

PROPOSED NOTICE OF PUBLIC HEARING

11 April 2013 DRAFT

PLEASE TAKE NOTE, that the Town of Knox will hold a Public Hearing pursuant to Sections 264 and 265 of the Town Law of the State of New York to amend the Zoning Ordinance of the Town of Knox to establish new regulations regarding Site Plan Review, including the placement of Commercial Wind Energy Conversion Systems in the Town, and to define certain new terms.

Findings: Based substantially on a careful review of the Town's Comprehensive Plan, the Town Board of the Town of Knox finds and declares that:

- A. While wind energy is a potentially renewable and nonpolluting energy resource of the Town and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources, the potential benefits must be weighed against potential adverse impacts.
- B. The generation of electricity from properly sited non-commercial WECS (Windmills), as permitted by the Town of Knox Zoning Ordinance, can be a cost effective mechanism for reducing on-site electric costs, with minimal significant adverse environmental and community impacts. It is particularly useful in a community like Knox, where there is a strong desire for local development of alternative energy.
- C. Regulation of the siting and installation of wind turbines is necessary to protect the health, safety, and welfare of neighboring property owners and the general public, and to preserve the Town's existing character.
- D. Industrial-scale Wind Energy Facilities may be significant sources of noise, which, if not properly regulated, can have an adverse impact on the health of nearby residents and on the use of nearby properties, particularly in areas with low background sound levels such as prevail in most of Knox.
- E. Industrial-scale Wind Energy Facilities present a danger to wildlife, particularly to bats and migrating birds. This must be a serious consideration for the Town of Knox, which is known for its caves, many with bat hibernacula.
- F. Industrial-scale Wind Energy Facilities represent significant potential aesthetic impacts because of their large size, lighting, sound generation and shadow flicker effects, which are in sharp contrast with the natural landscape.

- G. Industrial-scale Wind Energy Facilities, particularly when located on mountain ridges, can create severe drainage problems through erosion and subsequent sedimentation, which can damage access roads and adjacent facilities, residences and farms. The sediment can also contaminate watershed streams and increase flood potential.
- H. Industrial-scale turbines have been demonstrated to throw ice a significant distance from the turbines, particularly in climates, such as that of Knox, which are prone to icing events. Thrown ice can cause injury to the public and to site personnel, and can damage structures and vehicles.
- I. Industrial-scale Wind Energy Facilities can reduce the value of nearby properties through the effects of noise, lights and shadow flicker, and of more distant properties by altering their viewshed.
- J. Construction of industrial-scale Wind Energy Facilities can create traffic problems and damage local roads, and the necessary blasting can damage water sources by disrupting veins of water in the fractured shale and limestone that makes up Knox's underlying strata.
- K. If improperly sited, industrial-scale Wind Energy Facilities can interfere with various types of communications, including television and cell phone reception, and EMS service.
- L. The Town has many scenic farm and mountain views which would be severely compromised by the intrusion of such large-scale industrial installations.
- M. The Town of Knox has relatively low potential for wind power; other areas can return far greater power and benefits for the same investment and impacts.

The following are the proposed amendments to the Zoning Ordinance of the Town of Knox:

Under Article II, Section 20, Definitions: the existing definitions of "Windmill" and "Wind Turbine Farms" shall be deleted; the phrase "use as a Wind Turbine Farm" in the definition of "Meteorological Tower, Commercial" shall be replaced by the term "Commercial WECS;" and the following definitions shall be added to the list of definitions.

Commercial Wind Energy Conversion System (Commercial WECS) - A wind energy conversion system consisting of one or more wind turbines, towers, and associated on-site control or conversion systems, which has a rated capacity of 100 kw or more and which is intended to produce power for distribution on the utility grid.

