

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

- b. All Commercial Communication Towers shall be properly sited, filtered and/or shielded in order to minimize any interference with electromagnetic communications, such as radio, telephone or television signals, caused by any Commercial Communication Tower or the applicant shall mitigate any such interference.
- c. The applicant must coordinate specifics of the project with the National Telecommunications & Information Administration (NTIA), who then forwards information to several Federal agencies, and submit information to the Town
- d. The applicant shall include specific measures proposed to minimize interference, a complaint procedure, and specific measures proposed to mitigate interference impacts and the project will be sited to minimize impacts to the maximum extent practicable.

SECTION 1116

WIND
ENERGY
CONVERSI
ON DEVICE /
FARM

- A. Intent - It is the purpose of the regulations of this Article to promote public health, safety and general welfare of the Town of Orangeville residents by addressing, in a careful manner, the establishment, placement, construction, enlargement and erection of wind energy conversion devices/farms on a comprehensive town-wide basis by providing the framework for the establishment of the same. The section is the controlling law for wind energy conversion devices/farms.
- B. Design Requirements
 - 1. Set Backs
 - a. The tower or towers for a wind energy conversion device must meet the following set back requirements, (all set back distances shall be measured from the center line of the wind turbine.)
 - b. Every wind energy conversion device in a wind energy conversion farm must be set back (as measured from the center of the base of the tower):

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

- i. from the PROPERTY LINE of the parcel on which the wind energy conversion device is located by a minimum distance of five hundred (500) feet, unless waived in writing, in the form of an easement that is recorded in the Wyoming County Clerk=s Office, by the abutting landowner.
 - ii. from any DWELLING that is on any parcel by a minimum distance of one quarter (1/4) mile, unless waived in writing, in the form of an easement that is recorded in the Wyoming County Clerk=s Office.
 - iii. from any accessible PUBLIC BUILDING that is on any parcel by a minimum distance of one quarter (1/4) mile, or an area variance is granted by the Zoning Board of Appeals (if occupied).
 - iv. from the PROPERTY LINE of a NON PARTICIPATING RESIDENT a minimum distance of seven hundred (700) feet.
 - v. from the RIGHT-OF-WAY of any PUBLIC ROAD by 1.2 times its total height or an area variance is granted by the Zoning Board of Appeals.
 - c. Single family and multi family dwellings must meet the minimum floor area as set forth in Schedule II or be in existence at the time of the adoption of this Law in order to be afforded the protection of subparagraph ii above.
2. Spacing and Density - A wind energy conversion device must be separated from any other wind energy conversion device, or adjacent wind energy conversion farm by a minimum distance of five hundred (500) feet from the wind energy conversion device.
3. Structure - A wind energy conversion device must be of monopole construction to the extent practicable. If monopole construction is not practicable, a wind energy conversion device must be of freestanding construction to the extent practicable. If monopole or freestanding construction is not practicable, a wind energy conversion device may be guyed.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

4. Clearance - The vertical distance from ground level to the tip of a wind turbine blade when the blade is at its lowest point must be at least thirty (30) feet.
5. Access and Safety
 - a. Security - A wind energy conversion device, including any climbing aids, must be secured against unauthorized access by means of a locked barrier. A security fence may be required.
 - b. Climbing Aids - Monopole wind energy conversion devices shall have all climbing aids and any platforms locked and wholly inside the tower.
 - c. Operational Safety - Wind energy conversion devices 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.
6. Lightning - All wind energy conversion devices shall provide a continuous electrical path to the ground to protect the tower from lightning.
7. Access Roads - All wind energy conversion devices shall use existing roads to provided access to the facility site or if new roads are needed, minimize the amount of land used for new roads and locate them so as to minimize adverse environmental impacts.
8. Electrical Wires
 - a. Location - All electrical wires associated with a wind energy conversion device must be located underground and must be located in a manner that does not interfere with reasonably expected farm practices (see also Construction section under Agricultural Mitigation). Without specific written approval from the Town Board, the granting of a special use permit is not approval for overhead electrical wires.
 - b. Transmission Lines - All wind energy conversion farms shall combine transmission lines and point of connection to local transmission lines.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

- c. Operational Safety - All wind energy conversion farms shall connect the facility to existing substations, or if new substations are needed, minimize the number of new substations.

- 9. Lighting - A wind energy conversion device and turbine may not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA), other governmental agency, recognized safety guidelines (i.e.: Mercy Flight), or the Town Board. If lighting is required, the lighting must comply with FAA minimum requirements and whenever possible be at the lowest intensity allowed. If more than one (1) lighting alternative is available, the Town reserves the right to choose the least obtrusive lighting option available.

- 10. Buildings and Outdoor Storage - Any ancillary building and any outside storage associated with a wind energy conversion device/farm must, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment (i.e.: In an agricultural setting accessory buildings could be designed to look like barns). Appropriate landscaping or architecture may be provided to screen accessory structures from roads and adjacent dwellings.

- 11. Aesthetics and Visual Assessment
 - a. Appearance, Color and Finish - The exterior surface of any visible components of a wind energy conversion device/farm must be a nonreflective, neutral color. Wind energy conversion devices and farms that are located within view, or within one (1) mile of each other must be of uniform design, including tower type, color, number of blades and direction of blade rotation, to the extent practicable.

