

8/18/08

Town of DeWitt Local Law # of the year 2008

Be it enacted by the Town Board of the Town of DeWitt as follows:

Section 1. Title

This local law shall be referred to as "Energy Conversion Systems Local Law."

Section 2. Purpose and Intent

Pursuant to the statutory powers vested in the Town of DeWitt (also referred to herein as the "Town") to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board of the Town of DeWitt adopted a Comprehensive Plan in 2002 and in said Plan authorized a thorough updating of the 1967 Zoning Ordinance and related land use portions of the DeWitt Code. By Town of DeWitt Local Law # 6 of the year 2007, the Town of DeWitt implemented the Comprehensive Plan which Local Law repealed Chapters 3, 37, 86, 97, 114, 130,151, 167 and 192 of the Code of the Town of DeWitt in their entirety and adopted a new, reenacted Chapter 192. As part of the dictate of the Comprehensive Plan of the Town, the Town also undertook a thorough review of the zoning districts of the town and ultimately adopted Town of DeWitt Local Law # 3 of the year 2008. The Zoning Update Committee appointed by the Town Board to make recommendations relative to the adoption of the above two mentioned Local Laws continued its work in reviewing zoning code sections which were adopted as part of Local Law # 6 of the year 2007 to determine their appropriateness and effectiveness. Additional matters which were raised during the public comment period for adoption of Local Law # 6 of the year 2007 were also reviewed during this time by the Zoning Update Committee. One of the areas which was studied focused on providing some regulation of Energy Conversion Systems. The result of said study was presented to the Board for consideration with the resulting code section modifications and changes as set forth herein.

Section 3. Legislative Findings

The need to regulate the new and changing technology as relates to energy conversion systems is a matter which the Town has determined needs to addressed in its zoning codes. This legislation imposes restrictions and requirements as relates to such systems. While not comprehensive of all issues that may arise in connection with such systems, this legislation is intended to be a first step in providing guidance to those who may wish to utilize such systems in the town, while also regulating the construction of said systems to fit within the valued residential business neighborhoods of the town in a practical manner.

This legislation is in furtherance of meeting the goals of the Comprehensive Plan of the Town in addressing these areas of changing technology as they relate to the neighborhoods and businesses in the town and in developing a comprehensive, updated and orderly Zoning Code for the Town.

Section 3.

The following sections shall be added as new "Chapter 80" of the Code of the Town of DeWitt: See Exhibit A attached hereto.

Section 4.

The invalidity of any provision of this Local law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 5.

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

Exhibit A
Proposed language changes to January 1, 2008 Zoning Code
(August 19, 2008)

Add the following new Chapter 80:

Chapter 80
Energy Conversion Systems

§80-1 Purpose

The purpose of this Chapter is to allow the construction of Solar and Wind Energy Conversion Systems in the Town of DeWitt in a manner that preserves the health, safety, welfare and aesthetics of the Town while facilitating the production of renewable energy and savings that may result. In so doing, this Chapter establishes procedures for the use of generated energy by the principal user of a parcel with only ancillary sale of any excess energy to a public utility.

§80-2 Definitions

DEPARTMENT- the Town of DeWitt Department of Development and Operations

ENERGY CONVERSION SYSTEM (ECS) - A system whereby solar or wind energy is converted to other energy forms.

SOLAR COLLECTOR – A device or system to absorb, accumulate or convert or otherwise use the sun's energy as a source of heat or electricity. A facility is only allowed in the Town if it supplies electrical power or heat solely for on-site use, except that when a parcel on which a solar collector is installed also receives electrical power supplied by a utility company, excess electrical power generated by the ECS and not presently needed for on-site use may be used by the utility company in exchange for a reduction in the quantity of electrical power supplied by that company to the parcel for on-site use, as long as no net revenue is produced by such electrical power.

TOWN - Town of DeWitt, outside the Village of East Syracuse.

VERTICAL AXIS WIND TURBINE (VAWT) – A VAWT is a system that converts wind energy to electrical power. The VAWT's turbine is an omni-directional low wind speed generator consisting of cylindrical cage that appears solid when turning, mounted on a monopole tower. Single units stacked on the same tower are included in the definition of a VAWT. The VAWT's maximum tower height, including the turbine on the top is 35 feet above the ground. The maximum dimensions of any single turbine are three (3) feet in diameter and five (5) feet in height.

WIND ENERGY CONVERSION SYSTEM (WECS) – A WECS is a system , including a monopole tower, designed to use wind for the on-site conversion to energy for the sole use of the owner or tenant(s). A facility is only allowed in the Town if it supplies electrical power solely for on-site use, except that when a parcel on

which WECS is installed also receives electrical power supplied by a utility company, excess electrical power generated by the WECS and not presently needed for on-site use may be used by the utility company in exchange for a reduction in the quantity of electrical power supplied by that company to the parcel for on-site use, as long as no net revenue is produced by such electrical power. For WECS, except VAWT, the maximum tower height is 50 feet above the ground. The maximum dimension of any WECS, except VAWT, blade is 12 feet in diameter. The WECS shall be painted a non-obtrusive color that is non-reflective such as white or gray

§80-3 Applicability

This law shall apply to all ECS proposed in the Town provided such generated energy is used primarily by the principal user of the property as provided for herein. Commercial energy generation for sale off-site is prohibited.

§80-4 Procedure

All proposed uses of an ECS shall obtain a Development Permit prior to construction pursuant to the rules of Chapter 192. For all ECS, the applicant shall first apply to the Town of DeWitt Planning Board for Site Plan Review pursuant to Chapter 192. The Planning Board may schedule a public hearing following the rules of §192-122. If approved a Development Permit may be issued.