Windmill - A mechanical assembly designed to capture the kinetic energy of the wind as it passes through a vertical or horizontal axis rotor system. The windmill may use the converted energy to drive a mechanical device such as a water pump or an electrical device to convert the wind energy to electricity. The rotating portion of a windmill must not be larger than 30 feet (9.1 meters) in diameter. The windmill must be rated at less than 100 kilowatts of electrical power. Windmills must not exceed 125 feet (38.1 meters) in height including the rotor system and the blades of the rotor must be at least 40 feet (12.2 meters) above the ground. Sale or credit of excess electricity to the utility grid is permitted only as a secondary use.

The following changes shall be added to the text in Article IV, Use Regulations and Use Tabulation: Section 46, Industrial Uses. In each instance, the added designations will be under the column heading as depicted.

	<u>R</u>	<u>A</u>	<u>B</u>	<u>LC1</u>	<u>LC2</u>	<u>AM</u>	<u>MRD</u>
Commercial WECS	N	A	N	N	N	N	N

The following text shall be added to Article VII, Section 71 – Interpretation and Application:

- If a court of competent jurisdiction (1) orders the Town to consider a use variance for a Commercial WECS, and such a use variance is granted, or (2) invalidates the prohibition against a Commercial WECS, no Commercial WECS shall be allowed except upon Site Plan Approval by the Planning Board.

The following text shall be added to the current Article VI, Administration, Section 61F, as noted:

- In the case of an application for a Commercial WECS, the site plan review shall include the requirements listed below, including the additional requirements for Commercial WECS listed in section 3.7. Conditions of site plan approval shall be incorporated into all building permits.

Adequacy of the plan to minimize noise impacts on surrounding land uses;

- a) If the facility is expected to produce off-site noise, a sound level analysis shall be prepared to determine maximum predicted 10-minute average energy equivalent sound levels at off-site property lines and residences from operation of the facility and associated equipment.

- b) The predicted sound levels shall be based on manufacturer's data and a propagation analysis that considers terrain and the various atmospheric conditions that may occur during facility operation. At distances more than 10 times the largest dimension of the noise source, but less than 1500 feet, the 6 dB reduction per doubling of distance rule-of-thumb may be used.
- c) The facility and associated equipment shall be designed and located so that predicted A-weighted sound levels at off-site property lines and residences shall not exceed 40 dBA during nighttime hours (10 pm to 7 am) and 50 dBA during daytime hours (7 am to 10 pm). In addition, to avoid low-frequency rumble, the difference between the predicted A-weighted and C-weighted sound levels shall not exceed 20 dB.
- d) In the event that the noise generated by the facility and/or associated equipment contains a pure tone (such as produced by a transformer or fan), an impulsive component (such as produced by hammering) or an amplitude modulated component (such as produced by Commercial WECS), the predicted A-weighted sound levels at off-site property lines and residences shall not exceed 35 dBA during nighttime hours and 45 dBA during daytime hours.
- e) A post construction noise monitoring plan shall, at a minimum, require certification by the permittee or applicant that the facility and associated equipment are in conformance with these requirements during a representative range of operating and atmospheric conditions. Instrumentation shall meet ANSI or IEC Type 1 standards, and measurement procedures shall comply with relevant portions of ANSI S12.9, Part 3.

For a Commercial WECS, a completed application for site plan approval shall address the above elements as discussed with the Planning Board, plus meet the following standards and requirements:

Application Requirements

1. Processing Agreement

The Commercial WECS applicant shall enter a signed agreement with the Town of Knox to fund the assistance the Town may find necessary to properly review and evaluate the application for site plan approval, including the following:

- The Planning Board may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including but not limited to site inspections, the construction and modification of the site, once permitted, noise measurements and calculations, and any requests for recertification. Applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of said consultants and/or experts.
- An initial deposit of \$7,500 shall be placed with the Town preceding the pre-application meeting. The Town shall maintain a separate escrow account for all such funds. The Town's consultants and/or experts shall invoice the Town for their services on a monthly basis, which amounts will be charged to the escrow account with notice to the applicant. If at any time during the process this escrow account has a balance of less than \$2,500, the applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application.
- Should the amount held in escrow by the Town be more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant. The total amount of the funds required for services by consultants and/or experts may vary with the scope and complexity of the project, the completeness of the application, and other information as may be needed to complete the necessary review, analysis, and inspection of construction.