 - b. Visual Impact Assessment - The applicant shall submit a Visual Environmental Assessment Form (Visual EAF - SEQR), as well as a visual impact assessment of any proposed wind energy conversion device/farm or any proposed modification to any existing wind energy conversion device/farm prepared by a qualified professional in a format generally accepted in the profession. The visual impact assessment shall include:
 - i. Before and after photos or computer simulations from key

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

viewpoints both inside and outside of the Town, including state highways and other major roads; from state and local parks; other public lands; from any privately owned preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors or travelers. A balloon test may also be requested by the Town Board.

- ii. Assessment of any visual impact from abutting properties and streets of the tower base, guy wires, accessory building and any other element of the wind energy conversion device/farm as determined and directed by the Town Board.
 - iii. A viewshed map of the proposed wind energy conversion device/farm with a radius of seven (7) miles from any portion of the wind energy conversion device/farm.
 - iv. An inventory of all aesthetic resources in the viewshed defined in item iii.
 - v. The assessment of the visual impact shall also include, but not be limited to, an analysis of lighting or illumination of the wind energy conversion device and assessment of any shadowing or other visual effect of the wind energy conversion device relating to the level of natural or artificial illumination.
- c. Visual Impacts Mitigation Plan - The applicant may be required to prepare and implement a Visual Impacts Mitigation Plan to mitigate negative impacts on aesthetics of a proposed wind energy conversion device/farm. Such a plan would show how the applicant would protect or make improvements to the aesthetics of another part of the Town to offset the negative impacts on aesthetics within the viewshed.
12. Signs - No wind turbine, tower, building or other structure associated with a wind energy conversion farm may be used to advertise or promote any product or service. A weather resistant sign or plate, no greater than two (2) square feet in size, containing the current owner or operator, emergency phone number and current address of such owner/operator shall be located

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

on the exterior surface of the tower or of the fence surrounding each tower and viewable by a Zoning Enforcement Officer. No other word or graphic representation, other than appropriate warning signs, may be placed on a wind turbine tower, building, or other structure associated with a wind energy conversion device so as to be visible from any public road.

13. Agricultural Mitigation - The following shall apply to construction areas for wind energy conversion devices located in County-adopted, State-certified Agricultural Districts. The applicant is encouraged to coordinate with the New York State Department of Agricultural and Markets (Ag and Markets) to develop an appropriate schedule for milestone inspections to assure that the goals are being met. For larger projects, the applicant shall hire an Environmental Monitor to oversee construction and restoration in agricultural fields.
 - a. Siting
 - i. Minimize impacts to normal farming operations by locating structures along field edges where possible.
 - ii. Locate access roads, which cross agricultural fields, along ridge tops where possible to eliminate the need for cut and fill and reduce risk of creating drainage problems.
 - iii. Avoid dividing larger fields into smaller fields, which are more difficult to farm, by locating access roads along the edge of agricultural fields where possible.
 - iv. All existing drainage and erosion control structures such as diversion, ditches, and tile lines shall be avoided or appropriate measures taken to maintain the design and effectiveness of the existing structures. Any structures disturbed during construction shall be repaired to as close to original condition as possible, as soon as possible, unless such structures are to be eliminated based on a new design.
 - b. Construction
 - i. The surface of access roads constructed through agricultural fields shall be level with the adjacent field surface.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

- ii. Where necessary, culverts and water bars shall be installed to maintain natural drainage patterns.
- iii. All topsoil must be stripped from agricultural areas used for vehicle and equipment traffic and parking. All vehicle and equipment traffic and parking shall be limited to the access road and/or designated work areas such as tower sites and lay down areas. No vehicles or equipment will be allowed outside the work area without prior approval from the landowner and, when applicable, the Environmental Monitor.
- iv. Topsoil from work areas (tower sites, parking areas, Aopen-cut@ electric cable trenches, along access roads) shall be stockpiled separate from other excavated material (rock and/or subsoil). At least fifty (50) feet of temporary workspace is needed along Aopen-cut@ electric cable trenches for proper topsoil segregation. Topsoil stockpile areas shall be clearly designated in the field and on the on-site Aworking set@ of construction drawings. Stockpiles will be located far enough from access roads and work areas to eliminate the possibility of vehicles inadvertently compacting this soil.
- v. In cropland, hayland and improved pasture, a minimum depth of forty-eight (48) inches of cover will be required for all buried electric wires. In unimproved grazing areas and land permanently devoted to pasture, a minimum depth of forty-eight (48) inches of cover will be required. In areas where the depth of soil over bedrock ranges from zero (0) to forty-eight (48) inches, the electrical wires shall be buried entirely below the top of the bedrock or at the depth specified for the particular land use, whichever is less. At no time will the depth of cover be less than twenty-four (24) inches below the soil surface.
- vi. All excess subsoil and rock shall be removed from the site. On site disposal of such material may be allowed if approved by the landowner and, when applicable, the Environmental Monitor with appropriate consideration given to any possible agricultural or environmental impacts.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

- vii. In pasture areas, work areas will be fenced to prevent livestock access, consistent with landowner agreements.
 - viii. All pieces of wire, bolts, and other unused metal objects will be picked up and properly disposed of as soon as practical after the unloading and packing of turbine components to that these objects will not be mixed with any topsoil.
 - ix. Travel of heavy equipment (including concrete trucks and erection cranes) will be limited to designated access roads and gravel crane pads at all times.
 - x. Excess concrete will not be buried or left on the surface in active agricultural areas. Concrete trucks will be washed in designated areas.
 - xi. Any permits necessary for disposal, under local, state and/or federal laws and regulations, must be obtained by the contractor with the cooperation of the landowner when required.
- c. Restoration
- i. Restoration scheduling will be consistent with the seasonal limitations identified by Ag and Markets and will be incorporated into the project's Agricultural District Notice of Intent (if applicable) as well as the Stormwater Management Plan (general permit).
 - ii. Following construction, all disturbed agricultural areas will be decompacted to a depth of eighteen (18) inches with a deep ripper or heavy-duty chisel plow. In areas where the topsoil was stripped, soil decompaction shall be conducted prior to topsoil replacement. Following decompaction, all rocks four (4) inches and larger in size will be removed from the surface of the subsoil prior to replacement of topsoil. The topsoil will be replaced to original depth and the original contours will be reestablished where possible. All rocks four (4) inches and larger shall be removed from the surface of the topsoil.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

Subsoil decompaction and topsoil replacement should be avoided after October 1st unless approved on a site-specific basis by the landowner in consultation with Ag and Markets. All parties involved should be cognizant that areas restored after October 1st may not obtain sufficient growth to prevent erosion over the winter months. If areas are to be restored after October 1st, some provision should be made to restore any eroded areas in the springtime to establish proper growth.

- iii. All access roads will be regraded to allow for farm equipment crossing and to restore original surface drainage patterns, or other drainage pattern incorporated into the design.
 - iv. All restored agricultural areas shall be seeded with the seed mix specified by the landowner in order to maintain consistency with the surrounding areas.
 - v. All surface or subsurface drainage structures damaged during construction shall be repaired to as close to preconstruction conditions as possible, unless said structures are to be removed as part of the project design.
 - vi. Following restoration, all construction debris will be removed from the site.
- d. Three (3) Year Monitoring and Remediation
- i. The applicant will provide a monitoring and remediation period of no less than three (3) years immediately following the completion of initial restoration. The three (3) year period allows for the effects of climatic cycles such as frost action, precipitation and growing seasons to occur, from which various monitoring determinations can be made. The monitoring and remediation phase will be used to identify any remaining agricultural impacts associated with construction that are in need of mitigation and to implement the follow-up restoration.
 - ii. General conditions to be monitored include topsoil thickness, relative content of rock and large stones, trench settling, crop production, drainage and repair of severed fences, etc.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

Impacts will be identified through on site monitoring of all agricultural areas impacted by construction and through contact with respective farmland operators and New York State Ag and Markets.

- iii. Topsoil deficiency and trench settling shall be mitigated with imported topsoil that is consistent with the quality of topsoil of the affected site. Excessive amounts of rock and oversized stone material will be determined by a visual inspection of disturbed areas as compared to portions of the same field located outside the construction area. All excess rocks and large stones will be removed and disposed of by the applicant.
- iv. When the subsequent crop productivity within affected areas is less than that of the adjacent unaffected agricultural land, the applicant, as well as other appropriate parties, will help to determine the appropriate rehabilitation measures to be implemented. Because conditions which require remediation may not be noticeable at, or shortly after, the completion of construction the signing of a release form prior to the end of the remediation period will not terminate the applicant's responsibility to fully address all project impacts.
- v. Subsoil compaction shall be tested using an appropriate soil penetrometer or other soil compaction measuring device. Compaction tests will be made for each soil type identified on the affected agricultural fields. The subsoil compaction test results within the affected area will be compared with those of the adjacent unaffected portion of the farm field/soil unit. Where representative subsoil density of the affected area exceeds the representative subsoil density of the unaffected areas, additional shattering of the soil profile will be performed using the appropriate equipment. Deep shattering will be applied during periods of relatively low soil moisture to ensure the desired mitigation and to prevent additional subsoil compaction. Oversized stone/rock material which is uplifted to the surface as a result of the deep shattering will be removed.

14. Noise - Audible noise, stated as the sound pressure level, due to the

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

operation of any part of a wind energy conversion device shall not exceed L₁₀-50 dBA, when measured at any offsite dwelling, school, hospital, church, public park or public library, unless the project developer has obtained a noise easement.

15. Shadow Flicker

- a. Shadow Flicker Map - Maps shall be prepared showing projected annual hours of shadow flicker impact for all sensitive areas/locations within the project area including, but not limited to, any dwelling, school, hospital, church or public library.
- b. Shadow Flicker Duration - Shadow flicker for all sensitive areas/locations within the project area shall be limited to thirty (30) hours per year.
- c. A sensitive area/location shall be defined as within a three-quarter (3/4) mile of any wind energy conversion device.

16. Electromagnetic Interference (EMI)

- a. The applicant shall provide evidence in the form of test results or independent engineering studies that the wind energy conversion device/farm should not interfere with microwave, cellular, television or radio reception to or from existing primary structures and fixed broadcast, retransmission or reception antennas.
- b. All wind energy conversion devices shall be properly sited, filtered and/or shielded in order to minimize any interference with electromagnetic communications, such as radio, telephone or television signals, caused by any wind energy conversion device or the applicant shall mitigate any such interference.
- c. The applicant must coordinate specifics of the project with the National Telecommunications & Information Administration (NTIA), who then forwards information to several Federal agencies, and submit information to the Town
- d. The applicant shall include specific measures proposed to minimize interference, a complaint procedure, and specific measures

