TOWN OF GUILFORD
LOCAL LAW NO. 3——— OF THE YEAR 2019

RENEWABLE ENERGY SYSTEMS LOCAL LAW

BE IT ENACTED by the Town Board of the Town of Guilford as follows:

Article I

Section 1. Title

This local law shall be known and may be cited as the "Renewable Energy Systems Local Law of the Town of Guilford, New York."

Section 2. Purpose

This Local Law is adopted to advance and protect the public health, safety, and welfare of the Town of Guilford, including:

1) Taking advantage of a safe, abundant, renewable, and low-carbon emitting energy resource;

2) Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses and farm operations;

3) Increasing employment and business development in the region by furthering the installation and development of renewable energy systems;

4) Balancing the need to improve energy sustainability through increased use of renewable energy systems with concerns for preservation of public health, welfare, and safety, as well as environmental quality, visual and aesthetic values, and existing neighborhood social and ecological stability; and

5) Minimizing any adverse impacts on the character of the neighborhoods, property values, scenic, historic, and environmental resources of the Town.

These renewable energy regulations are intended to ensure these systems are appropriately designed, sited and installed, in a manner consistent with the Town of Guilford's comprehensive plan. However, to the extent that a provision of this Local Law conflicts with any other local law of the Town, the provision of this Local Law shall apply.

Section 3. Authority

The Town Board of the Town of Guilford 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) and (7);

3) New York Municipal Home Rule Law, §§ 10(1)(i) and (ii), and §§ 10(1)(a)(6), (11), (12), and (14);

4) New York Town Law § 130(1) (Building Code), §130(3) (Electrical Code), §130(5) (Fire Prevention), §130(7) (Use of Streets and Highways), §130(7-a) (Location of Driveways), §130(11) (Peace, Good Order and Safety), §130(15) (Promotion of Public Welfare), §130(15-a) (Excavated Lands), §130(16) (Unsafe Buildings), §130(19) (Trespass), and §130(25) (Building Lines); and

5) New York Town Law § 64(17-a) (Protection of Aesthetic Interests), and §64(23) (General Power).

Article II

Wind Energy Conversion Systems (WECS)

Section 1. Definitions.

As used in this Article, the following terms and conditions shall have the meanings indicated:

ACCESSORY FACILITIES or EQUIPMENT: Any structure other than a wind turbine, including substations, meteorological towers, overhead and underground electrical lines, guy wires, access roads, operations and maintenance building or other facility related to the use and purpose of deriving energy from such tower.

APPLICANT: Any individual, corporation, municipal corporation, municipal corporation-private entity cooperation, estate, trust-partnership, joint-stock company, association of two or more persons, limited liability company or other entity submitting an application to the Town of Guilford for a WECS Permit, and its successors and assignees.

APPLICATION: The form approved by the Board, together with all necessary and appropriate documentation that an applicant submits in order to receive a WECS Permit.

BOARD: The Town Board of the Town of Guilford.

DECOMMISSIONING PLAN: A plan that includes all of the elements set forth in Section 5 of this Article.

NACELLE: The portion of the wind turbine that connects the rotor to the support tower, and houses the generator, gearbox, drive train, and breaking system.

NON-PARTICIPANT: A parcel of land which is not subject to any lease, good neighbor agreement or other contract with the Applicant which authorizes WECS development by Applicant.

RESIDENCE: A building used by humans as a permanent or seasonal home for habitation.

RIGHT OF WAY: A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

SENSITIVE SITE: A Sensitive Site shall be any of the following:

(1) all school property;

(2) each of the following, as defined by water's edge at the time a WECS Permit application is submitted: North Pond, Guilford Lake, Unadilla River, Chenango River, Susquehanna River;

(3) any developed property owned by Camp Mesorah;

(4) all property comprising Mount Upton Park; and

(5) all properties upon which the following are located: Old Mill Restaurant, Rockdale Community Church, Guilford Center Cemetery, North Guilford Church, Jewell Homestead.

TOTAL HEIGHT: The height of the wind turbine, measured from the tip of the turbine blade when vertically aligned above the nacelle.

TOWER FACILITY: Site where one or more wind turbines will be located, including all accessory facilities or equipment.

TOWN: The Town of Guilford, New York.

WECS PERMIT: The official document or permit by which an Applicant is allowed to construct and use a Commercial WECS as granted or issued by the Town.

WIND TURBINE: Any tower, pole, or other structure, whether attached to a building, guyed, or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for producing electricity.

WIND ENERGY CONVERSION SYSTEM (WECS): Shall mean any mechanism including a wind turbine designed for the purpose of converting wind energy into electrical energy and all accessory facilities related thereto. A WECS may be:

a. Commercial - A WECS that primarily produces energy for off-site sale or consumption, or any WECS that has a capacity of 200 kilowatts or more.

b. Non-Commercial - A WECS that is incidental and subordinate to another use on the same parcel and which primarily produces energy for on-site consumption; provided, however, that if such parcel uses the WECS for net-metering with a utility company, such WECS may be considered non-commercial as long as it generates less than 110% of the on-site needs of the parcel.

WIND MEASUREMENT TOWER or METEOROLOGICAL TOWER (MET TOWER): A tower used solely for the measure of meteorological data such as temperature, wind speed, and wind direction.

Section 2. Requirements for Non-Commercial WECSs.

Non-Commercial WECs shall be permitted within the Town upon showing compliance with this Local Law and receipt of a building permit. In addition to any other building permit requirements, the following shall apply to non-commercial WECSs:

(1) If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, receipt of such agency approvals shall be a pre-condition to the building permit.
(2) All wind turbine towers for Non-Commercial WECS' shall be subject to the following setback: 1.5 times the Total Height, from adjacent property lines, right of ways, easements, public ways, power lines (not to include individual residential feed lines), and any pre-existing structures, as certified by a New York State Licensed Professional Engineer.
(3) The minimum distance between the ground and any part of the rotor blade shall be no less than fifteen (15) feet.
(4) An emergency telephone number shall be provided to the Town.
(5) All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point at least twelve (12) feet above the ground. Setbacks for any anchor point for guy wires or cables shall be a distance of thirty (30) feet from any adjacent property lines.
(6) WECS shall be sufficiently secure so as to prevent access by unauthorized individuals.
(7) The color of the WECS shall be a single, non-reflective matte finished color or other industry standard color which minimizes negative visual impact.
(8) Except to assure human safety during construction of the WECS or as required by the Federal Aviation Administration (FAA), no WECS are to be artificially lit, no WECS shall use stroboscopic lighting and any WECS lighting shall be angled downward so as to minimize light pollution on adjacent property. Lighting impacts, including nighttime stargazing impacts, shall be limited to the maximum amount that is commercially reasonable.

Section 3. Requirements for Commercial WECS.