2. **Complete Application**

Review of the application shall begin only after the Planning Board declares the application to be complete. A complete application shall include the following:

- A. A full description of the Commercial WECS project, including all on-site and off-site construction work needed to construct and operate the WECS, proposed construction schedule, and the plans for operation, maintenance, and decommissioning, including the financial aspects.
- B. A copy of an executed interconnection agreement with the NY Independent System Operator and the applicable transmission owner.

C. A site plan prepared by a NY State licensed professional engineer, including:

- 1) Property lines and physical dimensions of the site;
- 2) Location, approximate dimensions and types of major existing structures and uses on the site, public roads, and adjoining properties within 500 feet of the boundaries of any proposed wind turbines, or 1½ times the total height of such wind turbines, whichever shall be greater.
- 3) Location and elevation of each proposed wind turbine.
- 4) Location of all above and below ground utility lines on the site as well as transformers, the interconnection point with transmission lines, and other ancillary facilities or structures.
- 5) Locations of buffers as required by this law.
- 6) Location of the nearest residential structure(s) on the site and located off the site, and the distance from the nearest proposed wind turbine.
- 7) All proposed facilities, including access roads, electrical substations, storage or maintenance units, and fencing.

D. 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. This Full Environmental Assessment shall, at a minimum, include:

- 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 interfere with residences and describe measures to be taken to eliminate shadow flicker problems. If shadow flicker impacts are of either high intensity or duration (more than 25 hours per year), then a second level analysis of shadow flickers modeling will occur, including an on-site assessment of property conditions. If shadow flicker cannot be minimized to a shorter duration or intensity, project modifications

may be required. It is desirable to have no shadow flicker on off-site residences.

- 2) A visual impact study of the proposed wind turbines as installed, which may include a computerized photographic simulation and digital elevation models demonstrating visual impacts from strategic vantage points. Color photographs of the site accurately depicting existing conditions shall be included as well as a map indicating areas where the wind turbines will be visible to a person at five (5) feet above ground level. The visual analysis shall also indicate color treatment of system components and any visual screening to be incorporated into the project to lessen the system's visual prominence.
- 3) An assessment of the impact of the proposed development on the local flora and fauna, including migratory and resident avian species and bat species. 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 at a minimum consist of a literature survey) for threatened and endangered species and provide relevant information on critical flyways, and shall describe the potential impacts of any proposed facilities on species listed on the NY Natural Heritage database. The assessment must include an avoidance or mitigation plan to address any impacts, including a wind cut-in speed limitation to avoid operation during periods when bats are likely to be active, and plans for post installation studies.
Given the number of caves in the Town of Knox containing endangered and threatened species of bats, the assessment must be carried out by a licensed New York State wildlife biologist and must include a study of bird and bat occurrences and their migration in the area.
- 4) An assessment of potential immediate and long-term impacts to ground and surface water, related but not limited to excavation, blasting, clear-cutting and grading during the site preparation phase including construction of access roads.
- 5) An assessment of the impact of the proposed development on area federal and state listed historic resources as well as local historic and cultural resources identified in the Town of Knox Comprehensive Plan.

A proposed agreement with the Town for construction, operation and maintenance of the WECS. This shall include or address the following items:

