyway locations and potential impacts of proposed facilities on bird and bat species shall be performed. An impact avoidance or mitigation plan that meets the approval of the NYS DEC must be submitted, including a description of post-installation studies to determine plan effectiveness.

4) An assessment must be conducted to determine potential immediate and long-term impacts to local flora and fauna, micro and macro habitats, and ground and surface water related to excavation, blasting, clear-cutting and grading during the site preparation phase.

5) An assessment of archaeological, historical, and cultural resources that may be impacted by the project shall be conducted in coordination with the New York State Office of Parks, Recreation and Historic Preservation and make use of the Town's Comprehensive Land Use Plan to identify local resources and stated priorities.

6) Any other issues that result from the SEQRA review must be addressed.

N. AFFIRMATION: A statement signed under penalties of perjury that the information contained in the application is true and accurate.

O. SIGNATURES REQUIRED: The application shall be signed in the presence of a Notary Public by the Licensee.

3. Application Review Process

A. Applicants are encouraged to have a pre-application meeting with the Planning Board, and with any consultants retained by the Town for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.

B. Twenty paper copies and a digital version in Adobe pdf format of the complete application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission.

C. Zoning Enforcement Officer with the Planning Board shall determine, within 60 days of receipt, or such longer time if agreed to by the applicant and the Planning Board, if all information required under this Article is included in the application. This determination may also require Town-designated consultants, which shall be retained at the expense of the applicant to make a like determination.

> If the application is deemed incomplete, the Planning Board shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the application is more than 20% deficient, or there is a significant change in the application, as determined by the Planning Board, such as but not limited to an increase in the proposed number of WECS.

D. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by registered or certified mail with a return receipt requested, to property owners within two miles of the site boundary and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing produced by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

E. Any subsequent public hearing(s) may be combined with public hearings on any Environmental Impact Statement.

F. Notice of the project shall also be given, when applicable, to (1) the Jefferson County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to adjoining Towns under Town Law §264.

G. SEQRA review. Applications for Commercial WECS Permits are deemed Type I projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said agencies shall be part of the record of the Planning Board's proceedings. The Town shall require sufficient financial deposit(s) from the applicant to cover the engineering and legal review of the applications and any environmental impact statements before commencing its review. The determination by the Town shall provide a minimum balance that the

applicant must maintain with the Town from which the Town shall pay its professional fees for review.

H. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.

I. To the extent that this procedure conflicts within Article V of the Town of Lyme Zoning Ordinance, this Section shall control.

J. If approved, the Planning Board will issue a WECS Permit for each WECS, allowing construction. The Zoning Enforcement Officer will issue a Certificate of Compliance for each WECS, when complete and in compliance with the conditions of this local law, allowing operation.

K. If any approved WECS is not fully operational within two (2) years, the WECS Permit shall expire for that WECS only and decommissioning procedures will commence.

4. General Standards for WECS

The following standards shall apply to all WECS:

A. All power transmission lines from the tower to any building or other structure shall be located underground, including all transmission lines and those transiting the Town of Lyme from WECS sited within other jurisdictions.

B. No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the Town Zoning Law. Applications may be jointly submitted for WECS and telecommunications facilities.

C. No advertising signs are allowed on any part of the WECS, including fencing and support structures.

D. No tower shall be illuminated except to comply with FAA requirements. Only downward directed security lighting for ground level facilities may be allowed as approved on the site plan.

E. All applicants shall use measures to minimize the visual impact of WECS. All structures in a project shall be finished in a single, non-reflective matte finish. WECS shall be constructed in a manner that provides reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades, or on surrounding property.

F. No WECS shall be installed in any location where its proximity with existing antennas for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including resolution of the

issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the WECS Certificate of Compliance for the WECS(s) causing the interference.

G. All waste including hazardous waste and construction debris shall be removed from the site and managed in a manner consistent with all State and Federal rules and regulations.

H. WECS shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided. The use of previously developed areas will be given priority wherever possible. All top-soil disturbed during construction, reconstruction or modification of WECS shall be stockpiled and returned to the site upon completion of the activity, where possible. When additional soil is required, new soil must be of similar quality to that of the original site.

