

**Local Law Filing**

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~~  
Town of \_\_\_\_\_  
~~Village~~

**SOUTHOLD**

NEW YORK STATE DEPARTMENT OF STATE  
**FILED**  
AUG 16 2007

MISCELLANEOUS  
& STATE RECORDS

LOCAL LAW NO. 15 of 2007

A Local Law entitled, "A Local Law in relation to Wind Energy Systems for Agricultural Uses".

BE IT ENACTED by the Town Board of the Town of Southold as follows:

I. Purpose – In order to provide for the health, safety and welfare of the citizens of the Town of Southold, the Town Board of the Town of Southold finds it appropriate to encourage the development of small wind energy systems attendant to bona fide agricultural uses, and to provide standards for such systems. The overriding goal of this local law is to promote the reduction of on-site consumption of utility power for such uses, while protecting from any adverse effects of such systems.

II. Chapter 280 of the Code of the Town of Southold is hereby amended, as follows:

§ 280- 4. Definitions.

B. **SMALL WIND ENERGY SYSTEM** -- A wind energy conversion system consisting of a wind turbine (not to exceed 25 kilowatts of production), a tower, and associated control or conversion electronics, which has a rated capacity intended primarily to reduce on-site consumption of utility power.

ARTICLE III

Agricultural-Conservation (A-C) District and Residential R-80, R-120, R-200 and R-400 Districts

§ 280-13. Use Regulations.

A. Permitted Uses.

(5) Small wind energy systems on parcels greater than seven (7) acres in size, which parcels are dedicated primarily to uses necessary for bona fide agricultural production, and subject to the standards provided in Chapter 277 of this Town Code.

III. A new Chapter 277 of the Code of the Town of Southold is hereby adopted, as follows:

§ 277-1. Definitions.

**SMALL WIND ENERGY SYSTEM** -- A wind energy conversion system consisting of a wind turbine (not to exceed 25 kilowatts of production), a tower, and associated control or conversion electronics, which has a rated capacity intended primarily to reduce on-site consumption of utility power.

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

**TOWER HEIGHT** – The height above grade of the fixed portion of a tower that is part of a small wind energy system, exclusive of the wind turbine.

**§ 277-2. Application.**

Applications for small wind energy systems shall be submitted to the Town of Southold Building Department and shall include:

- a. Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
- b. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
- c. Address of each proposed tower site, including tax map section, block and lot number.
- d. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
- e. A plot plan at 1' = 100' scale depicting the limits of the fall zone distance from structures, property lines, public roads and projected noise levels decibels (DBA) from the small wind energy system to nearest occupied dwellings.
- f. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Electric Code.
- g. Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.

**§277-3. Development standards.**

- a. **Tower Height.** Tower height shall not exceed one-hundred twenty (120) feet.

To prevent harmful wind turbulence to the small wind energy system, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a 250 foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

- b. **Set-backs.** Notwithstanding the provisions of the Bulk Schedule, the following standards shall apply to Small Wind Energy Systems:

- i. A small wind energy system shall be set back from a property line a distance no less than the total height of the small wind energy plus ten (10) feet, except that it shall be set back at least three hundred (300) feet from a property line bordering an existing residential structure. In no instance shall the small wind energy system be closer than one hundred feet (100) to a property line.

- ii. No part of the wind system structure, including guy wire anchors, may extend closer than ten (10) feet to the property boundaries of the installation site.
- iii. A small wind energy system shall be set back from the nearest public road or right of way a distance no less than the total height of the small wind energy system plus ten (10) feet, and in no instance less than one hundred (100) feet.
- c. Noise. Small wind energy systems shall not exceed 60 DBA, as measured at the closest neighboring inhabited dwelling at the time of installation. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.
- d. Approved Wind Turbines. Small wind turbines must have been approved under the small wind certification program recognized by the American Wind Energy Association and/or NYSERTA.
- e. Compliance with Uniform Building Code. Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall also be submitted. This requirement may be satisfied by documentation presented by the manufacturer.
- f. Compliance with National Electric Code. Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This requirement may be satisfied by documentation supplied by the manufacturer.
- g. Compliance with FAA Regulations. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports. The allowed height shall be reduced to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the code of Federal Regulations regarding installations close to airports.
- h. Utility Notification. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

§277-4. Construction standards.

- a. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- b. The system's tower and blades shall be a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.
- c. All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines.
- d. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.