- 1) A drawing of the proposed wind turbine 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 may be submitted for each wind turbine of the same type and total height. The make, model, picture and manufacturer's specifications, including noise data, and Material Safety Data Sheet documentation for all materials used in the operation of the equipment shall be provided for each proposed wind turbine.
- 2) A lighting plan showing any FAA-required lighting.
- 3) Erosion, sediment control and storm water management plans prepared to New York State Department of Environmental Conservation standards, as applicable, and to such standards as may be established by the Town of Knox Planning Board on the recommendation of its Town Engineer or consultants.
- 4) A construction schedule describing all elements of work with planned commencement and completion dates.
- 5) An operations and maintenance plan providing for regular periodic maintenance schedules, any special maintenance requirements and procedures and notification requirements for restarts during icing events. Annual reports to the Town noting maintenance work performed and operating performance shall be provided by the operator.
- 6) A decommissioning plan that addresses the anticipated life of the wind turbine, the estimated decommissioning costs, the method of ensuring funds shall be available for decommissioning and restoration, the method by which decommissioning cost shall be kept current, and the manner in which the wind turbine shall be decommissioned and the site restored, less any fencing or residual minor improvements requested by the landowner.
- 7) A complaint resolution process to address complaints from nearby residents. The process may use 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.
- 8) A transportation plan, including a traffic analysis with a description of the routes and timetables to be

used by construction and delivery vehicles, the gross weights and heights of those loaded vehicles to be used in delivery of project components, equipment and building materials and those to be used to provide access to the site during and after construction. The plan shall be designed to minimize traffic impacts from construction and delivery vehicles, wear and tear on local road, and impacts on local business operations and school bus activity. Such plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, as well as measures which will be taken to restore damaged/disturbed access routes following construction. The applicant is responsible for remediation of damaged roads upon completion of the installation or maintenance of a wind turbine. A public improvement bond shall be required prior to the issuance of any building permit in an amount, determined by the Town Highway Superintendent, sufficient to compensate the Town for any damage to Town or County roads if any of these roads will be among the designated traffic routes. The applicant shall consult with the Town Highway Superintendent, the Albany County Department of Public Works and the New York State Department of Transportation to obtain a written recommendation for bonding form and amount, which form and amount shall be approved by the Planning Board. The applicant shall provide pre-development and post-development photographic evidence of the condition of any Town or County roads along the proposed routes.

- 9) A fire protection and emergency response plan, created in consultation with the fire and emergency response department(s) having jurisdiction over the proposed site, as well as Albany County Emergency Service including but not limited to fire coordinator, emergency management, and sheriff.
- 10) A list of property owners, with their mailing addresses, within five miles of the outer boundaries of the proposed site.
- 11) The Commercial WECS Owner must provide a Real Estate Property Value Assurance Plan (REPVAP) to all landowners who: 1) own property within five miles, measured horizontally, from the Project Boundary, and 2) have not signed any landowner agreements or easements with the WECS Owner. This is a legally binding contract with the WECS Owner and its successors and the landowners. Each one of these contracts must be submitted with the application.

This protection will be limited to properties within a five mile radius of the Commercial WECS facility. This provision will be guaranteed by the Commercial WECS Owner(s), and all its successors and assigns, in perpetuity by providing a bond, or other surety in an amount equal to \$10 million.

The elements of the Real Estate Property Value Assurance Plan are as follows:

1. Sale of Property Covered by the REPVAP
 - a. If at any time after a permit is issued to erect the WECS, the property owner lists the property for sale with a NYS licensed realtor, then an appraisal of the property will be prepared, at the WECS Owner's expense, using the procedure outlined below.
 - b. The property owner must agree to provide to prospective buyers full disclosure of known defects of the property as may be required under New York State Law, including any problems associated with the WECS facility.
 - c. In the event that the property has been listed for at least 12 months and sells for less than the market value determined by the appraisal, the WECS Owner will pay the difference in value within 30 days after closing of the sale of the property. The 12-month listing requirement may be waived by WECS Owner if requested by the property owner at the WECS Owner's sole discretion.
2. Establishing the Value of the Property if Listed for Sale
 - a. Two NYS Licensed or Certified Real Estate Appraisers, qualified to appraise the type of property being sold, will be hired by the WECS Owner. Selection will be by the WECS Owner and property owner. The appraisers selected must have completed the current year Uniform Standards of Professional Appraisal Practice (USPAP) continuing education requirements.
 - b. Each appraiser shall appraise the property, comparing the property size and improvements to no less than three similar properties using USPAP methods. The comparable properties must be located at least five miles, measured horizontally, from the Project Boundary, and be unaffected by any wind project.
 - c. The property valuations determined by the appraisers will then be averaged to determine the "baseline" property value for REPVAP purposes only. The appraisals will be performed at the WECS Owner's expense. The property owner hereby agrees to permit access to the property as required to perform the appraisals. Furthermore, the property owner hereby agrees to provide full disclosure of known defects of the property as may be required under New York State Law.