A. Upon receipt of a WECS Permit, a Commercial WECS shall be permitted within the Town. All applicants for a WECS Permit shall, in addition to the other requirements in the Town Code, comply with the procedures set forth in this Article II. The Board is the officially designated agency or body of the community that is authorized to review, analyze, evaluate, and make decisions with respect to granting, granting with conditions, or denying WECS permits for commercial WECSs and facilities (except where the application is subject entirely to Article 10 of the Public Service Law).

B. An application for a WECS permit shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The Applicant shall provide proof that the landowner, if different than the Applicant, consents to the filing of the Application or the Applicant shall provide a copy of the agreement between the Applicant and the landowner authorizing the Applicant to use the landowner's property as proposed in the application. At the discretion of the Board, any false or misleading statement in the application may subject the Applicant to denial of the application without further consideration or opportunity for correction.

C. Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Board.

D. Completed applications for siting commercial WECS shall be submitted to the Town Clerk at least ten (10) days prior to the regular meeting of the Board. The Applicant shall attend any Board meeting where it wishes the application to be considered. Applications shall not be deemed

"complete" until all requirements herein have been satisfied and a SEQR decision has been issued or a Draft EIS has been accepted and is satisfactory.

E. Upon a majority vote of the Board, the Board may hold a public hearing on the Commercial WECS application, if one is not otherwise required.

F. The decision of the Board on the application shall be filed in the office of the Town Clerk and a copy thereof mailed to the Applicant.

Section 4. Application Requirements.

A plan for the proposed development of a WECS shall be submitted with the application and such plan shall show and include:

A. Name and address of the Applicant, name of project, boundary lines of parcel that project will be located on, a location map showing proposed site's location, date, north arrow, and scale of the plan.

B. Application fee (non-refundable) of $750.

C. Name and address of all owners of record of abutting parcels and those within fifteen hundred (1,500) feet of the property lines of parcel where development is proposed.

D. A map showing all existing lot lines, easements and right of ways, and a sketch plan showing proposed road access including provisions for paving, if any, proposed transmission lines, guy wires and accessory facilities, and location of all existing and proposed utility systems to the facility.

E. A survey of <u>any</u> ~~the~~ parcel <u>where any portion of the WECS will be located</u>.

F. A map showing existing and proposed topography at five-foot contour intervals.

G. A landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features including size and type of plant material and erosion control measures.

H. Completed State Environmental Quality Review Act (SEQRA) Full Environmental Assessment Form (EAF) and Chenango County GML 239 referral form.

I. A visual impact study, which shall include a computerized photographic simulation demonstrating any visual impacts from strategic vantage points. The study results should assess how the visual impact may vary based on nighttime or daytime, seasonal conditions and vegetation (leaves on trees vs. leaves off trees).Color photographs assessing the visibility from key viewpoints, existing tree lines, and proposed elevations shall be submitted. Pictures shall be digitally enhanced to simulate the appearance of the as-built above ground site facilities as they would appear from distances within at least a ten (10) mile radius of such wind turbines. Pictures from specific locations may be required by the Board and all pictures shall be no smaller than 5" x 7" and provided in hard, color copy and digitally. The visual analysis shall also indicate the color treatment of the WECSs and related components, and any visual screening incorporated into the project that is intended to lessen the WECSs visual prominence.

J. Documentation of the proposed intent as well as a justification for the height of any wind turbines and justification for any clearing required.

K. A preliminary report prepared by the Applicant describing:

1) Surrounding topography in relation to the capabilities for generation of electricity by wind,
2) Required improvements for construction activities, including those within the public's right of way or land controlled by the Town of Guilford,
3) Proposed mitigation measures for visual impacts and other environmental impacts of the WECS, if any,
4) Proposed safety measures to mitigate wind turbine failure.

L. An elevation map showing each wind turbine's height and design including a cross-section of the structure and components of the nacelle; each wind turbine's compliance with applicable structural standards; and the WECS' nameplate capacity. A copy of all manufacturers' specifications for the wind turbines to be installed shall be included.

M. A description of the general geographic areas that would be acceptable for wind projects within the Town of Guilford; furthermore, demonstration that the proposed site is the most appropriate site within the immediate area for the location of the WECS.

N. If the WECS is a "major electric generating facility" subject to Article 10 of the Public Services Law and its accompanying regulations, all documents and information required to be provided to the Town, as well as any document or information provided to the Public Service Commission or other public agency which is specifically requested by the Town.

O. A report showing soil logs, soil profile analysis, and storm water run-off calculations for the area being disturbed.

P. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, and flooding of other properties, as applicable. There should be pre-construction and post-construction drainage calculations for the site completed by a certified engineer. From this the engineer must show how there will be no increase in runoff from the site, or how such runoff is sufficiently mitigated.

Q. Insurance certificates in compliance with Section 5(I).

R. If the property of the proposed WECS is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted, but may be in memo or summary form.

S. Appropriate geotechnical, vibration, structural safety, and noise studies prepared by qualified professionals.

T. Demonstrated compliance with, or inapplicability of, any Town road maintenance or road use local laws, which may include, but shall not be limited to, a proposed road use agreement.

U. If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, the applicant shall notify the Board of such requirement and the Board shall coordinate the review as deemed appropriate. Before any digging or excavation occurs, all underground utilities shall be properly marked. Applicant shall comply with all "Dig Safely NY" regulations including 16 NYCRR Part 753 during construction and decommissioning. A copy of any such license, approval, permit, certificate or registration shall be provided to the Board prior to approval of any WECS permit.

V. Map plan plotted to scale, prepared by an architect, landscape architect, civil engineer, surveyor, land planner or other competent person, including thereon the following information:

1) Preliminary architectural or engineering plans including elevations showing the use, location and dimensions of proposed buildings and open spaces.
2) A map plan showing the proposed activity including the location and square footage of buildings, location and dimensions of driveways, ingress and egress from the property, driveway intersections with streets, parking areas and maneuvering areas.
3) A storm drainage and grading plan for analysis of proposed handling of surface water runoff and erosion control, including, where applicable under State or Federal Requirements, a Storm Water Notice of Intent and a Storm Water Pollution Prevention Plan.
4) A plan showing utilities and utility easements including method of sewage disposal in detail. Such system shall be fully compliant with Local Law 2 of 1976 – "Amending Local Law 1 of the year 1973 Regulating the Disposal of Sewerage and Liquid Waste within the Town of Guilford" and 1995 Local Law 1 of 1995 - Disposal of Sewage.
5) Plans for all signs to be erected including dimensions, elevations and sign locations.
6) A landscape plan, prepared by a professional landscape architect or other competent person employed by a commercial garden center, showing landscaping to be installed and maintained in front, side and rear yards as developed, including shade trees, deciduous shrubs, evergreens, defined areas of well-kept grassed areas and ground cover. All such landscaping, grassed areas and ground cover areas shall be maintained in a healthy growing condition at all times.
7) Plan of lighting for the exterior of structures and for any interior roadway, driveway, parking area, and off -street loading area. The lighting plan shall show compliance with the following standards: except to assure human safety during construction of the WECS or as required by the Federal Aviation Administration (FAA), no wind turbines shall be artificially lit, no wind turbines shall use stroboscopic lighting and all lighting shall be angled downward so as to minimize light pollution on adjacent property. Other than Wind Towers, no operational buildings or structures shall be artificially lit at nighttime except to the minimum extent necessary for operations or security.
8) A proposed construction and implementation schedule, and schedule of hours of operation.