I. Pursuant to the SEQRA determination, WECS shall be located in a manner that minimizes negative impacts on animal species in the vicinity, particularly bird and bat species, including those that are listed by the U.S. Fish & Wildlife Service as threatened or endangered. Measures to mitigate or eliminate negative impacts will be determined on a case-specific basis.

J. WECS shall be located in a manner consistent with all applicable state and federal wetlands laws and regulations, particularly as applied to the Chaumont Barrens and NYS Ashland Flats Wildlife Management Area.

K. Storm water run-off and erosion control shall be managed in accordance with all applicable state and Federal laws and regulations.

L. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects shall be adhered to, both inside and outside of agricultural districts.

M. The maximum Total Height of any WECS, including the upward vertical extent of the blade, shall be 400 feet.

N. Construction of the WECS shall be restricted to the hours of 7AM through 7PM Monday through Friday. No construction activities shall be permitted on Saturday, Sunday, or Federal holidays. Exceptions may be granted through written request/approval of the Planning Board or, for emergencies, verbal approval from the CEO or Town Supervisor.

O. Underground cables and wires, substations, and all permanent access roads shall be positioned along existing fence lines, hedge rows or tree rows, and/or as near the edge of any fields as possible to minimize disruption to residences, pasture land or tillable land. Following construction, the site shall be graded and seeded and restored to its preconstruction condition. During construction the licensee shall follow best agricultural practices to insure the post construction integrity of the site.

P. WECS shall be located in a manner that minimizes significant negative impact on the historic landmarks and cultural aspects of the community pursuant to the SEQR process.

Q. This law supersedes all commercial, industrial, and private agreements affecting any aspect of this law, except as specified in this law.

5. Required Safety Measures

A. Fencing may be required to limit public access. Copies of any keys or key codes shall be given to the Zoning Enforcement Officer who will ensure that other responsible town departments have access including, for example, the fire and police departments.

B. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of fence around each tower or group of towers and any building containing emergency contact information, including a local telephone number with 24 hour, 7 days per week coverage.

C. No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole or guyed towers. Alternatively, the structure must be equipped with a locked anti-climb device.

D. The minimum distance between the ground and any part of the rotor or blade system shall be thirty-five (35) feet.

E. WECS shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked. Copies of any keys or key codes shall be given to the Zoning Enforcement Officer who will ensure that other responsible town departments have access including the fire and police departments.

F. Copies of all reports concerning operating and safety inspections for each WECS shall be filed with the Town Clerk.

6. Traffic Routes

A. Construction of WECS poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and/or associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include

(1) minimizing traffic impacts from construction and delivery vehicles;
(2) minimizing WECS related traffic during times of school bus activity;
(3) minimizing wear and tear on local roads; and
(4) minimizing impacts on local business operations.

Permit conditions limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public. This shall be coordinated with the Town Highway Superintendent, and Transportation Supervisor for the Lyme Central

School District, in compliance with the provisions of the Agreement for Road Use, Repair, and Improvements.

B. Prior to commencement of construction of the WECS, the applicant shall bring all State Highways, County Highways, Town Highways and Village streets, including seasonal use roads, to the standards applicable to the loads anticipated as set forth by the Jefferson County Highway Department and the Town of Lyme Highway Superintendent and the NYS DOT.

C. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a WECS. The escrow agreement shall include an installation guarantee which shall be posted in cash to the escrow account prior to the issuance of any WECS Certificate of Compliance in an amount, determined by the Planning Board, sufficient to compensate the Town for any damage to local roads in accordance with Section 530 of the Town zoning law. The Planning Board shall coordinate with the State, County, and Town Highway Departments. The Town Board is responsible for approving and signing the final road agreement.

7. Noise Standards for WECS

The Sound Pressure Level shall not exceed 1 and 2 as follows. Permissible Sound Pressure Levels of 1 and 2 shall be modified if the sound includes Prominent Tones.

