

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(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.

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

NOV 03 2005

~~XXXXX~~
~~County~~
~~CITY~~
Town
~~Village~~

of Warren

Local Law No. 1 of the year ~~19~~ 2005

MAINTENANCE
& STATE RECORDS

A local law Wind Energy Facilities Law
(Insert Title)
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.....
.....

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

~~XXXXXX~~
~~County~~
~~CITY~~
Town
~~Village~~

of Warren as follows:

Article 1. TITLE

This Local law of the Town of Warren, shall be known as the Town of Warren Wind Energy Facilities Law, as amended. The Town of Warren is hereafter referred to as the "Town" and the applicant/owner or subsequent owner, is hereafter referred to as "applicant."

Article 2.- STATEMENT OF AUTHORITY.

The Town Board of the Town of Warren, pursuant to the authority granted it under Section 10 of Municipal Home Rule Law of the State of New York, hereby enacts the Town of Warren Wind Energy Facilities Law as follows:

Article 3.- STATEMENT OF PURPOSE AND FINDINGS.

The Town Board of the Town of Warren hereby finds that in order to facilitate the development of wind energy facilities within the Town of Warren, a local law must be enacted to regulate their development and set forth the requirements relative to wind power facilities. This law is to be consistent with the general intent of all other local laws heretofore enacted by the Town of Warren to accommodate the necessary infrastructure for the provision of commercial wind-powered electricity generation facilities so that they may be developed in a manner hereby deemed to be compatible with the general health, welfare, and safety

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

of the residents of the Town; and furthermore, to address the visual, aesthetic and land use compatibility aspects of wind energy facilities.

Article 4. DEFINITIONS.

ACCESSORY FACILITIES: Any structure other than a wind turbine, related to the use and purpose of generating electricity from wind turbines located at a wind energy facility.

WIND ENERGY FACILITIES AND EQUIPMENT: Wind energy facilities which generate original power on site to be transferred to a transmission system for distribution to customers. The definition of wind energy facilities shall not include individual wind energy facilities erected and used primarily for private use. Wind energy facilities shall include wind turbines and accessory facilities or equipment.

WIND TURBINE AND EQUIPMENT: Shall mean a component of the wind energy facility system which converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower, base, and pad transformer.

Article 5. -AUTHORITY AND PROCEDURE.

Section 1-AUTHORITY.

The Town Board is hereby authorized to approve, approve with conditions, or disapprove wind energy facility applications in accordance with the local law.

Section 2.-PROCEDURE.

(A) Completed applications for siting a wind energy facility shall be submitted to the town clerk at least ten (10) days prior to the regular meeting of the Town Board.

(B) Any application for siting a wind energy facility must be in writing and must be duly signed by the applicant and must provide, at a minimum:

- (1) the name of the project.
- (2) The identity of the parcels to be affected, including the map numbers, acreage, names and addresses of the owners of the affected parcels where development is proposed and addresses of all owners of record of abutting parcels where development is proposed.
- (3) A map showing the boundaries of the lots in the affected areas.
- (4) A map showing all existing lot lines, easements, and right of ways, and a sketch plan showing all proposed road areas including provisions for paving, if any, proposed transmission lines and accessory facilities, and location of all existing proposed utility systems to the facility.
- (5) The consent of all participating property owners of the affected parcels within the area to be developed.
- (6) Sufficient acreage to comply with setbacks and other conditions set forth in this Local Law.
- (7) The distance to nearest residential structures.
- (8) An Environmental Assessment Form prepared in accordance with the State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law.

(C) The town board shall hold a public hearing on any such application prior to permitting or denying such application. The notice shall be published in the official newspaper of the town at least ten (10) days prior to the hearing. In addition, written notices shall be sent to all other municipal entities within 500 feet of the proposed project site.

(D) The hearing shall be held within sixty-two (62) days of receiving a complete application. The Town Board shall make a determination within sixty-two (62) days of when the public hearing is closed.

Section 3.-STANDARDS.

(A) Setback of wind turbines from any residential structure existing at the time the application is filed: 1200 feet unless the owner of said residential structure agrees to a lesser setback. All measurements in this section are from the center-point of the wind turbine. New construction including residences is allowed within 1200 feet, but not within a distance of 1.2 times the height of the wind turbine.

(B) Setbacks of wind Turbine from road centerline: 1.2 times the structure height.

(C) Setback of wind Turbine from side and rear lots: 400 feet.