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

- proposed to mitigate interference impacts and the project will be sited to minimize impacts to the maximum extent practicable.
17. Avian Analysis
- a. The applicant shall submit an avian study to assess the potential impact of proposed wind energy conversion devices/farms upon bird and bat species. The avian study shall, at a minimum, report on a literature survey for threatened and endangered species, and any information on critical flyways.
 - b. The applicant must identify any plans for post-construction monitoring or studies. The analysis should also include an explanation of potential impacts and propose a mitigation plan, if necessary.
 - c. This analysis can be submitted as part of the application or can be included in a Draft Environmental Impact Statement (DEIS).
 - d. Any project shall comply with the New York State Department of Environmental Conservation "Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects".
18. Height Limitation - The maximum height for any device which is part of a wind energy conversion device/farm shall be four hundred fifty (450) feet measured as follows:
- a. From the highest vertical point of the wind turbine when the turbine blade is in vertical position perpendicular to its base.
 - b. Other maximum building structure height restrictions within other sections of the Zoning Law are not applicable.
19. Wellhead Protection - The applicant is required to identify any needs for the pumping of groundwater for their project sites. If the pumping of groundwater is necessary to dewater excavations, water areas for dust control or utilization for other construction requirements (i.e.: water for concrete batch plants, etc.), the applicant will need to show that this pumping will not adversely affect nearby wells, and what mitigation may be necessary for these temporary impacts.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

C. Special Use Permit

1. Wind energy conversion devices/farms may not be constructed, erected, located, altered or used without first obtaining review, approval and a special use permit pursuant to this Article.
 - a. The special use permit, as specified herein, for all wind energy conversion devices/farms must be reviewed by the Town Board and its designated expert.
 - b. Upon completion of the Town Board review of the wind energy conversion device/farm special use permit, the Planning Board shall render an advisory recommendation to the Town Board recommending approval, denial or conditional approval of the special use permit.
2. An applicant proposing wind energy conversion device/farm must submit the following special use permit materials:
 - a. Survey of the property showing existing features such as contours; buildings; structures; streets; utility easements; rights-of-way; land use; land use district; ownership of surrounding property; and vehicular access.
 - b. A plot plan drawn in sufficient detail to clearly describe the following:
 - i. Property lines and physical dimensions of the site.
 - ii. Location and approximate dimensions of major existing structures on the site, public roads and adjoining properties within five hundred (500) feet of the boundaries of the proposed site.
 - iii. Location and elevation of each proposed wind energy conversion device.
 - iv. Location of all above ground utility lines on the site or within one (1) radius of the total height of the wind energy conversion device, transformers, power lines, interconnection point with transmission lines and other ancillary facilities or structures.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

- v. To demonstrate compliance with the setback requirements of this law, circles drawn around each proposed tower location equal to:
 - (a) a radius of five hundred (500) feet.
 - (b) a radius of seven hundred (700) feet.
 - (c) a radius of one quarter (1/4) mile.
 - (d) a radius equal to 1.2 times the total height of the proposed wind energy conversion device.
- vi. Location of the offsite dwellings located near the site and the distance each such dwelling to the nearest proposed wind energy conversion device.
- vii. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units and fencing.
- c. A description of the routes to be used by construction and delivery vehicles and any road improvements that will be necessary in the Town to accommodate construction vehicles, equipment or other deliveries.
- d. Anticipation construction schedule and construction times. The construction of wind energy conversion farms shall be limited to the hours of 7:00 a.m. to 7:00 p.m., except for certain activities that require cooler temperatures than possible during the day, subject to approval from the Town Board.
- e. Description of operations (including anticipated regular and unscheduled maintenance).
- f. Storm Water Management Plan
- g. Overall project plan and timeline.
- h. Noise Study – A noise study shall be furnished that shall include the

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

following:

- i. A description and map of the project's noise-producing features, including the range of noise levels expected and the tonal and frequency characteristics expected. The noise study shall include low frequency, infrasound, pure tone, and repetitive/impulsive sound.
- ii. A description and map of the noise sensitive environment, including identifying any offsite dwelling, school, hospital, church, public park or public library, unless the project developer has obtained a noise easement within one (1) mile of the base of any proposed wind energy conversion device.
- iii. A survey and report prepared by a qualified engineer that analyzes the pre-existing ambient noise regime, including but not limited to, separate measurements of low frequency and A-weighted noise levels across a range of wind speeds (including near cut-in).
- iv. A description and map showing the potential noise impacts, including estimates of expected noise levels at offsite dwelling, school, hospital, church, public park or public library, unless the project developer has obtained a noise easement.
- v. A description and map identifying the cumulative noise impacts of the proposed wind energy conversion devices.
- vi. A description of the project's proposed noise-control features, including specific measures proposed to mitigate noise impacts for offsite dwelling, school, hospital, church, public park or public library, unless the project developer has obtained a noise easement.
- vii. Identification of any area not meeting the standards of this article.
- viii. Manufacturer's noise design and field testing data, both audible dB(A) and, if available, low frequency (deep bass vibration), for proposed wind energy conversion devices.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