1) A-weighted SOUND PRESSURE LEVEL shall be less than or equal to 30 dB from the hours of 7:00pm to 7:00am and less than or equal to 35 dB at all other times, measured at the nearest, non-participant SITE BOUNDARY.

2) C-weighted SOUND PRESSURE LEVEL shall be less than or equal to the above values plus 18 dB as measured at the nearest, non-participant SITE BOUNDARY.

C. Sound Measurement Methods. Sound Measurements shall use sound meters that meet the ANSI Specifications for Integrating Averaging Sound Level Meters, S1.43-1997 for Type I instruments and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. The measurement spectrum shall be 6 Hz to 10 kHz. The testing method shall include the following provisions:

1) The BACKGROUND SOUND is the preconstruction Sound Pressure Level measured during the quiet time for the soundscape under evaluation (typically, between 10pm and 4am) and with test duration of ten continuous minutes. Several contiguous ten-minute tests may be performed in one hour to determine the statistical stability of the sound environment. Measurement periods such as at dusk or dawn when bird or insect activity is high are not acceptable measurement times. Test results are only valid when the A-weighted level exceeded 10% of the time is no more than 10dB above the A-weighted level exceeded 90% of the time during the same period. Furthermore, the C-weighted level exceeded 10% of the time minus the C-weighted level exceeded 90% of the time is

not to exceed 10 dB to be valid. The Background Sound levels documenting the pre-construction baseline conditions shall be determined when the 10 minute maximum wind speed is less than 2m/s as measured within 5 m of the microphone and at the microphone height of 1.5m and the atmosphere is considered stable with no vertical heat flow to cause air mixing. Sound measurement points shall be taken between inflection points of the Site survey and at locations nearest Residences. For example, a rectangular parcel contains 4 inflection points (the corners) and would result in a minimum of four measurement points, one along each side of the property. A five-sided parcel would have a minimum of five measurement points, etc. Measurement points shall be quiet locations remote from streetlights, transformers, street traffic, flowing water and other local noise sources. The background sound may be measured following construction using the above method but with the WECS turned off if, with the consent of the Town, it is determined that the Background Sound level (both A and C weighted) exceeded 90% of the time has increased by more than 3dB from those measured under the pre-construction nighttime conditions.

2) The SOUND PRESSURE LEVEL during turbine operation shall be measured when the maximum wind speed, sampled within 5m of the microphone and at its height, is less than 4 m/s. The wind speed at the WES blade height shall be at or above the nominal rated wind speed and operating at its highest sound output mode. For purposes of enforcement, the wind speed and direction at the WECS blade height should be selected to as nearly as possible reproduce the conditions leading to the enforcement action while also restricting maximum wind speeds at the microphone to less than 4 m/s.

8. Setback Standards for Wind Energy Conversion Systems.

Each WECS shall conform to the following setbacks:

A. One-half mile (2,640 feet) safety setback from the nearest public road or right of way.

B. One-half mile (2,640 feet) from non-participating property lines and boundaries with neighboring towns.

C. 1,600 feet from any non-WECS above-ground utilities located within the project boundary.

D. One-half mile (2,640 feet) from state-identified parks, wildlife management areas, nature preserves, and wetlands.

E. One mile (5,280 feet) from the current Village of Chaumont boundary and from the Hamlet of Three Mile Bay Lighting District boundary.

F. All WECS shall be setback a minimum of one mile (5,280 feet) from

1. Schools and churches

2. Public land where people gather (e.g., public access sites, ball fields, cemeteries*)*

G. One mile (5,280 feet) from NYS Route 12E, the Great Lakes Seaway Trail State Scenic Byway.

H. Two mile setbacks from Lake Ontario, Chaumont Bay, and the Chaumont River.

I. Setbacks resulting from the noise limitations set forth in this law shall apply when more restrictive than the setbacks defined in Sections A through G above.

9. Abatement or Decommissioning

A. If any WECS remains non-functional or inoperative for a continuous period of 12 months, the licensee shall, without further action by the Planning Board, remove said system at its own expense in accordance with the provisions of subsection C of Section 10. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA or by lack of income generation. The applicant shall make available to a designee (i.e. town engineer, consultant, project manager, etc.) appointed by the Planning Board, all reports from the purchaser of energy from individual WECS, if requested to prove the WECS is functioning. Alternately, the applicant may provide an explanation for the extended period of inoperability and the plan for returning the WECS to operation for Planning Board consideration.