W. A complaint resolution plan for the Applicant to address and resolve complaints regarding the WECS from local residents. The plan may utilize an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The Applicant shall make every reasonable effort to resolve any complaint.

X. A report detailing the potential impacts of ice-throw and blade-throw on structures and property within the Town, including proposed safety measures to mitigate such impacts.

Y. A noise analysis prepared by a qualified acoustical consultant documenting the noise levels associated with each proposed WECS. The noise analysis shall provide pre-existing ambient noise levels, including low frequency noise levels. The study shall document noise levels at ~~the exterior wall of the nearest residential structure located on a non-participant property~~participant and non-participant residences, as well as Sensitive Sites, and model estimated changes resulting from the Applicant's WECS project. ~~The noise analysis shall provide pre-existing ambient noise levels and include low frequency noise.~~

Z. A shadow flicker study, identifying locations where shadow flicker may be caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with occupants of residences, schools, businesses, and other occupied buildings and describe measures that will be taken to eliminate or mitigate impacts of the flicker. Adequate mitigation measures include, but are not limited to, temporary turbine shutdowns during periods that produce flicker, and shielding or blocking measures (such as landscape plantings and window treatments) for those ~~non-participant residences~~ that submit complaints for exposures that exceed the annual limit as described in Section 5(B~~G~~)(10~~5~~) of this Article.

AA. A study evaluating possible impacts to birds, bats and other wildlife, including any threatened or endangered species. Based on the results of the study, the Applicant shall present a plan for mitigating any significant, negative impacts to such wildlife and indicate any and all state or federal permits or approvals, including any incidental take permits, the Applicant is required to, or intends to, obtain.

BB. A report identifying active water supply wells or water supply intakes on parcels within 2~~1~~,500 feet of any sites where blasting may occur.

CC. A post-construction monitoring and compliance plan ("PCMC Plan") for the purpose of certifying WECS project compliance. The PCMC Plan shall require the Applicant to present data reports to the Town showing its compliance with the requirements of this local law, any unanticipated impacts (positive and negative) to the environment, participants and non-participants, wildlife (including any threatened or endangered species), water quality in the project area, wetlands and stormwater erosion controls at each of the following intervals following construction of the WECS: 6 months, 1 year 2 years, 5 years and every 5 years thereafter.

Section 5. Standards for Design

Every Commercial WECS shall be subject to the following requirements:

A. Location – Applicants for a WECS permit shall locate, erect, and site WECS' in accordance with the following requirements:

(1) WECS shall be located in a manner that minimizes significant negative impacts on existing microwave communications links. No WECS shall be installed in any location along the major axis of an existing microwave communications link where, when considering any

mitigation strategies of Applicant, its operation is still likely to produce significant electromagnetic interference in the links operation.

(2) WECS shall be located in a manner that minimizes significant negative impacts on existing fixed broadcast, or reception antenna (including residential reception antenna) for radio (including amateur short wave), television, or wireless phone or other personal communications systems. No portion of a WECS shall be installed in any location where, when considering any mitigation strategies of Applicant, its proximity with existing fixed broadcast, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems is still likely to produce significant interference with signal transmission or reception.

(3) WECS shall be located in a manner that minimizes significant negative impacts on bird and bat species, including local populations and migrating populations. No portion of a WECS shall be installed in any location where, when considering any mitigation strategies of Applicant, there are still likely to be significant, negative impacts on birds or bats. The Applicant shall present and implement a plan for such mitigation pursuant to Section 4(AA) of this Article.

(4) With respect to the potential negative impacts described in this Section 4(A), Applicant shall present and implement a plan for mitigation.

(5) WECS shall be located in a manner consistent with all applicable state and Federal wetlands law and regulations.

B. Construction, Notice and Safety Considerations

(1) An emergency telephone number shall be provided to the Board and posted at the operations and maintenance building and on the Applicant's website, if any, so that the appropriate people may be contacted should any WECS need immediate attention.

(2) All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point at least twelve (12) feet above the ground. Setbacks for any anchor point for guy wires or cables shall be a distance of fifty (50) feet from any Non-Participant.

(3) A caution sign shall be placed at the primary entrance of each parcel where a Tower Facility is located. Signs shall be four (4) to six (6) feet high, i.e., at eye level. Said signs shall be a minimum of one foot square and no larger than two square feet in size and shall have the words "CAUTION: WIND TURBINES IN USE" printed thereon. In addition, the owner's name, address, and telephone number shall be printed thereon.

(4) WECS shall be sufficiently secure so as to prevent access by unauthorized individuals.

(5) Each wind turbine shall conform to the following specifications:

(a) WECS shall use tubular towers

(b) The color of all WECS shall be a single, non-reflective matte finished color or other industry standard color which minimizes negative visual impact.

(c) Each wind turbine within a WECS shall be generally uniform in size and geometry.

(6) All WECS shall be equipped with manual and automatic overspeed controls, whose design and fabrication, together with the design and fabrication of its rotors, shall conform to good engineering practices as certified by its manufacturer. Such controls shall be designed to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

(7) No communication antennas may be affixed to or made part of any commercial WECSs. No advertising shall be depicted on any part of any commercial WECSs.

(8) The Applicant's complaint resolution plan to address and resolve complaints regarding any WECS located within the Tower Facility from local residents shall be provided to the Board, posted on the Applicant's website, if any, and provided to any resident upon request.

(9) All WECS shall be located in a manner that minimizes the risk to public health and safety posed by ice-throw and blade-throw. All WECS shall be equipped with a nacelle-mounted ice sensor, a shaft vibration sensor or other available technology capable of directly or indirectly detecting blade ice formation. Such sensor(s) or technology shall cause the automatic shutdown of a WECS when blade ice buildup is detected at levels that pose a substantial risk to public health and safety. Ice and blade throw incidents occurring at a Tower Facility shall be promptly reported by the Applicant to the Town Board.

(10) No Non-Participant residence, school, business, or other occupied building shall be subjected to more than 30 hours of shadow flicker annually.

(11) The level of noise produced during WECS operation shall not:

a) exceed a maximum noise limit of 45 (dBA) Leq (8-hour) at any non-participant residence and 55 dBA Leq (8-hour) for any participant residence.

b) exceed a limit of 40 dBA L(night-outside), annual equivalent continuous average nighttime sound level from the WECS outside any non-participant residence, and a limit of 50 dBA L(night-outside), annual equivalent continuous average nighttime sound level from the WECS outside any participant residence.

c) produce any audible prominent tones, as defined under ANSI S12.9 Part 4-2005 Annex C at any non-participant residences.

d) exceed a maximum noise limit of 65 dB Leq at the full octave frequency bands of 16, 31.5, and 63 Hertz outside of any non-participant residence in accordance with Annex D of ANSI standard S12.9-2005/Part 4 (Sounds with strong low-frequency content (infrasound)).

e) produce human perceptible vibrations inside any non-participant residence that exceed the limits for residential use recommended in ANSI Standard S2.71-1983 (August 6, 2012) "Guide of evaluation of human exposure to vibration in Buildings."

f) exceed a limit of 40 dBA Leq (1-hour) at the outside of any non-participant residence from any collector substation equipment.