- i. EMI Analysis – If after construction the owner or operator receives a written complaint related to such interference, the owner or operator shall take reasonable steps, including provisions of alternate communications to respond to the complaint.
 - j. Blast Survey - If blasting is necessary, the applicant shall perform a pre-blast survey (by a registered Professional Engineer or specialized consultant licensed in the State of New York and specializing in conducting pre-blast surveys) of all structures and wells within a minimum five hundred (500) foot radius of the site to be used as a benchmark for comparison in the event that any offsite structural damage is reported. Where damage is caused, the applicant or its contractor will be responsible for appropriate corrective actions or damages. In addition to the pre-blast survey proposed prior to any blasting activities, the applicant shall notify all property owners within one quarter (1/4) mile of a blasting site a minimum of one (1) week before the blasting is scheduled to occur that blasting activities are scheduled to take place. The Town shall provide the applicant with a mailing list based upon the Town's property records.
- 3. These special use permit materials are required in addition to the items set forth in Article III, Section 306.
 - 4. The Town Board may waive or amend these submission requirements based on the sketch plan conference or if this information is to be included in a Draft Environmental Impact Statement (DEIS).
- D. State Environmental Quality Review Act (SEQRA) – The applicant shall fully comply with all provisions contained in the State Environmental Quality Review Act. Nothing in this Article shall read as limiting the authority of the Town Board to impose mitigating conditions under this Act.
- E. Application Fee
- 1. To initiate the review process contemplated by this section, including site plan review, an applicant of a wind energy conversion device/farm shall remit an application fee to the Town of Orangeville in accordance with the Schedule of Fees set forth herein. Said fee shall not be refundable in whole

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

or in part.

2. The applicant shall pay the fees and expenses of any consultant(s) used by the Town Board associated with the SEQRA review if an Environmental Impact Statement (EIS) is developed.
 3. The Town Board shall set up an escrow fund to receive funds in advance for payment of these fees and expenses.
 4. Any application hereunder shall not be deemed complete until funds are deposited with said Town.
- F. Prior to receipt of any zoning permit, the applicant shall provide proof of insurance to the Town in amount not less than one million (1,000,000) dollars, which insurance shall name the Town as an additional insured and the purpose of which shall be to indemnify and hold harmless the Town from any liability imposed upon the Town, his officers, its agents and employees arising from the applicant=s use of Town property.
- G. Removal of Obsolete/Unused Facilities
1. Upon the original issuance of a special use permit for a wind energy conversion device, the applicant agrees to dismantle and remove the wind energy conversion device from the property when the wind energy conversion device ceases to be used for its intended purpose for a period of twelve (12) consecutive months, or the special use permit is revoked or not renewed.
 2. The decision as to whether the project has been abandoned or the permit revoked shall be in the sole and absolute discretion of the Town Board and not subject to review or appeal.
 3. To secure the applicant=s performance to dismantle and remove the wind energy conversion device once the same ceases to be used for the intended purpose, the following will be complied with:
 - a. Decommissioning Bond or Fund - 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,

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

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 funded before a zoning permit is issued. The fund shall be established in a manner so it is the property of the Town and not the applicant in the case of the applicant=s bankruptcy.

- b. The Town reserves the right to review annually to ensure sufficient monies are available for removal.
 - c. Removal of the system shall include the removal of the entire structure, including foundations forty-eight (48) inches below the surface, transmission equipment and fencing, if any, from the property.
 - d. After the applicant dismantles and removes the wind energy conversion device, said deposit shall be returned to the applicant.
4. In the event that the wind energy conversion device is not dismantled and removed, the Town shall have the right, on thirty (30) days written notice, mailed certified return receipt requested to the last known address of the applicant, to have the wind energy conversion device dismantled and removed and charge the cost thereof against the Escrow Fund.
5. In the event there is any unused portion of the Escrow Fund remaining, after the dismantling and removal of the wind energy conversion device, the balance shall be returned to the applicant.
6. If the cost to dismantle and remove the wind energy conversion device is in excess of the amount in the Escrow Fund, the applicant shall reimburse the Town for such excess upon demand.
7. In the event the applicant fails to so reimburse the Town and the Town commences legal action to enforce this law, the applicant shall reimburse the town for its reasonable attorney=s fees and court costs.

H. Transfer of Device/Farm

- 1. No transfer of any wind energy conversion device/farm, nor sale of the entity owning such device/farm, shall occur without prior approval of the Town

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

which approval shall be granted upon:

- a. The receipt of the ability of the successor to meet all requirements of this law.
 - b. The written acceptance of the transferee of the obligations of the transferor under this law.
2. No transfer shall eliminate the liability of an applicant or any other party under this law.
- I. Issuance of Special Use Permits for Wind Energy Conversion Device/Farm
1. Upon completion of the review process, the Town Board shall, upon consideration of the standards in this law and the record of the SEQRA review, issue a written decision with reasons for approval, conditions of approval or disapproval fully stated. Said conditions may include any mitigation required as a result of the SEQRA process. Notwithstanding any other provisions of this law, the Town Board shall be the sole issuing authority for special use permits for wind energy conversion device/farm.
 2. If approved, the Zoning Officer will issue a special use permit listing all conditions for said permit.
 3. The decision of the Town Board shall be filed within five (5) days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.
 4. This law is not intended to establish or create a right to operate wind energy conversion device/farm but rather permits the Town Board to issue a special use permit to operate should it be determined to do so under the terms and conditions of said law.
- J. Complaint and Investigation Process Required - The applicant shall submit a complaint and investigation process for such issues as noise, electromagnetic interference, shadow flicker, etc. The Town Board shall determine the adequacy of the applicant's complaint and investigation process.
- K. Certification of Post Construction – After completion of construction of a wind energy conversion device/farm, the applicant shall provide a post-construction certification from a licensed professional engineer registered in the State of New
-

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

York that the project complies with applicable codes and industry practices. The certification shall be provided to the Zoning Officer and shall be maintained in a permanent file.