B. Decommissioning and Site Restoration Plan and Requirements

An application for a WECS Building Permit shall include a decommissioning and site restoration plan containing the following information and meeting the requirements in this section.

i. The Plan shall provide for the removal from the Project Parcels, and lawful disposal or disposition of, all WECS and other structures, hazardous materials, and electrical facilities and cables. The plan shall provide for the removal of all access roads that the owners of the Project Parcels want removed. The plan shall provide for the restoration of the Project Parcels to be graded to approximately the original topography.

ii. The Plan shall provide for the decommissioning of the site upon the expiration or revocation of the WECS permit, or upon the abandonment of the WECS. The WECS shall be deemed abandoned if its operation is ceased for 12 consecutive months and the owner/operator is not actively pursuing remedies to restore its operation.

iii. The Plan shall include: a) estimated decommissioning cost in current dollars; (b) how the estimate was determined; (c) the method establishing the cash or other acceptable form of funds for decommissioning and restoration; and (d) the method that will be used to keep the decommissioning costs current. The Town Board will make arrangements to ensure the fund amount is adjusted annually to reflect inflation and other cost increases.

iv. The Plan shall include provisions for financial security to ensure completion of decommissioning (removal of non-functional towers and appurtenant facilities) and site restoration. The applicant, or successors, shall continuously maintain a fund payable to the Town, in cash or other acceptable security as part of the decommissioning agreement in an amount to be determined by the Town for the period of the life of the facility. This fund shall be no less than 125% of the cost of full decommissioning. No credit for salvage value will be given. All decommissioning funding requirements shall be met prior to commencement of construction.

v. The Plan shall include written authorization from the permit holder and the owners of all parcels within the project for the Town to access the Parcels and implement the decommissioning and site restoration plan, in the event the permit holder fails to implement the plan.

vi. Use of Decommissioning Fund

a) Any non-functional or inoperative WECS, or any WECS for which the Certificate of Compliance has been revoked, shall be removed from the site and the site restored in accordance with the approved decommissioning and site restoration plan within 90 days of the date on which the facility becomes non-functional or inoperative, as defined above, or of the Certificate of Compliance revocation date.

b) If removal of the WECS is required and the applicant, or successors, fail to remove the WECS and restore the site in accordance with the approved decommissioning and site restoration plan, the applicant, by accepting the Certificate of Compliance, authorizes the Town to contract for such removal and restoration and to pay for the removal and restoration from the decommissioning and site restoration

fund under the escrow agreement.

c) If the fund is not sufficient, the Town shall charge the permit holder for the costs over and above the amount of the fund.

10. Limitations on Approvals; Easements on Town Property

Nothing in this Local Law shall be deemed to give any applicant the right to cut down surrounding trees and vegetation to reduce turbulence and increase wind flow to the WECS other than what was described in the application. Nothing in this Local Law shall be deemed a guarantee against Town approvals of future construction that may in any way impact the wind flow to any WECS. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

11. Permit Revocation

A. Testing Fund. The Certificate of Compliance shall contain a requirement that the applicant fund noise testing by an accredited independent third-party acoustical measurement consultant, which may be required upon request of the Zoning Enforcement Officer in response to written complaints by residents or property owners. The applicant shall have 90 days after written notice from the Zoning Enforcement Officer to remedy any non-compliance sound issue.

B. Operation. A WECS shall be maintained in operational condition at all times, subject to maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Zoning Enforcement Officer. If the problem cannot be resolved within the required time frame, a request for time extension can be filed with the Planning Board. The request must address the bases for the extension.

C. Notwithstanding any other abatement provision under this Local Law, if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular time frame, or (2) order revocation of the Certificate of Compliance for the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Town shall have the right to use the security posted as part of the Decommission Plan's escrow agreement to remove the WECS.