C. Setbacks. Each Commercial WECS shall be setback as follows, measured from the center of the Wind Turbine. If more than one setback applies, the most restrictive setback shall control:

(1) 1.25 times Total Height, or more, from the nearest non-participant boundary property line.

(2) 1.50 times Total Height, or more, from the center of any public roadway.

(3) 2.0 times Total Height, or 1,500 feet, whichever is greater, from the nearest non-participant residence, measured from the exterior of such residence.

(4) 1.50 times Total Height, or more, from any non-participant commercial, retail or industrial Building. "Building" for the purposes of this subsection shall mean any structure with at least three walls and a roof that is used for commercial, retail or industrial purposes.

(5) 2.0 times Total Height, or 1,500 feet, whichever is greater, from a Sensitive Site.

D. Lighting. Wind turbines shall not be artificially lighted except as described in Section 4(V)7 of this Article. Lighting impacts, including nighttime stargazing impacts, shall be limited to the maximum amount that is commercially reasonable.

E. Utility Service. All collection lines from the wind generation electricity generation facilities to on-site collection substations shall be underground to the maximum extent practicable given topography and other constraints.

F. Height

(1) The minimum distance between the ground and any part of the commercial WECS rotor blade shall be no less than thirty (30) feet.

(2) No WECS or Met Tower shall have a total height of more than 676 feet.

G. Environmental Impact.

(1) Scenic / View Impact –Each of the WECS shall be of substantially the same design, construction materials, finishing and color treatment as described in Section 4(I), above. Visual screening intended to lessen the WECSs visual prominence shall be incorporated to the maximum extent possible. The wind turbines at a tower facility shall each be of substantially the same design, construction material, finishing and color. Visual screening intended to lessen the WECS' visual prominence shall be incorporated to the maximum extent possible.

(2) Access Roads - Whenever possible, existing roadways shall be used for access to the WECS site. In the case of constructing roadways, they shall be constructed in a manner so that they are not conspicuous to the surrounding environment and mitigate any increased runoff.

(3) Accessory Structures / Facilities – Transmission facilities or buildings shall be located behind existing ridges or vegetation, to screen from visibility; otherwise, applicant shall provide a plan for adequate screening.

(4) Wildlife – All potential impacts to local wildlife, especially threatened or endangered species, resulting from the design and siting of all WECS must be reviewed by all relevant state and federal regulatory agencies, with consideration of input from local governmental agencies and non-profit organizations with relevant expertise. The Applicant must obtain all necessary state and federal wildlife permissions and permits, including, but not limited to incidental take permits.

(5) Open Space – All 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 when practicable.

H. Operating Considerations.

(1) Building and Grounds Maintenance – Upon completion of installation the site shall be returned as close as possible to its natural state. Any damaged, spare or unused parts, maintenance equipment, oil and all similar materials shall be removed from the premises within thirty (30) days or kept at a covered, on-site storage facility.

(2) Ownership Changes – If the ownership of a WECS operating under a WECS Permit changes the WECS permit shall remain in force and all conditions of the WECS permit will continue to be obligations of succeeding owners. The Town Clerk shall be notified and the ownership change registered with the Town. All signs required under provisions of this Article shall be changed accordingly.

(3) Modifications – Any and all substantial modifications, additions, or changes to a WECS authorized to operate under this Article, whether structural or not, shall be made by application to the Board except where modification is required for routine maintenance and repairs which become necessary in the normal course of use of such WECS or become necessary as a result of natural forces, such as wind or ice. Additionally, any modification resulting in significant modifications to the public health, safety, welfare, environment, of the Town or the visual or sound impacts of the project, must be reviewed and approved by the Board.

I. Certifications.

(1) Post-Installation — If any report supplied to the Town pursuant to the PCMC Plan indicates non-compliance with the requirements of this local law or unanticipated negative impacts, such report shall also be accompanied by a mitigation and minimization plan ("MM Plan") to bring the WECS into compliance as soon as possible but in any case not longer than 120 days. ~~A post-installation field report identifying the facilities generation of electricity and any unanticipated impacts upon the environment shall be submitted to the Town within sixty (60) days of when such information becomes available.~~ The Applicant shall reimburse the Town for all reasonable expenses incurred, including professional fees and costs, to monitor, review, evaluate and advise the Town on the PCMC Plan, each MM Plan and the Applicant's post-construction compliance in general. Such reimbursement shall be made within 30 days of Applicant's receipt of an invoice for such costs and expenses from the Town.

(2) Insurance / Liability – Prior to the commencement of construction of the WECS or Met Tower, the Applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of public liability insurance, of a level to be determined by the Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation or transmission facility. The public liability insurance policy shall specifically include the Town and its officers, boards, employees, committee members, attorneys, agents, and consultants as additional named insureds (using endorsement # CG2026), with coverage of at least $2,000,000 per occurrence / $4,000,000 aggregate ($5,000,000 and $10,000,000, respectively, for WECS subject to Article 10 of the Public Service Law).

(3) 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 wind turbine have been met or are being complied with. Wind turbines shall be built, operated, and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEC) and the American National Standards Institute (ANSI). The applicant shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such wind turbine is in compliance with such standards.

(4) Lightning Strike / Grounding – The applicant shall show that all applicable manufacturers specifications, New York State and U.S. standards for the construction, operation, and maintenance of the WECS have been or are being complied with.

(5) 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.

(6) Continuing Obligations – All requirements detailed in Section 4 shall remain in force for the life of the WECS permit.

J. Blasting; Water Supply Protection.

(1) The Applicant shall file a notice with the Town confirming that no wind turbine will be located within 5~~1~~00 feet of an existing water supply well or water supply intake.

(2) Blasting shall be prohibited within 1,000~~500~~ feet of any known existing, active water supply well or water supply intake on a non-participant parcel.

(3) If environmental or engineering constraints require blasting within 1,000 feet of a known existing, active water supply well on a non-participant parcel, the Applicant shall engage a qualified third party to collect pre- and post-blasting water samples at all water wells within the above specified distances of blasting, provided the Applicant is granted access by the property owner. These water samples will be sent to a New York State Department of Health (NYSDOH) certified laboratory for potability testing. The results of such tests and reports shall be made available to the Towns upon request.

(4) If environmental or engineering constraints require siting of collection lines or access roads within 5~~1~~00 feet of a known existing, active water supply well, the Certificate Holder shall perform the pre- and post-construction water potability testing provided the Applicant is granted access by the property owner. The results of such tests and reports shall be made available to the Towns upon request.