- e. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery.
- f. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- g. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
  - i. Tower-climbing apparatus located no closer than 12 feet from the ground.
  - ii. A locked anti-climb device installed on the tower.
  - iii. A locked, protective fence at least six feet in height that encloses the tower.
- h. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three to eight feet above the ground.
  - i. All small wind energy systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.

§277-5. Fees.

- a. The Building Department fee for small wind energy system applications shall be \$250.00.

§277-6. Abandonment of Use.

All small wind energy systems which are not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Building Department.

§277-7. Enforcement; Penalties and Remedies for Violations.

A. The Town Board shall appoint such Town Staff or outside consultants as it sees fit to enforce this Article. Notwithstanding such appointment, the Building Inspector, Code Enforcement Officer and Town Attorney shall have authority to enforce this Article.

B. Any person owning, controlling or managing any building, structure or land who shall undertake a wind energy conversion facility or wind monitoring tower in violation of this Article or in noncompliance with the terms and conditions of any permit issued pursuant to this Article, or any order of the enforcement officer, and any agent who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than \$1000.00 or to imprisonment for a period of not more than 30 thirty days, or subject to both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amount of \$1000.00 for each violation and each week said violation continues shall be deemed a separate violation.

C. In case of any violation or threatened violation of any of the provisions of this Article, including the terms and conditions imposed by any permit issued pursuant to this Article, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

#### IV. SEVERABILITY.

Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

#### V. EFFECTIVE DATE.

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule 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. 15 of 20 07, of the ~~(County)(City)(Town)(Village)~~ of SOUTHOLD was duly passed by the TOWN BOARD on July 17, 20 07, 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 \_\_\_\_\_ 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 \_\_\_\_\_ 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 \_\_\_\_\_ 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 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.

*Elizabeth A. Neville*

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

**Elizabeth A. Neville, Town Clerk**

Date: \_\_\_\_\_ July 25, 2007 \_\_\_\_\_

(Seal)

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

STATE OF NEW YORK  
COUNTY OF SUFFOLK

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.

*Patricia A. Finnegan*

**Patricia A. Finnegan, Esq., Town Attorney**

**Kieran Corcoran, Esq., Assistant Town Attorney**

Title

~~County~~

~~City~~

Town of SOUTHOLD

~~Village~~

Date: \_\_\_\_\_ July 25, 2007 \_\_\_\_\_



**RESOLUTION 2007-425**

Item # 3

**ADOPTED**

DOC ID: 2844 A

**THIS IS TO CERTIFY THAT THE FOLLOWING RESOLUTION NO. 2007-425 WAS ADOPTED AT THE REGULAR MEETING OF THE SOUTHOLD TOWN BOARD ON JULY 17, 2007:**

**WHEREAS**, there had been presented to the Town Board of the Town of Southold, Suffolk County, New York, on the 13th day of March, 2007 a Local Law entitled “A Local Law in relation to Wind Energy Systems for Agricultural Uses” AND

**WHEREAS** the Town Board of the Town of Southold held a public hearing on the aforesaid Local Law at the Southold Town Hall, 53095 Main Road, Southold, New York, on **the 24th day of April, 2007 at 4:45 p.m.** at which time all interested persons were given an opportunity to be heard, **NOW THEREFORE BE IT**

**RESOLVED** that the Town Board of the Town of Southold finds that this Local Law is **CONSISTENT** with the LWRP and be it further

**RESOLVED** that the Town Board of the Town of Southold hereby **ENACTS** the proposed Local Law entitled, “A Local Law in relation to Wind Energy Systems for Agricultural Uses” that reads as follows:

**LOCAL LAW NO. 15 of 2007**

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- d. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
- e. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery.
- f. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- g. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
  - i. Tower-climbing apparatus located no closer than 12 feet from the ground.
  - ii. A locked anti-climb device installed on the tower.
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- a. The Building Department fee for small wind energy system applications shall be \$250.00.

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B. Any person owning, controlling or managing any building, structure or land who shall undertake a wind energy conversion facility or wind monitoring tower in violation of this Article or in noncompliance with the terms and conditions of any permit issued pursuant to this Article, or any order of the enforcement officer, and any agent who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than \$1000.00 or to imprisonment for a period of not more than 30 thirty days, or subject to both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amount of \$1000.00 for each violation and each week said violation continues shall be deemed a separate violation.

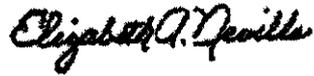
C. In case of any violation or threatened violation of any of the provisions of this Article, including the terms and conditions imposed by any permit issued pursuant to this Article, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

**IV. SEVERABILITY.**

Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

**V. EFFECTIVE DATE.**

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.



Elizabeth A. