

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
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.

County _____
City of BELLMONT
Town _____
Village _____

Local Law No. 1 of the year 20 06

A local law Wind Energy Moratorium
(Insert Title)

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

County _____
City of _____
Town BELLMONT as follows:
Village _____

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

**Local Law No. 1 of 2006
of the
Town of Bellmont**

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

SECTION 1. Title

The title of this Local Law shall be "WIND ENERGY MORATORIUM"

SECTION 2. Purpose

The purpose of this local law is to prevent any adverse effects to the health, safety, or welfare of the residents of the Town of Bellmont or to the environment by reason of the construction, placement, and operation of wind energy producing devices or systems prior to the adoption of adequate regulatory standards.

SECTION 3. Legislative Findings

A. At the present time, there do not exist adequate regulatory standards governing and or controlling the establishment, placement, construction, enlargement or erection of windmills or wind energy producing facilities within the Town of Bellmont.

B. The establishment, placement, construction, engagement and erection of windmills and wind energy producing facilities may, by their very nature, have serious objectionable characteristics, including, but not limited to, noise levels, safety concerns, lighting, scenic view impact, and broadcast interference. This is of special concern since the Town of Bellmont has large residential and recreational developed areas, and historical vistas, places and structures, numerous wetlands areas, agricultural and rural areas. The establishment, placement, construction, enlargement, or erection of windmills and wind energy producing facilities may have a substantial negative impact upon the health, safety, and welfare of residents and visitors of the Town of Bellmont. Property values must also be considered in the absence of regulations designed to monitor compliance with applicable state and federal regulations and also to address the various above-referenced concerns. The safeguarding of the aesthetic character of the Town must also be protected.

C. The Town of Bellmont has determined that it is in the best interests of the residents of the Town to conduct necessary studies to examine the extent of deleterious effects and deleterious secondary effects, if any, upon the

community by the establishment, placement, construction, enlargement, and erection of windmills, and to determine what revisions to the Town of Bellmont comprehensive land use plan and other laws, if any, need to be adopted to accomplish the primary purpose of preventing deleterious effects or deleterious secondary effects upon the residents and land located within the Town of Bellmont. Local legislation is needed to prevent such establishment, placement, construction, enlargement, and/or erection of windmills — and to prevent applicants from seeking to establish, place, construct, enlarge, or erect windmills and any other wind energy producing facilities prior to the adoption of appropriate regulations by the Town Board of the Town of Bellmont.

D. This action is an exempt action under SEQRA pursuant to Section 6 NYCRR § 617.5(30) as a moratorium and Section 617.5(33) as an action that is “immediately necessary on a limited emergency basis for the protection of life, health, property, or of natural resources.”

SECTION 4. Intent

It is the intent of this moratorium to prohibit any use which may be harmful or have a negative impact upon a resident or residents of the Town of Bellmont until such time as the Town Board has completed its review of these matters.

SECTION 5. Definitions

Windmill — a device usually elevated from ground level on a tower that converts kinetic energy of the wind into electrical or mechanical power by the use of a set of rotating blades.

Windmill, Residential — a windmill that provides electrical or mechanical power to an individual residence and can be either the primary or secondary source of energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.

Windmill, Commercial — a windmill that provides electrical or mechanical power to an individual home occupation, farm, or other single commercial enterprise and can be either the primary or secondary source of energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.

Windmill, Industrial — a windmill or series of windmills in a facility whose purpose is to generate electricity that is fed into a power grid for sale.

Wind energy producing facility- any structure that provides electrical or mechanical power into a utility distribution system or utility grid system, including any related land, work, building, improvement, instrumentality or thing necessary or convenient to the such structure or the operation of any windmill and include also such transmission or distribution facilities as may be necessary to feed or distribute such electricity into a power grid or other similar systems.

SECTION 6. Prohibition

No person shall establish, place, construct, enlarge, or erect any windmill, whether residential, commercial or industrial, or any other kind of windmill or wind energy producing facility on land located within the Town of Bellmont except in accordance with applicable federal and New York State laws and regulations and this local law.