(5) Should the NYSDOH-certified laboratory testing conclude that the water supplied by an existing, active water supply well met federal and New York State standards for potable water prior to construction, but failed to meet such standards post-construction, the Applicant shall cause a new water well to be constructed, in consultation with the property owner, at least 5~~1~~00 feet from collection lines and access roads, and at least 1,000 feet from wind turbines, as practicable given siting constraints and landowner preferences. During the construction of any new water well as required by this sub-section, the Applicant shall supply the affected individuals on the property with potable water.

Section 6. Abandonment of Use.

A. All applications for a WECS Permit or a Wind Measurement Tower shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the WECS or Met Tower. Prior to issuance of a building permit, the owner or operator of the WECS or Met Tower shall post a letter of credit or other suitable financial guarantee, as determined by the Town, in a face amount of not less than 120% of the estimated cost of complete decommissioning and removal to ensure proper, safe removal of the WECS or Met Tower and accessory facilities in accordance with the decommissioning plan described below. Such guarantee shall not factor in salvage value of the facility materials. The amount of the financial guarantee shall be reviewed by the Applicant and the Board every five years and may be changed based upon majority vote of the Board. The form of the guarantee must be reviewed and approved by the Town Attorney, and the guarantee must remain in effect until the system is fully removed and final inspection is completed by the ~~Code Enforcement Officer~~Town or its designee. Prior to removal of a WECS or Met Tower, a demolition permit for removal activities shall be obtained from the Town of Guilford.

(1) The applicant shall submit a decommissioning plan that ensures that the site will be restored to a useful, nonhazardous condition, which plan shall be implemented without delay if (1) the Applicant ceases operation of the WECS or Met Tower for a period of 18 months, (2) begins but does not complete construction of the project within 18 months after receiving WECS permit approval, or (3) the WECS permit for the WECS or Met Tower expires or is not renewed. The plan shall include but not limited to the following:

(a) WECS removal shall include removal of all aboveground equipment, and removal of foundations to a depth of four (4.0) feet below grade. Below ground accessory facilities, such as collection lines, are not required to be removed, unless otherwise required by applicable law. In addition, access roads may be left in place if written consent is received by the Town from the landowner and the landowner agrees to properly maintain all storm water management, run-off and erosion controls. However, all WECS equipment or materials or accessory facilities installed underground must be fully removed and the land reclaimed where such equipment or materials will (i) interfere with or prevent continued compliance by the landowner with any Environmental Laws, (ii) give rise to any liability to the Town or the landowner under any Environmental Laws, or (iii) form the basis of any claim, action, suit, proceeding, hearing or investigation under any Environmental Laws. "Environmental Laws" shall mean any applicable law (including common law), statute, regulation, ordinance, order, code, guidance standard recognized by regulatory authorities, or other legal requirement relating to protection of the environment, Hazardous Material(s) and/or worker health and

safety adopted by any applicable federal, state, or local governmental authority. "Hazardous Material" means any pollutant, contaminant, hazardous or toxic substance, waste, and any other material (a) subject to regulation or governed by any Environmental Law; and (b) the presence, or discharge of, or exposure to which could result in liability as a result of its impact or potential impact on human health or the environment; and including asbestos and asbestos containing material; petroleum, petroleum products and waste oil; any flammable explosives, radioactive materials, or toxic mold.

(b) Restoration of the surface grade and soil after removal of equipment.

(c) Revegetation of restored soil areas with native seed mixes, excluding any invasive species, with preference given to the landowner where possible.

(d) A reasonable timeframe for the completion of site restoration work.

(2) In the event that construction of the WECS or Met Tower has been started but is not completed and functioning within 18 months of the issuance of the final WECS Permit approval, the Town may notify the Applicant to complete construction and installation of the facility within 90 days. If the Applicant fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of such notification by the Town.

(3) Upon cessation of activity of a fully constructed WECS or Met Tower for a period of 18 months, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 140 days of notice being served, the owner and/or operator ~~can~~ shall either restore normal, active operation of the WECS or Met Tower~~equal to 50% of approved capacity~~, or implement the decommissioning plan which must then be fully complete within 12 months of the beginning of its implementation.

(4) Upon revocation, termination or non-renewal of the permit for a WECS or Met Tower, the applicant, owner and/or operator must fully complete the decommissioning plan.

(5) If the owner and/or operator fails to fully implement the decommissioning plan within the a 12 month time period (or 180 days, in the case of (A)(2) above) and restore the site as required, the Town may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the letter of credit or other financial guarantee and from the defaulted owner and/or operator. Any cost incurred by the Town which has not been fully paid by the owner and/or operator shall be assessed against the property, shall (in addition to any other available remedies) become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes. The decommissioning plan shall provide for the ability of the Town of Guilford, or its assignee or designee, to access the property owners' land in order to complete decommissioning if necessary.

Section 7. Wind Measurement Towers.

A. Wind Site Assessment. As a wind site assessment is typically conducted to determine the wind speeds and the feasibility of using particular sites, installation of Wind Measurement Towers shall be permitted in accordance with this Section.

B. Applications for Wind Measurement Towers. A Permit application for a Wind Measurement Tower shall include:

1. Building permit application, including all materials required thereby.
2. 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.

3. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner:

i. confirming that the property owner is familiar with the proposed application(s) and

ii. authorizing the submission of the application.

4. Address of each proposed wind measurement tower location, including Tax Map section, block and lot number.

5. Proposed development map plan, including review for the property as described herein.

6. Decommissioning Plan, including a ~~security bond~~ letter of credit or other suitable financial guarantee, as determined by the Town, for removal.

7. If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, evidence indicating the applicant's receipt of such agency approvals.

C. Standards for Wind Measurement Towers.

1. Setbacks. Each Met Tower shall be setback as follows, measured from the center of the Met Tower. If more than one setback applies, the most restrictive setback shall control:

a. 1.25 times Total Height, or more, from the nearest non-participant boundary property line.

b. 2.0 times Total Height, or more, from the nearest non-participant residence, measured from the exterior of such residence.

c. 1.50 times Total Height, or more, from the center of the roadway.

d. 2.0 times Total Height from a Sensitive Site.

e. 1.50 times Total Height, or more, from any non-participant commercial, retail or industrial Building. "Building" for the purposes of this subsection shall mean any structure with at least three walls and a roof that is used for commercial, retail or industrial purposes.

2. All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point at least twelve (12) feet above the ground. Setbacks for any anchor point for guy wires or cables shall be a distance of fifty (50) feet from any Non-Participant.

3. Wind Measurement Towers shall be sufficiently secure so as to prevent access by unauthorized individuals.

4. Except to assure human safety during construction of the Met Tower or as required by the Federal Aviation Administration (FAA), no Met Towers are to be artificially lit, no Met Towers shall use stroboscopic lighting and any lighting shall be angled downward so as to minimize light pollution on adjacent property. Lighting impacts, including nighttime stargazing impacts, shall be limited to the maximum amount that is commercially reasonable.