Article III
Wind Measurement Towers

1. Wind Site Assessment

Prior to construction of a WECS, an assessment is needed to determine local wind speeds and the feasibility of using particular sites. Installation of Wind Measurement Towers, also known as anemometer ("Met") towers, shall be permitted only in those areas within the Wind Overlay District.

2. Applications for Wind Measurement Towers

A. An application for a Wind Measurement Tower shall include:

1. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

2. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a notarized letter or other notarized 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. A scale map showing the location of the site within the Town and the property lines.

4. The location, approximate dimensions and types of major existing structures and uses on the site, public roads and adjoining properties within 2,640 feet of the tower, and the Wind Overlay District boundaries must be indicated.

5. The location, GPS coordinates, and elevation of the proposed tower, and all on-site utility lines, including transformers, the interconnection point with transmission lines, and other ancillary facilities or structures must be indicated.

6. The locations of affected rights of way, land cover, wetlands, streams, water bodies and areas proposed to be temporarily cleared of vegetation, areas to be permanently cleared of vegetation, areas of grading, and areas of cut and fill must be indicated.

7. Ownership and land use information within a 2640-foot radius of the proposed tower location must be provided. The distance from the center of the tower to all on and off-site residences within 5,280 feet shall be noted.

8. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the requirements contained in the current edition of the National Electric Code.

9. A Decommissioning Plan and a security bond or cash to cover the cost for removal of the tower.

3. Application Review Process for Wind Measurement Towers

A. Applicants may request a pre-application meeting with the Planning Board, or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.

B. Twenty copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. The Town Clerk shall transmit the application to the Planning Board.

C. The ZEO and Planning Board with Town-designated consultants, if necessary, shall within 60 days of receipt, or such longer time if agreed to by the applicant and Planning Board, determine if all information required under this Article is included in the application.

D. If the application is deemed incomplete, the Planning Board shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of Wind Measurement Towers proposed is increased or if the application submitted is more than twenty percent incomplete.

E. The Planning Board shall hold at least one public hearing on the application. Notice shall be given by first class mail to property owners within one mile of each proposed Wind Measurement Tower and published in the Town's official newspaper, no less than ten nor more than twenty days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

F. The public hearing may be combined with public hearings on any Environmental Impact Statement.

G. Notice of the project shall also be given, when applicable, to (1) the Jefferson County Planning Board, if required by General Municipal Law §239-1 and 239-m, and (2) to

adjoining Towns under Town Law §264.

H. SEQRA review. Applications for Wind Measurement Towers are deemed Unlisted projects under SEQRA. The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Planning Board's proceedings. The Town will require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review.

I. Upon receipt of the report of the recommendation of the County Planning Board (where applicable), the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this Article.

4. **Standards for Wind Measurement Towers**

A. The distance between a Wind Measurement Tower and the property line or any structure shall be at least 2 times the Total Height of the tower.

B. Certificates of Compliance for Wind Measurement Towers may be issued for a period of up to thirty (30) months. Permits may be renewed if the Facility is in compliance with the conditions of the Certificate of Compliance, subject to review by the Planning Board.

B. Anchor points for any guy wires for a Wind Measurement 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 sheathed in bright orange or yellow covering from three to eight feet above the ground.

C. The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for WECS projects shall be adhered to both inside and outside of agricultural districts.

Article V

Miscellaneous

1. Complaint Resolution Process

A. The offended party shall first bring their complaint to the Zoning Enforcement Officer. If the Zoning Enforcement Officer finds it to be valid, he will notify the WECS licensee of the complaint. The licensee shall have the opportunity to resolve the complaint. The time frame of resolution will be dependent on the nature of the complaint. The complaints may include, but will not be limited to: excessive noise, flicker or shadow effect, change in water quantity or quality, loss of or diminished telephone, TV, radio reception, interference with a medical device, changes in value to the residence, new or increased presence of radon gas. Should it be necessary for the validity of the complaint to be verified by an outside consultant, the Town will select and employ a firm to do testing, collect data or whatever else may be necessary to determine validity. The funds for payment of these services will come from the established escrow account.