Further, no building permit shall be issued to any person or entity purporting to be a public utility as defined herein for the construction of a windmill or other wind energy producing facility in the Town of Bellmont except in accordance with applicable federal and New York State laws and regulations and this local law.

SECTION 7. Moratorium Imposed

A. For a period of six (6) months following the date of adoption of this local law, no approvals or permits shall be approved by the codes enforcement officer and no other approvals, permits, or certificates of occupancy shall be granted by any Board or officer of the Town regarding the establishment, placement, construction, enlargement or erection of windmills or wind energy producing facility within the Town of Bellmont. This Local Law shall be binding on the Codes Enforcement Office and any applicant or owner of property situated in the Town of Bellmont.

B. This moratorium may be extended by an additional period by resolution of the Town Board upon a finding by the Board that such extension is necessary to complete the purposes hereinabove and hereinafter described.

C: During the period of the moratorium, the Town shall endeavor to complete a comprehensive set of regulations regarding windmills and wind energy producing facilities as hereinabove described and defined and to revise a comprehensive plan in a manner consistent with said regulations.

D. The Codes Enforcement Office shall make an initial determination - whether any proposed use is a windmill or wind energy producing facility as hereinabove defined. Such determination or interpretation may be appealed upon verified petition to the Town Board.

SECTION 8. Applications for Relief

Whenever there is a showing by an owner or lessee whose property is affected by this moratorium, that relief therefrom is necessary to avoid unnecessary and extraordinary financial hardship or a taking of private property beyond what is permissible by valid regulation, the Town Board, upon petition, may grant appropriate relief from this local law subject to whatever conditions are deemed necessary to protect the health, safety, and welfare of the public.

Applications for such relief shall be by verified petition with all information similar to a use variance and site plan requirements to the Town Board and shall be supported by competent financial evidence in dollars and cents form. The Town Board shall hold a public hearing on any such petition within forty-five (45) days of a complete application. The default of the Board in acting on such application shall not result in default granting of such relief but shall permit the applicant to seek such relief pursuant to Article 78 of the Civil Procedure Law and Rules of the State of New York.

SECTION 9. Violation

Any person, corporation, partnership, limited company, and/or joint venture, who shall establish, place, construct, enlarge or erect any windmill during the term of this moratorium, except as provided in Section 8 hereof, shall be guilty of a violation and subject to a fine not exceeding one thousand (\$1,000.00) dollars or fifteen (15) days in jail or both. Each week a violation continues shall be considered a separate violation.

SECTION 10. Supersession

A. Town Law Section 267-a, 267-b, 274-a and 274-b are hereby amended and superseded in their application to the Town of Bellmont by restricting the authority to grant use variances, area variances, special use (conditional) approvals, site plans or other permits regarding the above-defined uses to the Town Board.

B. This Local Law is intended to supersede any inconsistent provision of any other existing Town Law, ordinance or other regulation including but not limited to the Town of Bellmont comprehensive plan.

SECTION 11. Severability

If any provision of this law or the application of any other provision to any item in this law is held invalid; the invalidity of that provision or application shall not affect any of the other provisions or the application of those provisions to the other items in this Local Law.

SECTION 12. Existing Activities

The development of all projects already approved, or for which permits have been issued as of the date of this Local Law and have been substantially commenced, may be continued and shall not be affected by the terms and provisions of this Local Law.

(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 20 06 of the (County)(City)(Town)(Village) of BELLMONT Town Board was duly passed by the on 20 06, 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 20 of the (County)(City)(Town)(Village) of was duly passed by the on 20, and was (approved)(not approved) (repassed after disapproval) by the (Elective Chief Executive Officer*) and was deemed duly adopted 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) (repassed after disapproval) by the (Elective Chief Executive Officer*) on 20.

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) (repassed after disapproval) by the (Elective Chief Executive Officer*) on 20. Such local 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 pctition.)

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 _____, above.

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

(Seal)

Date: _____

(Certification to be executed by County Attorney, Corporation Council, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Franklin

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature

Title

County _____
City of _____
Town _____
Village _____

Date: _____