5. Special permits for Wind Measurement Towers shall be issued for a period of up to three (3) years. Permits shall be renewable upon application to the Board.

6. Upon expiration of the special permit, the wind measurement tower shall be fully removed and the land reclaimed in accordance with the Decommissioning Plan.

Article III

Solar Energy Production System

Section 1. Definitions

A. Definitions.

APPLICANT: Any individual, corporation, municipal corporation, municipal corporation-private entity cooperation, estate, trust-partnership, joint-stock company, association of two or more persons, limited liability company or other entity submitting an application to the Town of Guilford for a special permit for an SEPF, and its successors and assignees.

APPLICATION: The form approved by the Board, together with all necessary and appropriate documentation that an applicant submits in order to receive an SEPF Permit.

BOARD: The Town Board of the Town of Guilford.

NON-PARTICIPANT: A parcel of land which is not subject to any lease, good neighbor agreement or other contract with the Applicant for SEPF development by Applicant.

RIGHT OF WAY: A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

SOLAR ENERGY PRODUCTION FACILITY (SEPF): Shall mean any mechanism designed for the purpose of converting solar energy into electrical energy and all equipment related thereto. A SEPF may be:

1. Commercial - A SEPF that primarily produces energy for off-site sale or consumption, or any SEPF that has a capacity of 200 kilowatts or more.

2. Non-Commercial - A SEPF that is incidental and subordinate to another use on the same parcel and which primarily produces energy for on-site consumption; provided, however, that if such parcel uses the SEPF for net-metering with a utility company, such SEPF may be considered non-commercial as long as it generates less than 110% of the on-site needs of the parcel.

SENSITIVE SITE: A Sensitive Site shall be any of the following:

(1) all school property;

(2) each of the following, as defined by water's edge at the time a SEPF Permit application is submitted: North Pond, Guilford Lake, Unadilla River, Chenango River, Susquehanna River;

(3) any developed property owned by Camp Mesorah;

(4) all property comprising Mount Upton Park; and

(5) all properties upon which the following are located: Old Mill Restaurant, Rockdale Community Church, Guilford Center Cemetery, North Guilford Church, Jewell Homestead.

SEPF PERMIT: The official document or permit by which an Applicant is allowed to construct and use a Commercial SEPF as granted or issued by the Town.

Section 2. Non-Commercial SEPFs. A Non-Commercial SEPF may be constructed pursuant to a NYS unified solar permit ("Standard Permit") only and without the necessity of special permits, so long as the SEPF meets the criteria set forth in this Article III; provided, however, that a Non-Commercial SEPF shall not be located on any Sensitive Sites. Non-Commercial SEPFs shall be permitted within the Town upon showing compliance with this Local Law and receipt of the Standard Permit. In addition to any other Standard Permit requirements, the following shall apply to Non-Commercial SEPFs:

(1) A Non-Commercial SEPF use shall be limited to one or more roof-, wall- and/or ground-mounted solar collector devices and solar-related equipment.

(2) Solar carports shall be permitted over existing and proposed parking facilities.

(3) Roof-Mounted SEPFs: SEPFs mounted on a roof shall not exceed any maximum height restrictions that may be applicable within the Town. Panels facing the front yard must be mounted at an angle that is no greater than 20 degrees greater than the angle of the roof's surface with a maximum distance of 24 inches between the roof and the highest edge of the system.

(4) Ground-Mounted SEPFs: SEPFS mounted on the ground shall adhere to the any applicable height and setback requirements but under no circumstances shall the top of the ground mounted SEPF they be higher than 20 feet from the ground. Systems are limited to 20% lot coverage. All such systems installed in residential neighborhoods or on residential parcels of less five acres shall be installed in the side or rear yards.

(5) Installations shall be compliant with all NYS requirements, including but not limited to, those set forth in Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code.

Section 3. Commercial SEPFs; SEPF Permit Required

A. A Commercial SEPF shall be constructed pursuant to a SEPF Permit from the Board, so long as the SEPF meets the criteria set forth in this Article, subject to obtaining all other necessary approvals including SEPF Permit review. The Board is the officially designated agency or body of the community that is authorized to review, analyze, evaluate, and make decisions with respect to granting or denying special permits for SEPFs and facilities (except where the application is subject entirely to Article 10 of the Public Service Law).

B. An application for an SEPF Permit for a Commercial SEPF shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The Applicant shall provide proof that the landowner, if different than the Applicant, consents to the filing of the Application or the Applicant shall provide a copy of the agreement between the Applicant and the landowner authorizing the Applicant to use the landowner's property as proposed in the application. At the discretion of the Board, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction. Applications shall not be deemed "complete" until all requirements herein have been satisfied and a SEQR decision has been issued or a Draft EIS has been accepted and is satisfactory.

C. Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Board.

D. Completed applications for siting SEPFs shall be submitted to the Town Clerk at least ten (10) days prior to the regular meeting of the Board. The applicant shall attend any Board meeting where it wishes the application to be considered.

E. The decision of the Board on the application shall be filed in the office of the Town Clerk and a copy thereof mailed to the applicant.

F. Upon a majority vote of the Board, the Board may hold a public hearing on the Commercial SEPF application if one is not otherwise required.

Section 4. SEPF Permit Applications Requirements.

A plan for the proposed development of a Commercial SEPF shall be submitted with the application and such plan shall show and include:

A. Name and address of the owner of the parcel where development is proposed, developer and seal of the engineer, architect, or surveyor preparing the plan. Name of project, boundary lines of parcel that project will be located on, a location map showing proposed site's location, date, north arrow, and scale of the plan.

B. Application fee (non-refundable) of $750

C. Name and address of all owners of record of abutting parcels and those within fifteen hundred (1,500) feet of the property lines of parcel where development is proposed.

D. A map showing all existing lot lines, easements and right of ways, and a sketch plan showing proposed road access including provisions for paving, if any, proposed transmission lines and accessory facilities, and location of all existing and proposed utility systems to the facility.

E. A survey of anythe parcel where any portion of the SEPF will be located.

F. A map showing existing and proposed topography at five-foot contour intervals.

G. A landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features including size and type of plant material and erosion control measures.

H. Completed State Environmental Quality Review Act (SEQRA) Full Environmental Assessment Form (EAF) and Chenango County 239 referral form.

I. Photography assessing the visibility from key viewpoints, existing tree lines, and proposed elevations. Pictures shall be digitally enhanced to simulate the appearance of the as-built above ground site facilities as they would appear from distances within a three (3) mile radius of such SEPF. Pictures from specific locations may be required by the Board and all pictures shall be no smaller than 5" x 7" and provided in hard, color copy and digitally.

J. Documentation of the proposed intent and capacity of energy generation as well as a justification for any clearing required.