§80-5 General Requirements of WECS, except VAWT

In addition to other submission requirements for Site Plan Review, application for a WECS, except VAWT, shall require the following information:

(1) For purpose of SEQRA review, a long Environmental Assessment Form (EAF) together with plans, models, photographs, or photo simulations shall be submitted to fully depict and explain the proposal. A landscaping plan, visual environmental assessment form (visual EAF), and visual assessment report, including appropriate models and photography assessing the visibility from key viewpoints identified in the visual EAF, existing tree lines and proposed elevations. The visual EAF shall include a detailed or photographic simulation showing the site fully developed with all proposed wind turbines and accessory structures.

(2) Certification by a registered New York State professional engineer that the tower's design is sufficient to withstand wind-loading requirements for structures as required by the New York State Uniform Construction Code.

(4) WECS Information

The applicant shall submit specific information on the type, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each model, tower, and electrical transmission equipment together with drawings and photographs to explain the proposal.

(5) The applicant shall submit a noise report which shall include the following:

- a) 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 report shall include low frequency, infrasound, pure tone, and repetitive/impulsive sound.

- b) A description and map of the noise-sensitive environment, including any sensitive noise receptors.
- c) A survey and report prepared by a qualified engineer that analyzes the preexisting ambient noise regime including seasonal variation.
- d) A description and map showing the potential and cumulative noise impacts and description of any problem areas and methods to abate the same.
- e) A description of the project's proposed noise-control features, including specific measures proposed to protect workers and specific measures proposed to mitigate noise impacts for sensitive receptors consistent with levels in this section.
- f) Manufacturers' noise design and field testing data, both audible [dB (A)] and low frequency (deep bass vibration), for all proposed structures.

(6) FAA notification

The applicant shall submit a copy of written notification to the Federal Aviation Administration.

(7) Utility Service

Utility services shall be located underground and internal to a WECS installation.

(9) Discontinuance and Restoration

If a WECS installation ceases operation for more than 180 days, the owner shall remove the WECS and associated equipment and restore the site no later than 90 days following notice from the Town.

The applicant shall submit a removal and site restoration plan and cost estimate to the Planning Board for review and approval. The plan shall include a certified estimate of the total itemized costs of site restoration. A surety bond in the amount of the cost of removal and restoration shall be issued and held by the Town of DeWitt to insure removal and restoration of the site.

(10) Proof of Insurance

Prior to the issuance of a Development permit, the applicant shall provide the Department with proof of insurance in a minimum amount of \$250,000 to cover potential personal and property damage associated with construction and operation thereof.

(11) Sound

The WECS shall not produce a sound in excess of 45 db (A) as measured from any property line.

(12) Signage

No commercial sign shall be placed or appear on a WECS

(13) Lighting

A WECS shall be unlit unless required by the FAA.

(14) Ground Clearance

A WECS shall provide a minimum ground Clearance of twelve (12) Ft. above grade.

(15) A WECS shall utilize a structural monopole.

(16) Each WECS shall prevent unauthorized structure access for a minimum height of ten (10) feet.

§80-6 Specific District Requirements

In all districts, VAWT are permitted and are subject to these specific regulations:

- (1) Maximum VAWT height shall be ten (10) Ft. or less above the highest point of the principal building.
- (2) One (1) VAWT may be permitted on a lot unless the lot is larger than 60,000 square Ft. in which case one (1) additional VAWT may be permitted.
- (3) VAWT are accessory structures and are only permitted in rear yards, as defined in Chapter 192.
- (4) The setback from all property lines shall be one (1) foot for each one (1) foot of height of a VAWT.

In Hi-Tech and Industrial Districts, WECS, except VAWT, are permitted and are subject to these specific regulations:

- (1) WECS, except VAWT, height shall not exceed the height of a principal structure by more than thirty (30) Ft. as measured at its highest point.
- (2) One (1) WECS, except VAWT, may be permitted on a lot unless the lot is larger than 60,000 S.F. in which case one (1) additional WECS, except VAWT, may be permitted.
- (3) WECS are accessory structures and are permitted in rear or side yards, as defined in Chapter 192.
- (4) The setback shall be one (1) foot for each two (2) feet of height of a WECS, except VAWT, except where the subject lot abuts a residential district, in which case the setback shall be one (1) foot for each one (1) foot of height of a WECS, except VAWT.

In all Districts, solar collectors are permitted and are subject to these specific regulations:

1. Rooftop and building-mounted solar collector shall not be more than three (3) feet higher than the finished roof or one (1) foot away from the wall to which it is mounted. In all instances, any part of the system shall be recessed at least two (2) feet from the edge of the roof or supporting wall.
2. Freestanding solar collectors are subject to the following requirements:
 - a. The location of the solar collector meets all applicable setback requirements of an accessory structure in the zone in which it is located.
 - b. The height of the solar collector and any mounts shall not exceed 20 feet when oriented at maximum tilt except in residential districts where the height shall not exceed the district setback for the same orientation.
 - c. The total surface area of all ground-mounted and freestanding solar collectors on the lot shall not exceed 1,000 square feet.
 - d. The solar collector is located in a side or rear yard, except in residential districts where it shall be located in a rear yard as defined in Chapter 192.
3. When solar storage batteries are included as part of the solar collector system, these must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Construction Code.
4. If a solar collector ceases to perform its originally intended function for more than 180 consecutive days, the property owner shall remove the collector, mount and associated equipment no later than 90 days following notice from the Town.

§80-7 Delegation to Planning Board for rulemaking

The Planning Board shall prepare additional guidelines, rules and regulations in order to carry out the spirit and intent of this chapter and incorporate them in the Design Guidelines as provided for in Chapter 192, including the adoption by the Town Board of same by simple resolution.

§80-8 Severability

If any clause, sentence, paragraph, subdivision, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment is rendered.