- d. The appraisers preparing the appraisals will provide a written copy of their report to both the property owner and the WECS Owner. Both the WECS Owner and the land owner reserve the right to reject an appraisal only in the instance of a clear mistake by the appraiser; the mistake must then be corrected to obtain a valid appraisal, which will then be used to determine a corrected baseline property value, at the WECS Owner's expense.

3. Other stipulations

- a. The property owner hereby grants the WECS Owner the right to purchase the property at the greater amount of the baseline property value or the highest bona fide offer.
- b. In the event the property was offered for sale and did not sell or generate any acceptable bona fide offers within 12 months, the WECS Owner will pay the difference in value between the baseline property value and the highest bona fide offer.
- c. If the property does not sell within an 18-month period, the WECS Owner will have to purchase the property at the baseline property value.
- d. Subject to the WECS Owner's right to waive any or all the following exclusions, the plan outlined herein does not cover a sale or transfer of the property under any of the following conditions.
 - i. If the property owner does not have clear and marketable title.
 - ii. If the property has not been listed for sale for at least 12 months as a continuous period.
 - iii. If the property is gifted or assigned to another person.
 - iv. If the property is not reasonably maintained in its current condition, reasonable wear and tear excepted.

4. Additional Conditions:

- a. A property owner can participate voluntarily in this plan, under the terms and conditions established herein, but the benefit is not assignable to new or subsequent property owners.
- b. If the WECS Owner sells or transfers ownership of the WECS, it must assign, transfer, pledge, or otherwise dispose of its obligations and interests under this agreement, related to properties listed

for sale, in a form acceptable to the Town of Knox, unless released in writing by Town. If no agreement can be reached, then the WECS Owner shall, before sale of the WECS, place into an escrow account, in favor of the landowner(s) the full value of the property(s) as determined by the baseline property value(s).

- c. In the event any landowner experiences health problems directly attributable to the operation of the WECS, such that the home is rendered uninhabitable, and unsellable, the listing period will be waived, and the WECS Owner will be responsible for all medical expenses incurred, including but not limited to doctor visits, hospital visits and stays, medical procedures, medication and cost of lodging away from the home, up until such time as the WECS Owner purchases the affected property at its baseline property value.

Landowner agreements shall address the following issue if needed:

- 1) Nothing in this law shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the wind energy facility. Nothing in this law shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any wind energy facility. 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.
- 2) Easements shall be recorded in the County Clerk's Office and shall describe the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be revoked without the consent of the Planning Board, which consent shall be granted upon either the decommissioning of the benefited wind turbine in accordance with this law, or the acquisition of the burdened parcel by the owner of the benefited parcel or the wind turbine.

Review of the Application

The review of the site plan approval application shall include, but may not be limited to, consideration of the following standards and requirements.

1. Development Standards

The following standards shall apply to wind energy facilities in the Town of Knox, unless specifically waived by the Planning Board.

- a. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.
- b. No television, radio or other communication antennas may be affixed or otherwise made part of any wind turbine, except with approval by the Town of Knox Planning Board. Applications may be jointly submitted for wind turbine and telecommunications facilities.
- c. No advertising signs are allowed on any part of the wind energy facility, including fencing and support structures.
- d. No tower shall be lit except to comply with Federal Aviation Administration (FAA) requirements. Minimum security lighting for ground level facilities shall be allowed as approved on the wind energy facility development plan.
- e. All applicants shall use measures to reduce the visual impact of wind turbines to the extent possible. Wind turbines shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished color or a camouflage scheme. Wind turbines within a multiple wind turbine project shall be generally uniform in size geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
- f. Guy wires shall not be permitted except to address unique safety issues and then only with specific permission by the Planning Board in the form of a waiver.
- g. No wind turbine shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other communication systems would produce electromagnetic interference with signal transmission or reception. If it is determined a wind turbine is causing electromagnetic interference, the operator shall take necessary corrective action to eliminate this interference including relocation or