K. Preliminary report prepared by Applicant describing:

(1) Surrounding topography in relation to the capabilities for generation of electricity by the sun,

(2) Required improvements for construction activities, including those within the public's right of way or land controlled by the Town of Guilford,

(3) Proposed mitigation measures for visual impacts and other environmental impacts of each SEPF,

L. Elevation map showing each solar panel's height and design including a cross-section of the structure;

M. A description of the general geographic areas that would be acceptable for solar projects within the Town of Guilford; furthermore, demonstration that the proposed site is the most appropriate site within the immediate area for the location of the SEPF. A copy of all manufacturers' specifications for SEPFs shall be included.

N. Description of the applicant's long range plans which project market demand and long range facility expansion needs within the Town.

O. If the SEPF is a "major electric generating facility" subject to Article 10 of the Public Services Law and its accompanying regulations, all documents and information required to be provided to the Town, as well as any document or information provided to the Public Service Commission or other public agency which is specifically requested by the Town.

P. Report showing quality and storm water run-off calculations for the area being disturbed.

Q. Insurance Certificates meeting the requirements of this Article below.

R. Plans to prevent the erosion of soil both during and after construction, excessive runoff, and flooding of other properties, as applicable. There should be pre-construction and post-construction drainage calculations for the site completed by a certified engineer. From this the engineer must show how there will be no increase in runoff from the site.

S. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.

T. Demonstrated compliance with, or inapplicability of, any Town road maintenance or road use local laws, which may include, but shall not be limited to, a proposed road use agreement.

U. If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, the applicant shall notify the Board of such requirement and the Board shall coordinate the review as deemed appropriate. A copy of any such license, approval, permit, certificate or registration shall be provided to the Board prior to approval of any special permit.

~~V. The Board, upon request in writing by the applicant, may waive specific requirements of this Section when in its opinion such information is not necessary for the Board to take into account when~~

~~considering an application. Any such waiver will not have the effect of nullifying the spirit and intent of these standards, the Comprehensive Plan, or any other regulations or ordinance, if such exist.~~

V. A post-construction monitoring and compliance plan ("PCMC Plan") for the purpose of certifying SEPF project compliance. The PCMC Plan shall require the Applicant to present data reports to the Town showing its compliance with the requirements of this local law, any unanticipated impacts (positive and negative) to the environment, participants and non-participants, wildlife (including any threatened or endangered species), water quality in the project area, wetlands and stormwater erosion controls at each of the following intervals following construction of the SEPF: 6 months, 1 year 2 years, 5 years and every 5 years thereafter.

Section 5. Requirements for Commercial SEPFs

A Commercial SEPF shall comply with the following standards:

A. Minimum lot area. The minimum lot area for a Commercial SEPF shall be 5 acres, or 6 acres for every megawatt of capacity, whichever is more.

B. Maximum lot coverage. The total coverage of a lot with freestanding solar panels cannot exceed sixty-percent (60%) lot coverage. Lot coverage shall be defined as the area measured from the outer edge(s) of the arrays, inverters, batteries, storage cells and all other mechanical equipment used to create, store or transfer solar energy, exclusive of fencing and roadways.

C. Height and setback restrictions. The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed 25 feet in height above the ground at their highest tilted position.

D. Buffer and setback restrictions.

(1) A minimum 30% of the parcel shall be preserved as natural and vegetative open space. Site plans for the property shall be developed that provide for the preservation of natural vegetation in large unbroken blocks that also allow contiguous open spaces to be established when adjacent parcels are developed.

(2) No Commercial SEPF shall be located on a Sensitive Site. A minimum one hundred fifty (150) foot setback from residential, agricultural and Sensitive Site property lines, a minimum one hundred (100) foot setback from the center of adjacent Town, County and State roads, and a minimum seventy-five (75) foot setback from all other adjacent property lines, shall be maintained.

(3) A buffer of natural and undisturbed vegetation, supplemented with evergreen plantings which shall be at least 10 feet in height and no less than 8 feet apart, shall be provided around all SEPF equipment to provide screening from such adjacent roads and parcels. Visibility of the SEPF equipment from any adjacent property or road shall be at least 50% screened by such vegetative screening.

E. Design standards. The Applicant shall submit a map plan which depicts and includes the elements found herein, as well as the following:

(1) Ground cover under and between the rows of solar panels shall be low-maintenance, drought-resistant, native, non-fertilizer-dependent, pollinator friendly flora.

(2) Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction. Paths of ingress and egress to the SEPF shall be shown on the plan.

(3) All on-site utility and transmission lines shall, to the extent feasible, be placed underground. If the applicant seeks above-ground utilities or transmission lines, sufficient proof of infeasibility must be provided.

(4) All SEPF shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties as well as adjacent street rights-of-way.

(5) All solar panels shall be completely enclosed by a minimum eight-foot-high fence that is of a type that is consistent with the surrounding neighborhood and the use of the property, as reasonably determined by the board. All mechanical equipment of a SEPF, including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight-foot-high anchored mini-mesh chain-link fence with two-foot tip out and a self-locking gate. All such fences shall contain five-inch-high by sixteen-inch-wide grade-level cutouts every 75 feet to permit small animals to move freely into and out of the site. Landscape screening shall be provided in accordance with the landscaping provisions of this chapter.

(6) The applicant for a SEPF connected to the utility grid shall provide a "proof of concept letter" from the local utility company acknowledging the SEPF will be interconnected to the utility grid in order to sell electricity to the public utility entity.

(7) All debris, materials and/or mulch generated by site clearing or construction shall be removed from the site and disposed of properly.

(8) All lighting shall be depicted and conform to any exterior lighting standards of the Town and shall not unreasonably disturb adjacent parcels.

(9) Fire access roads and access for fire apparatus equipment shall be provided, as approved by the Town Fire Marshall or other entity primarily responsible for fire protection of that area.

(10) All stormwater and drainage shall be contained on site in accordance with the Town standards and approval of a Storm Water Pollution Prevention Plan.

(11) A plan for soil or material removal.

(12) For any SEPF to be constructed adjacent to a Sensitive Site, the map plan shall account for such sensitive areas and provide mitigation to the extent reasonably necessary as determined by the Board.

(13) The design of an SEPF as required by this Section shall be prepared and sealed by a registered design professional.

(14) Map plan plotted to scale, prepared by an architect, landscape architect, civil engineer, surveyor, land planner or other competent person, including thereon the following information:

a. Preliminary architectural or engineering plans including elevations showing the use, location and dimensions of proposed buildings and open spaces.
b. A map plan showing the proposed activity including the location and square footage of buildings, location and dimensions of driveways, ingress and egress from the property, driveway intersections with streets, parking areas and maneuvering areas.
c. A storm drainage and grading plan for analysis of proposed handling of surface water runoff and erosion control, including, where applicable under State or Federal Requirements, a Storm Water Notice of Intent and a Storm Water Pollution Prevention Plan.
d. A plan showing utilities and utility easements including method of sewage disposal in detail. Such disposal systems shall be fully compliant with Local Law 2 of 1976 – "Amending Local Law 1 of the year 1973 Regulating the Disposal of Sewerage and Liquid Waste within the Town of Guilford" and 1995 Local Law 1 of 1995 - Disposal of Sewage.

e. Plans for all signs to be erected including dimensions, elevations and sign locations.

f. A landscape plan, prepared by a professional landscape architect or other competent person employed by a commercial garden, center, showing landscaping to be installed and maintained in front, side and rear yards as developed, including shade trees, deciduous shrubs, evergreens, defined areas of well-kept grassed areas and ground cover. All such landscaping, grassed areas and ground cover areas shall be maintained in a healthy growing condition at all times.

g. Plan of lighting for the exterior of structures and for any interior roadway, driveway, parking area, and off -street loading area.

h. A proposed construction and implementation schedule, and schedule of hours of operation.