- L. Post Construction Noise Study – The applicant will be required to submit a protocol for a Post Construction Noise Study to be conducted within one (1) year of commencement of commercial operation to ensure that the project is in compliance with the standards outlined in this Article. In addition to the initial Post Construction Noise Study, the Town Board may require periodic additional noise studies.
- M. Before a special use permit can be issued by the Town Board, a Host Agreement shall be entered into by and between the applicant and the Town of Orangeville.
- N. Before a special use permit can be issued by the Town Board, a Road Agreement shall be entered into by and between the applicant and the Town of Orangeville.

SECTION 1117 BED & BREAKFAST

- A. Process - An applicant may apply to the Planning Board for a special use permit to establish a Bed & Breakfast in a Low Density District and Medium Density District.
- B. Conditions - The following conditions are intended to ensure that the Bed and Breakfast is secondary to the residential use and that it is compatible with the residential character of the neighborhood.
 - 1. No Bed and Breakfast establishment shall have more than six (6) registered guests at any one time.
 - 2. The Bed and Breakfast establishment must be conducted within a dwelling which is a bona fide residence of the principal practitioner.
 - 3. No sign shall be permitted except in accordance with the provisions of Article X.
 - 4. Off-street parking shall be provided as follows:
 - a. at least two (2) spaces for the family residing on the premises plus;
 - b. not less than one (1) additional space for each room available for

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

guest reservation.

SECTION 1118 GENTLEMAN FARM OPERATION - TIER 3

- A. Intent - The purpose of this section is to recognize and address some concerns of the Town of Orangeville farming community. Due to various agricultural practices now in existence, it is necessary to preserve public health and safety with the reduction of animal waste and limited agricultural practices on parcels of land that may be inferior in size to support such uses. The specific merits of a proposal to farm on parcels less than seven (7) acres of land in a Medium Density District needs to be addressed and properly managed with an efficient, economical and predicable process to respond to the farmers= concerns while ensuring the ability to have local issues examined.
- B. A Gentleman Farm Operation - Tier 3, as defined in Article II, is considered the harboring of customary farm animals on less than seven (7) acres of land in a Medium Density District which is not located in a State certified, county adopted agricultural district and upon the approval of a special use permit by the Planning Board.
- C. The farming operation shall be a closed system with the bringing in of animal feed and the removal of animal wastes from the property. No feed crops for animals shall be raised and no animal wastes shall be applied to the property.
- D. Provide a description of the project and a narrative of the intended use of such proposed building, structures or signs, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes.
1. Include the name and address of the applicant and any professional advisors.
 2. If the applicant is not the owner of the property, provide authorization of the owner.
 3. If any new structures are going to be located adjacent to a stream or wetland, provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the property and include the location of any new structures therein.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

4. Proper nutrient and manure management plans. The applicant shall submit a plan for animal feeding and waste disposal, i.e.: agreement with a neighboring farm, compost plan, etc.
 5. List of the type and number of animals to be harbored on the property with a narrative as to how animals will be pastured/grazed; exercised; and protected from the public.
- E. No farm type structures shall be placed in front of the primary dwelling.
- F. Prior to the issuance of a special use permit, the Zoning Enforcement Officer shall require site plan approval by the Planning Board pursuant to Article III, Section 306.

SECTION 1119 PARKING OF A RECREATIONAL VEHICLE

- A. Intent - The purpose of the regulations outlined in this section is to promote public health, safety and general welfare of the Town of Orangeville residents by providing regulations for the parking of recreational vehicles on lots within said Town. It is acknowledged that this type of use has to potential to change the character of a neighborhood if not regulated and measures are needed to preserve agricultural and residential areas.
- B. The temporary parking of a recreational vehicle, as defined in Article II herein, may be allowed as a special permit use in the Low Density District and Medium Density District upon the approval of a special use permit by the Planning Board.
- C. The special use permit allows for the limited parking of a recreational vehicle for use as a temporary residence by the owner of a parcel of land or a relative or friend of the applicant.
- D. The special use permit is for short term use; a maximum of five (5) months per year.
- E. There shall be no more than two (2) recreational vehicles parked on any given lot at any given time.
- F. The recreational vehicle must have proper electric, water and sewer hookups or proof of proper disposal provided.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

- G. When approved by the Planning Board, the special use permit is valid for a period of three (3) years. The special use permit can be renewed upon request of the applicant and subsequent approval by the Planning Board. A special use permit is not necessary for the storage of a recreational vehicle by an owner when not in use or during the off season.
- H. The requirement to hold a public hearing for the issuance of a special use permit for the parking of a recreational vehicle is at the discretion of the Planning Board.

SECTION 1120 UTILITY SCALE BUILDING-MOUNTED AND/OR
GROUND-MOUNTED SOLAR ENERGY SYSTEMS

- A. All applications for utility-scale building-mounted and/or ground-mounted solar energy systems shall be accompanied by an application for special use permit, an application for site plan review pursuant to this Local law and Article III, Section 306 of the Town of Orangeville Zoning Ordinance, and all applicable fees.
- B. All applications for large-scale or utility-scale solar energy systems shall include the following:
 - 1. Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposed layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of site plan approval.
 - 2. Certification from a professional engineer or architect registered in New York State indicating that the building or structure to which the solar energy system is to be affixed is capable of handling the loading requirements of the solar energy system and various components.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

