

AMENDMENT TO THE REVISED ZONING ORDINANCE OF THE TOWN OF
MARCELLUS, NEW YORK

AMENDMENT – WIND ENERGY

BE IT RESOLVED by the Town Board of the Town of Marcellus as follows:

PURPOSE AND LEGISLATIVE INTENT OF AMENDMENT:

It is the intent and purpose of this amendment to enhance the individual construction and installation within the Town of Marcellus of wind mill energy creating devices, a desirable, alternate energy source, balancing to the maximum degree possible the health, welfare and safety of the community and preserving and protecting the aesthetic qualities of the Town of Marcellus. Accordingly, the Marcellus Zoning Ordinance is amended to accomplish this stated purpose and intent.

Section 4. Definitions

Wind Energy Conversion – a free standing tower or pole to which is attached to a wind driven device for energy conservation or creation.

Section 24. Supplementary Regulations

M. WIND ENERGY CONVERSION SYSTEMS

1. Wind energy conversion systems are allowed in all districts with the exception of R-2 and R-4 districts.
2. Wind energy conversion systems shall be used, erected, moved, reconstructed, changed or altered after approval by Special Permit issued by the Zoning Board of Appeals and site plan approval issued by the Planning Board as provided in Section 26 of this Zoning Ordinance.
3. Special Use Permits shall be granted for wind energy conversion systems when it is determined by the Zoning Board of Appeals that the proposed use meets all of the following criteria:
 - a. Individual wind energy conversion systems shall be not be installed in any location along the major axis of an existing microwave communications where its operation is likely to produce electromagnetic interference in the link's operation.
 - b. Individual wind energy conversion systems shall be not be installed in any location where its proximity interferes with existing fixed broadcast, retransmission, or reception antenna for radio, television or wireless phone.

- c. Use of nighttime, and overcast daytime condition, stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration may be subject to on-site field testing before the Zoning Board of Appeals as a prerequisite to that Board's approval with specific respect to existing residential uses within 2000 feet of each tower for which such strobe lighting is proposed.
- d. Individual tower facilities shall not be installed in any location that would create an intermittent visual impact, substantially detract from or block view of a portion of a recognized scenic view shed, as viewed from any public road right-of-way or publicly owned land within the Town of Marcellus, that extends beyond the border of the Town of Marcellus.
- e. Individual wind energy conversion systems shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the boundaries of all the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of special use permit application.
- f. Wind energy conversion systems shall not be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
- g. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
- h. All power transmission lines from the wind generation electricity generation facilities to on-site substations shall be underground.
- i. Procedures acceptable to the Zoning Board for emergency shutdown of power generation units shall be established and posted prominently and permanently on at least one location on the road frontage of each individual unit site.
- j. Wind energy conversion systems shall comply with all setbacks within the affected zone. Additional setbacks may be required to contain on-site substantially all ice-fall or debris from tower failure and/or to all wind energy conversion system parts including guide wire anchors and to any accessory facilities. Wind energy conversion systems shall not be located closer than 200 ft. from any residential zone. Additionally, they shall be so located on a lot of sufficient size the distance from the center of the structure to the

nearest property line is not less than the height of the structure plus five percent of the height.

Section 26. Site Review

The following additional material may be required by the Planning Board for wind energy conversion systems facilities when two or more systems are proposed for construction or expansion.

- A. Digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other location, to a distance radius of three miles from the center of the project. Scale used shall depict 3-mile radius as not smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features.
- B. No fewer than four and no more than the number of proposed individual wind energy conversation systems plus three color photos, no smaller than 3" x 5" taken from locations with a 3-mile radius from it an to be selected by the Planning Board, and computer-enhanced to simulate the appearance of the as-built above ground site facilities as they would appear from these locations.
- C. The Planning Board in granting any approval may require the applicant to provide adequate and suitable screening, fencing, anti-climb protection or other protective measure as it deems necessary or proper to reduce or eliminate aesthetic or safety concur

Separability

If any part or provision of this amendment or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Zoning Ordinance or the application thereof to other persons or circumstances, and the Town Board of the Town of Marcellus hereby declares that it would have passed this amendment or the remainder thereof had such invalid application or invalid provision been apparent.

Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Effective Date

This amendment shall take effect upon posting and publishing with the Town Clerk pursuant to Town Law. (June 3, 2006)