F. Signs. A sign not to exceed 2.25 square feet shall be attached to a fence adjacent to the main access gate and shall list the facility name, owner and phone number. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

G. Other Approvals. If any license, approval, permit, certification, or any type of registration or similar type of endorsement is required from any other agency, such additional agency approvals shall be a condition to the Town's issuance of a special permit.

I. Operating Considerations.

(1) Building and Grounds Maintenance – Upon completion of installation the site shall be returned as close as possible to its natural state. Any damaged, spare or unused parts, maintenance equipment, oil and all similar materials shall be removed from the premises within thirty (30) days or kept at a covered, on-site storage facility.

(2) Ownership Changes – If the ownership of a commercial SEPF operating under a special permit changes, the SEPF Permit shall remain in force and all conditions of the SEPF Permit will continue to be obligations of succeeding owners. The Town Clerk shall be notified and the ownership change registered with the Town. All signs required under provisions of this Article shall be changed accordingly.

(3) Modifications – Subject to all of the applicable sections herein, any and all substantial modifications, additions, or changes to a SEPF authorized to operate under this Article, whether structural or not, shall be made by application to the Board except where modification is required for routine maintenance and repairs which become necessary in the normal course of use of such SEPF or become necessary as a result of natural forces, such as wind or ice. Additionally, any modification resulting in significant modifications to the public health, safety, welfare, environment, of the Town or the visual or sound impacts of the project, must be reviewed and approved by the Board.

J. Certifications.

(1) Post-Installation - ~~A post-installation field report identifying the facilities generation of electricity and impacts upon the environment shall be submitted to the Town within sixty (60) days of when such information becomes available.~~ If any report supplied to the Town pursuant to the PCMC Plan indicates non-compliance with the requirements of this local law or unanticipated negative impacts, such report shall also be accompanied by a mitigation and minimization plan ("MM Plan") to bring the SEPF into compliance as soon as possible but in any case not longer than 120 days. The Applicant shall reimburse the Town for all reasonable expenses incurred,

including professional fees and costs, to monitor, review, evaluate and advise the Town on the PCMC Plan, each MM Plan and the Applicant's post-construction compliance in general. Such reimbursement shall be made within 30 days of Applicant's receipt of an invoice for such costs and expenses from the Town.

-(2) 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 SEPF, including applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEC) and the American National Standards Institute (ANSI), have been met or are being complied with. The applicant shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such SEPF is in compliance with such standards.

(3) Insurance / Liability – Prior to the commencement of construction of the SEPF, the Applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of public liability insurance, of a level to be determined by the Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of an SEPF or any other part(s) of the generation or transmission facility. The public liability insurance policy shall specifically include the Town and its officers, boards, employees, committee members, attorneys, agents, and consultants as additional named insureds (using endorsement # CG2026), with coverage of at least $2,000,000 per occurrence / $4,000,000 aggregate ($5,000,000 and $10,000,000, respectively, for an SEPF subject to Article 10 of the Public Service Law).

(4) Continuing Obligations – All requirements detailed in Section 6~~5~~ shall remain in force for the life of the ~~special permit~~SEPF Permit.

Section 7. Abandonment.

A. All applications for a SEPF shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the SEPF. Prior to issuance of a building permit, the owner or operator of the facility or structure shall post a letter of credit or other suitable financial guarantee, as determined by the Town, in a face amount of not less than 120% of the estimated cost of complete decommissioning and removal to ensure proper, safe removal of the facility and related structures in accordance with the decommissioning plan described below. Such guarantee shall not factor in salvage value of the facility materials. The form of the guarantee must be reviewed and approved by the Town Attorney, and the guarantee must remain in effect until the system is fully removed and final inspection is completed by the ~~Code Enforcement Officer~~Town or its designee. Prior to removal of a SEPF, a demolition permit for removal activities shall be obtained from the Town of Guilford.

(1) The applicant shall submit a decommissioning plan that ensures that the site will be restored to a useful, nonhazardous condition, which plan shall be implemented without delay if: (1) the Applicant ceases operation of the SEPF for a period of 18 months, (2) begins but does not complete construction of the project within 18 months after receiving final special permit approval, or (3) the special permit for the SEPF expires or is not renewed. The plan shall include but not limited to the following:

(a) Removal of aboveground and belowground equipment, structures and foundations.

(b) Restoration of the surface grade and soil after removal of equipment.

(c) Revegetation of restored soil areas with native seed mixes, excluding any invasive species, with preference given to the landowner where possible.

(d) The results of soil tests showing that no contamination has occurred due to the presence of SEPFs.

(e) The plan shall include a reasonable timeframe for the completion of site restoration work.

(2) In the event that construction of the SEPF has been started but is not completed and functioning within 18 months of the issuance of the final SEPF Permit approval, the Town may notify the applicant, operator and/or the owner to complete construction and installation of the facility within 90 days. If the applicant, owner and/or operator fails to perform, the Town may notify the applicant, owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of such notification by the Town.

(3) Upon cessation of activity of a fully constructed SEPF for a period of 18 months, the Town may notify the applicant, owner and/or operator of the facility to implement the decommissioning plan. Within 120 days of notice being served, the applicant, owner and/or operator shall~~ean~~ either restore normal, active operation ~~equal to 50% of approved capacity~~the SEPF, or implement the decommissioning plan which must then be fully complete within 12 months of the beginning of its implementation.

(4) Upon revocation, termination or non-renewal of the special permit for a SEPF, the applicant, owner and/or operator must fully complete the decommissioning plan.

(5) If the applicant, owner and/or operator fails to fully implement the decommissioning plan within the 12 month time period (or 180 days, in the case of (A)(2) above) and restore the site as required, the Town may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may, in accordance with the law, recover all expenses incurred for such activities from the letter of credit or other financial guarantee and from the defaulted applicant, owner and/or operator. Any cost incurred by the Town which has not been fully paid by the applicant, owner and/or operator shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officer and in the same manner as other taxes.

Article IV. Separability.

The provisions of this local law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this local law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the local law or part thereof is held inapplicable, had been specifically exempt therefrom.

Article V. Repealer.

All Ordinances, Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

Article VI. Effective Date.

This local law shall take effective immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.