3. One- or three-line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices.
4. Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.
5. Plan for clearing and/or grading of the site. If necessary, a plan for storm water management and erosion control of the site.
6. Documentation of utility notification, including an electric service order number.
7. Decommissioning plan and description of financial surety that satisfies Section 6 hereunder for utility-scale systems only.
8. Sunchart. Where an applicant for a solar energy system requests that the setback for solar collectors from the south property line be less than that identified in Section 5A(11)(a)(i), the Planning Board may require that the applicant submit a sunchart for the proposed site indicating the sun angle for the southern boundary of the site for a minimum four-hour continuous period during the time of the highest sun angle on December 21, along with the potential for existing buildings, structures, and/or vegetation on the site or on adjacent sites to obstruct the solar skyspace of the proposed solar energy system. The sunchart shall also indicate the potential for obstructions to the solar skyspace of the proposed solar energy system under a scenario where an adjacent site is developed as otherwise permitted by applicable provisions of the Town of Orangeville Zoning Ordinance with a building/structure built to maximum bulk and height at the minimum setback. Where no standards for height and/or setback are established, this scenario shall assume a minimum fifty-foot building height developed with a maximum setback of ten feet from the property

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

line. The sunchart shall be kept on file at the Town Building Department and determine the minimum setback required for any solar collectors from the south property line as well as the solar skyspace that should be considered when development of neighboring properties occurs. This article in no way places responsibility on the Town for guaranteeing the solar skyspace of a solar energy system in the event setbacks are waived at the applicant's request.

- C. All fees shall be approved by the Town Board by resolution. Nothing in this article shall be read as limiting the ability of the Town to enter into host community agreements with any applicant to compensate the Town for expenses or impacts on the community. The Town shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required under SEQRA if an EIS is required.
- D. All applications for large-scale or utility-scale solar energy systems shall be in accordance with the following:
1. All solar energy systems shall adhere to all applicable Wyoming County building, plumbing, electrical, and fire codes.
 2. Development and operation of a solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Orangeville or other federal or state regulatory agencies.
 3. The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks.
 4. All structures and devices used to support solar collectors shall be no reflective and/or painted a subtle or earth-tone color.
 5. All transmission lines and wiring associated with a solar energy system shall be buried and include necessary encasements in

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

accordance with the National Electric Code and Town requirements. The Planning Board may recommend waiving this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible or practical. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan.

6. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.
7. Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
8. Any signage used to advertise the solar energy facility shall be in accordance with the Town's signage regulations.
9. Lot requirements. The overall footprint for any large-scale or utility-scale ground-mounted solar energy system shall be permitted to occupy up to 100% of the overall buildable area of the site, as required by the Town, and shall not be counted towards the site's maximum lot coverage as required by the Town. Overall footprint shall be determined by the outline created on the ground by wholly enclosing all components/structures of a solar energy system on a lot.
10. Bulk and siting requirements.
 - a. Large-scale or utility-scale solar energy systems located in the Low Density District and Industrial zoning districts.
 - i. Rooftop-mounted solar energy systems shall have a setback of 75 feet from any property line, except the southerly property line shall have a setback of 135 feet.
 - b. The maximum height of any rooftop-mounted solar

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

energy system shall be eight feet, as measured from the finished surface of the roof to which the system is affixed.

- c. Where rooftop-mounted solar energy systems are affixed to a pitched or peaked roof, the solar energy system should generally follow the slope of the roof.
 - d. A rooftop-mounted solar energy system shall not extend horizontally beyond the plane of the roof surface.
 - e. Where practical and when obstruction of solar skyspace can be avoided, a rooftop-mounted solar energy system shall be screened from view from the public right-of-way by use of a building parapet or other measure.
- i. Building-mounted solar energy systems.
 - a. The maximum height of a building-mounted solar energy system shall be 15 feet as measured from the lowest point where the system is affixed to the vertical side of a building.
 - b. A building-mounted solar energy system shall not extend horizontally more than eight feet from the vertical surface of a building.
 - c. Building-mounted solar energy systems should be integrated into the design of the building and shall not obstruct any window, door, or other architectural feature of the building.
 - ii. Ground-mounted solar energy systems.
 - a. The maximum height of a ground-mounted solar energy system shall be 15 feet as

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

measured from the finished grade.

- b. Ground-mounted solar energy systems shall not be located within the front yard.

11. Setbacks.

- a. Large-scale or utility-scale ground-mounted solar energy systems.
 - i. The setback from the south property line for all solar collectors constructed as part of a large-scale or utility-scale ground-mounted solar energy system shall be 135 feet.
 - ii. In no case shall the setback from the south property line be less than that determined by the setback for accessory structures identified for the zoning district in which the system is located.
- b. Utility-scale ground-mounted solar energy systems.
 - i. All solar energy equipment and components/structures developed as part of a utility-scale ground-mounted solar energy system shall be set back from any property zoned Low Density District and High Density District, Industrial I zoning districts, a public road, or any public park a minimum of 75 feet. As for Manufactured Home Park District MHD, the setback shall be 200 feet.
 - ii. All other setbacks for all solar energy equipment and components/ structures developed as part of a utility-scale ground-mounted solar energy system, whether developed as a principal use or accessory use, shall be as determined by the setback for principal structures identified for the zoning district in which the system is located.
- c. All other setbacks for all solar energy system

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

equipment and components/structures developed as part of a large-scale or utility-scale rooftop-mounted, building-mounted and/or ground-mounted solar energy system not identified above shall be as determined by the setback for accessory structures identified for the zoning district in which the system is located.