B. The Compliant Resolution Process will apply, but not be limited to, the following categories:

1. Shadow Flicker Complaint Resolution Process:
When a written complaint is received by the Zoning Enforcement Officer from a non-participant identifying a specific turbine(s) in the wind project with a complaint of shadow flicker, the licensee shall be notified within 72 hours by the Zoning Enforcement Officer. The validity of the complaint must be verified by the Zoning Enforcement Officer using outside resources, as necessary. Upon establishment of the validity of the complaint, the licensee must mitigate the violation within 72 hours. If the licensee does not comply, the Town Board may take enforcement as established in Section 930 of this local law.

2. Setbacks Complaint Resolution Process:
When a written complaint is received by the Zoning Enforcement Officer from a non-participant in the wind development project identifying that a setback requirement is noncompliant and is determined by the Zoning Enforcement Officer to be valid, the licensee within 72 hours must correct the non-compliance violation or define a process to resolve the violation. If the licensee fails to comply, the Town Board may take enforcement as established in Section 930 of this local law.

3. Noise/Sleep Interference Complaint Resolution Process:
When a written complaint supported by a log listing the times of excessive noise is provided to the Zoning Enforcement Officer from a non-participant alleging noise disturbance from a wind turbine(s), the licensee will be informed of the complaint within 72 hours after receipt of the complaint. The validity of the complaint will be determined by the Zoning Enforcement Officer. The Town may retain an independent acoustic investigation paid for with the funds in the escrow account, as necessary. If the licensee is found to be non-compliant with the Town's wind facilities law noise standards, the violation must be corrected. If

the violation is not corrected, the Town Board may take enforcement as established in Section 930 of this local law.

If the validity of the complaint requires the services of an acoustical consultant, the procedure described below must be followed:

Violations and enforcement shall be determined by measurement without undue timing constraints. The Town will use the services of an outside contractor, as necessary, to determine the violation and associated enforcement actions. The Town's acoustical consultant shall be a member of the National Council of Acoustical Consultants (NCAC) with a specialty in environmental noise, and the consultant's project leader shall be a Member, Board Certified of the Institute of Noise Control Engineering of the USA. The protocol described below must generally be followed but may be modified as circumstances require by the acoustical engineer provided that modifications generally conform to the protocol.

1) Initially a preliminary study shall be conducted for a period of 30 minutes. During the 30 minute period, the equivalent level (LEQ) generated by the noise shall be measured. The measurement shall be on the complainant's property line nearest the noise source. Measurements shall be entirely within the appropriate time period, e.g., during nighttime for nighttime enforcement, and the noise source shall operate continuously (if normal operation) during the 30 minute measurement.
2) If the noise source is intermittent or if the noise is not present at the time of the preliminary enforcement survey, a more extensive and detailed survey shall be undertaken to monitor noise levels over a longer period. The licensee shall fully cooperate with Town officials and their agents to ensure accurate measurements, including turning the source on and off as required.
3) For both types of surveys, the microphone shall be situated between 4 and 4.5 feet above the ground. Measurements shall be conducted within the general provisions of ANSI S1.13-2005, and using a meter that meets at least the Type 2 requirements of ANSI S1.4 and S1.4A-1985 (R2006). The instrument noise floor shall be at least 10 dB below the lowest level measured.
4) A calibrator shall be used as recommended by the manufacturer of the sound-level meter. The fundamental level of the calibrator and the sensitivity of the sound-level meter shall be verified annually by a laboratory using procedures traceable to the National Institute of Standards and Technology.
5) A wind screen shall be used as recommended by the sound-level meter manufacturer.
6) An anemometer shall be used and shall have a range of at least 5 to 15 miles per hour (2.2 to 6.7 meters per second) and an accuracy of at least ±2 miles per hour (±0.9 meters per second).