(D) The 400 ft. set back requirement for side and rear lot lines can be waived by the Town Board as part of its review process if (I) abutting parcels are also participating in the wind project, or (II) in the case of non-participating property owner, the applicant has secured written consent from said property owner.

(E) Landscape and screening: Appropriate landscape and screening is required to keep the site in a neat and orderly fashion. Appropriate screening is required to screen accessory structures from adjacent residences.

(F) No advertisements allowed in any form other than manufacturer's logo of reasonable size.

(G) Sound: Audible sound due to wind turbine operation shall not exceed fifty (50) dBA on a one hour average, when measured from adjacent dwelling units.

In the event that the projected sound levels resulting from a wind energy facility exceed the criteria listed above, a waiver to said levels may be granted by the Town Board provided that the following has been accomplished:

(I) The Applicant implements sound mitigation measured from adjacent dwellings, or;

(II) The applicant obtains a permanent sound impact easement to be recorded in the County Clerk's office which describes the benefited and burdened properties and which advises all subsequent owners of the burdened property that sound levels in excess of those permitted by this Local Law may exist on or at the burdened property.

(H) Roads: All town roads effected by construction and maintenance of structures must be restored to original condition at the cost of development company and in agreement with the Town Board.

(I) Transmission lines (wires): All collection systems which are with in private property boundries shall be underground or above ground in agreement with participating property owner. All buried wires must be buried in accordance with regulation for burial of wire as set forth by the New York State Department of Agriculture and Markets. Collection systems transmission lines following public roads maybe overhead or underground.

(J) A wind tower, including any climbing aids, must be secured against unauthorized access.

Section 4.- OPERATIONAL CONSIDERATIONS.

(A) If, after a ten (10) year period of operation or if a wind energy facility becomes inoperative or nonfunctional for a continuous period of one (1) year, the applicant shall remove the wind energy facilities, including all wind Turbines and any accessory uses, at their expense unless the applicant can demonstrate to the Town Board that it has been making good faith efforts to restore the wind energy facility to a functional condition.

(B) The issuance of any approvals under this Local Law shall require the applicant to establish an interest bearing account in the amount sufficient to ensure the faithful performance of the removal of the wind energy facility and the restoration of the affected properties. Applicant shall provide a bona fide estimate to the Town Board, for the Board's review and approval, in order to establish the cost of de-commissioning the wind energy facility. On the fifteenth (15th) year of operation the applicant shall commence funding the interest bearing account and thereafter contribute, in equal annual installments sufficient funds, consistent with its Board approved estimate, to de-commission the project, to be fully funded by the (20th) year. In the event that the applicant uses only a portion of the fund or uses other means than the fund to effect de-commissioning it shall be entitled to such unused fund amounts with interest upon completion of such de-commissioning.

(C) De-commissioning involves the removal of all evidence of a wind power project after it has reached the end of its design life. Depending on permit requirements and terms of the land lease agreements, the project owner may also be required to restore the land to original site conditions. De-commissioning includes removal of all turbines and towers, concrete foundations to some reasonable depth below grade, underground cabling, power poles, met towers, sub-station equipment, and O&M buildings. Site restoration includes regrading and replanting areas where foundations, roads, and building were located. A common de-commissioning standard is removal of all below-ground project elements to a depth of 30 inches. This is considered to be adequate for agriculture or future construction. Disconnected cables buried 36 inches or deeper can sometimes remain in place if their presence does not adversely impact land use and they do not pose a safety hazard.

Article 6. - VARIANCES.

The Town Board may waive on any of the requirements of this ordinance. Requests for and variance waiver of any requirement of this ordinance must be made directly to the Town Board not later than sixty (60) days from receipt of application for waiver. The Town Board will have sixty-two (62) days to act upon the request.

Article 7. - OPERATIONAL CONSIDERATIONS.

If any part of this Chapter shall be found to be void, void-able or unenforceable for any reason whatsoever, it shall not affect the validity or enforceability of any remaining section of provisions of this Chapter.

Article 8. - EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing with the Secretary of State.

(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. 1 of 2005 of the (County)(City)(Town)(Village) of Warren was duly passed by the (Name of Legislative Body) on Oct 10, 192005, in accordance with the applicable provisions of law.

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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the (Name of Legislative Body) on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____ in accordance with the applicable provisions of law.
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the (Name of Legislative Body) on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was (Elective Chief Executive Officer*) 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 _____ 19____, 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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the (Name of Legislative Body) on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to (Elective Chief Executive Officer*) permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, 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 chairman 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.