12. Due to the need to keep the solar skyspace for solar energy systems free from obstructions, the Planning Board may recommend modifying the landscaping requirements for any site proposed to contain solar collectors and shall ensure that any landscaping proposed is low-growth vegetation that will not obstruct the solar skyspace at mature height.
13. Following construction of a large-scale or utility-scale ground-mounted solar energy system, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low-level vegetation capable of preventing soil erosion and airborne dust. The vegetation shall be maintained. Grass shall be mowed at least one time per month during the months of May, June, July, August, and September.

E. Applications for utility-scale solar energy systems shall meet the following additional criteria:

1. Photo simulations shall be included showing the proposed solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer's specs and photos of the proposed solar energy system, solar collectors, and all other components.
2. Any site containing a utility-scale solar energy system shall contain fencing or other enclosure acceptable to the Town enclosing all solar energy system components that present safety hazards.
3. A berm, landscape screen, or other opaque enclosure, or any combination thereof acceptable to the Town capable of screening the site, shall be provided along any property line that abuts an existing residence or any property zoned other

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

than Agricultural Residential AR-1 or Industrial I.

4. After completion of a utility-scale solar energy system, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans.

F. Abandonment or Decommissioning

1. Unsafe, inoperable, and/or abandoned solar energy systems and solar energy systems for which a special use permit has expired shall be removed by the owner. A solar energy system shall be deemed abandoned when it fails to produce energy for at least one year. All safety hazards created by the installation and operation of the solar energy system shall be eliminated and the site restored to its preexisting condition within six months of the removal of the solar energy system.
2. For all utility-scale solar energy systems, the applicant shall submit a decommissioning plan for review and approval as part of the special use permit application. The decommissioning plan shall identify the anticipated life of the project, method and process for removing all components of the solar energy system and returning the site to its preexisting condition, and estimated decommissioning costs, including any salvage value.
3. The applicant for a utility-scale solar energy system where the system is the principal use on a lot shall, as a condition of the special use permit and upon each renewal, provide and maintain a form of financial surety. Such financial surety shall be provided either through a security deposit, escrow account, bond, or in a manner otherwise acceptable to the Town. The amount shall be based upon the estimated decommissioning costs and shall not exceed \$20,000 per acre. It is intended to cover, in whole or in part, the cost of decommissioning in the event the Town must remove any utility-scale solar energy systems and associated structures/components, as well as restore the site subsequent to such removal in accordance with the approved decommissioning plan. Upon successful completion of all

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

decommissioning activities, any remaining portion of the posted financial surety shall be returned to the applicant. Such financial surety shall not be required for municipally or state-operated solar energy systems or for utility-scale solar energy systems that meet all of the following criteria:

- a. The solar energy system is constructed as part of an approved industrial or business park; and
- b. The approved industrial or business park consists of a solar energy system or systems located on land that is owned by applicant or leased from the owner with ownership retained by the owner of the industrial or business park; and
- c. The solar energy system supplies energy to tenants of the industrial or business park and not solely into the grid.

G. Transfer of special use permit

1. Special use permits granted for utility-scale solar energy systems issued for large-scale or utility-scale solar energy systems shall be assignable or transferable so long as they are in full compliance with this article and all conditions, and the Building Department is notified of the transfer at least 15 days prior thereto.
2. Any post-construction changes or alterations to the solar energy system shall be done by amendment to the special use permit only and subject to the requirements of this article.

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

1. Unsafe, inoperable, and/or abandoned solar energy systems and solar energy systems for which a special use permit has expired shall be removed by the owner. A solar energy system shall be deemed abandoned when it fails to produce energy for at least one year. All safety hazards created by the installation and operation of the solar energy system shall be eliminated and the site restored to its preexisting condition within six months of the removal of the solar energy system.
2. For all utility-scale solar energy systems, the applicant shall submit a decommissioning plan for review and approval as part of the special use permit application. The decommissioning plan shall identify the anticipated life of the project, method and process for removing all components of the solar energy system and returning the site to its preexisting condition, and estimated decommissioning costs, including any salvage value.
3. The applicant for a utility-scale solar energy system where the system is the principal use on a lot shall, as a condition of the special use permit and upon each renewal, provide and maintain a form of financial surety. Such financial surety shall be provided either through a security deposit, escrow account, bond, or in a manner otherwise acceptable to the Town. The amount shall be based upon the estimated decommissioning costs and shall not exceed \$20,000 per acre. It is intended to cover, in whole or in part, the cost of decommissioning in the event the Town must remove any utility-scale solar energy systems and associated structures/components, as well as restore the site subsequent to such removal in accordance with the approved decommissioning plan. Upon successful completion of all decommissioning activities, any remaining portion of the posted financial surety shall be returned to the applicant. Such financial surety shall not be required for municipally or state-operated solar energy systems or for utility-scale solar energy systems that meet all of the following criteria:
 - a. The solar energy system is constructed as part of an approved industrial or business park; and
 - b. The approved industrial or business park consists of

ARTICLE XI-REGULATIONS GOVERNING
SPECIAL PERMIT USES

a solar energy system or systems located on land that is owned by applicant or leased from the owner with ownership retained by the owner of the industrial or business park; and

- c. The solar energy system supplies energy to tenants of the industrial or business park and not solely into the grid.

G. Transfer of special use permit

1. Special use permits granted for utility-scale solar energy systems issued for large-scale or utility-scale solar energy systems shall be assignable or transferable so long as they are in full compliance with this article and all conditions, and the Building Department is notified of the transfer at least 15 days prior thereto.
2. Any post-construction changes or alterations to the solar energy system shall be done by amendment to the special use permit only and subject to the requirements of this article.