removal of the facilities, or resolution of issues with the affected parties. Failure to remedy electromagnetic interference is grounds for revocation of the Wind Energy Facility Permit for the specific wind turbine or wind turbines causing the interference.

- h. All construction debris shall be removed from the site or otherwise disposed of in a manner acceptable to the Planning Board.
- i. Wind turbines shall be designed to minimize the impacts of land clearing and the loss of important open spaces. Development on agricultural lands shall follow the Guidelines for Agricultural Mitigation for Windpower Projects published by the New York State Department of Agriculture and Markets, to the maximum extent practicable.
- j. Wind turbines shall be located and operated in a manner that minimizes significant negative impacts on rare animal species in the vicinity.
- k. Wind turbines shall be located in a manner that minimizes shadow flicker on off-site residences. It is desirable to have no shadow flicker on off-site residences.
- l. Setbacks. To avoid problems related to turbine failure or ice-throw, each wind turbine shall be set back as follows:
 - 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 property lines.
 - c. 1,600 feet from any non-WECS above ground utilities located within the project boundaries.

2. **Site Safety Standards**

- A. All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.
- B. All wind turbines shall have automatic fire suppression systems.

- C. Accessory facilities or equipment shall be gated or fenced to prevent unrestricted public access to the facilities and reduce any attractive nuisance aspects of the use.
- D. Warning signs shall be posted at the entrances to the wind energy facility and at base of each tower warning of electrical shock or high voltage and containing emergency contact information.
- E. No climbing pegs or tower ladders shall be located closer than 15 feet to the ground level at the base of the structure for freestanding single pole or guyed towers.
- F. The minimum distance between the ground and any part of the rotor or blade system shall be 40 feet (12.2 meters).
- G. Wind turbines shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

3. **Decommissioning Plan Requirements**

- a. If any wind turbine remains non-functional or inoperative for a continuous period of 24 months, the owner shall remove said system at its own expense following the requirements of the decommissioning plan. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the owner demonstrates to the Town that it has been making good faith efforts to restore the wind turbine to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.
- b. Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA, New York Independent System Operator, or by lack of income generation. The applicant shall make available (subject to a non-disclosure agreement) to the Planning Board all reports to and from the purchaser of energy from individual wind turbines, if requested and

necessary to prove the wind turbine is functioning, which reports may be redacted as necessary to protect proprietary information.

- c. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of non-functional towers and appurtenant facilities, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant. All decommissioning bond requirements shall be fully described in the decommissioning plan.

4. **Operating Standards**

- A. The applicant shall fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as biannually, or more frequently upon request of the Town in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Commercial WECS Building Permit and this law and shall also include an evaluation of any complaints received by the Town. The applicant shall have 90 days after written notice from the Town, to cure any deficiency. An extension of the 90-day period may be considered by the Town, but the total period may not exceed 180 days.
- B. A wind turbine shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a wind turbine become inoperable, or should any part of the wind turbine be damaged, or should a wind turbine violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town. The applicant shall have 90 days after written notice from the Town, to cure any deficiency. An extension of the 90-day period may be considered by the Town, but the total period may not exceed 180 days.
- C. Should a wind turbine not be 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,

order either remedial action within a particular timeframe, or order revocation of the Commercial WECS Building Permit for the wind turbine and require its removal within 90 days. If the wind turbine is not removed, the Town shall have the right to use the security posted as part of the decommissioning plan to remove the wind turbine.

Said hearing will be held on _____, at _____ pm at the Knox Town Hall, at which time all persons interested shall be given an opportunity to be heard.

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