7) For the detailed, long-term study a compass shall be used to measure wind direction to at least an 8-point resolution: N, NE, E, SE, S, SW, W, NW. Measurements shall be A-weighted, or, alternatively, in one-third-octave bands. For A-weighted measurements, the uncertainty (tolerance) of measurements shall be 1 dB for a type 1 meter and 2 dB for a type 2 meter. For one-third-octave band measurements, the meter shall meet the type 1 requirements of ANSI S12.4 and S12.4a-1985 (R2006), and the uncertainty of measurements shall be 5 dB in each and every one-third-octave band.
8) For all measurements, the surface wind speed, measured at a 1.5 m height, shall be less than 5 m/s.
9) The report shall include a sketch of the site showing distances to the structure(s), to the property line, etc., and several photographs showing the structure(s), the property, and the acoustical instrumentation. All instrumentation shall be listed by manufacturer, model, and serial number. This instrumentation listing shall also include the A-weighted and C-weighted noise floor due to weather or other natural phenomena and the one-third-octave band noise floors, if utilized, for each sound-level meter used.

4. Electromagnetic/Stray Voltage Complaint Resolution Process: Upon receipt of a written complaint from a non-participant alleging violations associated with electromagnetic inference or stray voltage, the Zoning Enforcement Officer will provide a copy of the complaint to the licensee within 72 hours. The Zoning Enforcement Officer will determine validity of the complaint. The Town may hire, as necessary, a certified electrical engineer consultant to conduct a stray voltage investigation or electromagnetic interference investigation at the cost of the licensee, to assist in determining complaint validity.
If the complaint is determined to be valid, the licensee shall resolve the problem and return the facility to full compliance with the law within a time period determined by the Zoning Enforcement Officer. If the violation is not corrected, the Town Board may take enforcement as established in Section 930 of this local law.

5. Protection of Aquifers, Ground Water and Wells:
When a written complaint is received by the Zoning Enforcement Officer from a resident regarding disturbance of an aquifer, ground water or well water, the Town will notify the licensee within 72 hours. The Zoning Enforcement Officer will determine the validity of the complaint. The Town may hire a qualified engineer at the expense of the licensee to verify validity of the complaint. If the complaint is found to be valid, the licensee must make potable water available to resident(s) immediately and establish a course of action to resolve the complaint. If the complaint is verified and the well is found to contain toxins, the licensee and/or the Town must notify the Department of Conservation (NYS DEC) of the

finding. If the circumstance falls under the jurisdiction of the NYS DEC, the NYS DEC will assume responsibility for corrective actions.
If the violation is not corrected, the Town Board may take enforcement as established in Section 930 of this local law.

2. Fees

A. Application Fees for building permits shall be as follows:

1. WECS: $5,000 per megawatt of rated maximum capacity
2. Wind Measurement Towers: $500 per tower for 30 months; first renewal: $250; subsequent renewal applications require Planning Board evaluation and decision to grant or deny renewal.

B. WECS Permits. Reimbursement of Expenses Related to WECS Projects: A fee of $1,000 per WECS permit request shall be charged for administrative costs plus the amount charged to the Town for outside consultations to review plans and inspect work. Alternatively, the Town and the applicant may enter into an agreement for an inspection and/or certification procedure for WECS. The applicant will be required to deposit the sum of $100,000 in an escrow account with the Town which will be used to pay for expenses incurred reviewing this project. The Town Supervisor will manage this account. If the escrow account balance falls below $10,000, NOT including the decommissioning fund, the applicant agrees to remit the amount of $50,000 for deposit into the escrow account within 3 business days after being informed of the escrow shortage.

C. Nothing in this Local Law shall be read as limiting the ability of the Town to enter into Host Community agreements with any applicant to compensate the Town for expenses or impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay engineering and legal costs that are fair, reasonable and customary for the area for application review, including the review required by SEQRA.

D. The Town may increase these fees at any time by a Town Board resolution after a properly noticed public hearing.

E. In addition to the amendments being made to the Zoning Ordinance of the Town of Lyme, the Town Board of the Town of Lyme also hereby exercises its right to opt out of the tax exempting provisions of the Real Property Tax Law Section 487, pursuant to the authority granted by Section 487 subdivision 8.

Article VI.
Severability

If any part of this Chapter shall be found to be void, voidable, or unenforceable for any

reason whatsoever, it shall not affect the validity or enforceability of any remaining section or provision of this Chapter.

Article VII.
Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.