

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Lincoln

Local Law No. 2 of the year 2024

A local law of the Town of Lincoln, also known as "The Town of Lincoln Temporary Wind Energy
(Insert Title)
Conversion System Moratorium," in relation to the creation of a temporary moratorium on
wind energy conversion system installations.

Be it enacted by the Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Lincoln as follows:

See attached.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2024 of the (~~County~~)(~~City~~)(~~Town~~)(~~Village~~) of Lincoln was duly passed by the Town Board on November 13, 2024, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local *(Elective Chief Executive Officer*)* law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

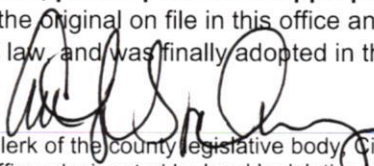
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph, 1 above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 11/23/2024



LOCAL LAW NUMBER 2 OF THE YEAR 2024

A LOCAL LAW OF THE TOWN OF LINCOLN, also known as “The Town of Lincoln Temporary Wind Energy Conversion System Moratorium,” in relation to the creation of a temporary moratorium on wind energy conversion system installations.

IT IS HEREBY ORDAINED AND ENACTED by the Town Board of the Town of Lincoln, Madison County, New York, as follows: That Town of Lincoln Local Law Number ___ of the year 2024 entitled “Temporary Moratorium for Wind Energy Conversion Systems” is hereby adopted to enact a one (1) year moratorium prohibiting the consideration, approval, and/or development of any new wind energy conversion system installations within the Town of Lincoln.

This temporary moratorium may be further extended or terminated by the Town Board. This law does not apply to existing permitted uses but does apply to pending applications.

Said Local Law reads as follows:

SECTION 1. Statutory Authority

- A. New York State Constitution Article IX §2(c)(6) and §2(c)(10);
- B. Statute of Local Governments §10(1), §10(6), and §10(7);
- C. Municipal Home Rule Law §10(1)(i), §10(1)(ii), §10(1)(ii)(a)(6), §10(1)(ii)(a)(11), §10(1)(ii)(a)(12), and §10(1)(ii)(a)(14);
- D. Town Law Article 16;
- E. Town Law §130(1), §130(3), §130(5), §130(7), §130(7-a), §130(11), §130(15), §130(15-a), §130(16), §130(19), and §130(25);
- F. Town Law §64(17-a) and §64(23);
- G. The Town of Lincoln’s inherent police powers; and
- H. The laws of the State of New York.

SECTION 2. Purpose and Legislative Intent

The purpose of this Local Law is to provide a temporary one (1) year moratorium on the application, consideration, and/or approval of specified types of wind energy conversion system installations to give the Board an adequate opportunity to study the matter of Town policy and codes, the potential environmental impact of wind energy conversion systems, and to develop and pass legislation regulating wind energy conversion systems in accordance with the Town of Lincoln Comprehensive Plan.

SECTION 3. Definitions

LARGE WIND ENERGY CONVERSION SYSTEM: A Wind Energy Conversion System consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity greater than 150 kilowatts and is intended to supply some portion of its produced electrical power for sale to a power grid.

SMALL WIND ENERGY CONVERSION SYSTEM: A Wind Energy Conversion System consisting of one wind turbine, one tower, and associated control or conversion electronics which has a rated capacity of greater than 15 kilowatts but not more than 150 kilowatts and a total height of greater than 50 feet.

VERY SMALL WIND ENERGY CONVERSION SYSTEM: A Wind Energy Conversion System consisting of one wind turbine, one tower (or other mounting system), and associated control or conversion electronics which is smaller than the minimum size or rated capacity limits for Small Wind Energy Conversion Systems.

WIND ENERGY CONVERSION SYSTEM: A machine that converts the kinetic energy of the wind into a usable form (commonly known as a "wind turbine" or "windmill"). A Wind Energy Conversion System may be commercial or non-commercial and may include one or more wind turbines, towers, associated control or conversion electronics, transformers, and/or maintenance and control facilities or other components used in the system. The turbine or windmill may be on a horizontal or vertical axis, utilizing a rotor or propeller.

WIND ENERGY FACILITY: A Wind Energy Conversion System or array of Wind Energy Conversion Systems on a single parcel or on multiple parcels under common ownership, control, and/or management designed to deliver electricity to the power grid for sale with a combined production capacity of more than 150 kilowatts, including all related infrastructure, electrical collection and distribution lines and substations, access roads and accessory structures, including accessory facilities or equipment.

SECTION 4. Time Period and Prohibition

As of the effective date of this Local Law, there shall be a one (1) year moratorium on the consideration, approval, and/or development of any new Small Wind Energy Conversion Systems, Large Wind Energy Conversion Systems, and/or Wind Energy Facilities within the Town of Lincoln.

SECTION 5. No Conflict with State Law

This local law is not intended to and shall not be construed to conflict with the provisions of Article 10 of the New York State Public Service Law, which preempts local regulation of certain Wind Energy Conversion Systems.

SECTION 6. Relief from Moratorium.

The Town Board may waive strict compliance with the terms of this moratorium upon the application of an owner of property upon which a proposed Wind Energy Conversion System would have been permitted in the absence of this moratorium, provided that the applicant can demonstrate, and the Town Board finds, based upon competent evidence, that the application of the moratorium to the applicant's property will cause the applicant substantial economic hardship, the proposed Wind Energy Conversion System will not harm or endanger the environment or public health, safety, and/or welfare, and the proposed Wind Energy Conversion System is consistent with and compatible with the surrounding land uses.

Application for such relief shall be tiled with the Town Code Enforcement Officer, together with a filing fee of \$250.00. Such application shall specifically identify the property involved, recite the circumstances pursuant to which the relief is sought, and the reasons for which the relief should be granted. Any costs, including expert consulting fees or attorneys' fees which are incurred by the Town shall be reimbursed to the Town by the applicant. The Town Board shall apply use variance criteria as set forth in Town Law §267-b(2) in reviewing any application for relief.

The Town Board shall conduct a public hearing on any request for relief within 45 days of receipt of an application and filing fee by the Town Code Enforcement Officer and shall issue its final decision on requests for relief within 30 days from the date of such public hearing.

In enacting this provision, it is the intent of the Town of Lincoln to use its supersession power pursuant to Municipal Home Rule Law §10(1)(ii)(d)(3) to supersede the grant of use variance power to the Zoning Board of Appeals set forth in Town Law §267-b(2).

SECTION 7. Penalties

Any person, firm or corporation that shall establish, place, construct, enlarge and/or erect any Wind Energy Conversion System in violation of the provisions of this Local Law, or shall otherwise violate any of the provisions of this Local Law, shall be subject to:

- a. A fine not to exceed \$1,000.00 or imprisonment for a term not to exceed 15 days, or both. Each day a violation continues shall be considered a new offense; and
- b. A civil action inclusive of injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any constructions, improvements or related items or by-products which may have taken place in violation of this Local Law.

SECTION 8. Enforcement

This Local Law shall be enforced by the Code Enforcement Office of the Town of Lincoln or such other zoning enforcement individuals as designated by the Town Board. It shall be the duty of the

enforcement individuals to advise the Town Board of all matters pertaining to the enforcement of this Local Law.

SECTION 9. Severability

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

SECTION 10. Effective Date

This Local Law shall take effect immediately upon filing with the New York State Secretary of State pursuant to §27 of the Municipal Home Rule Law.

SECTION 11. Termination Date

This Local Law shall become null and void one (1) year after filing, unless extended or terminated by the Town Board.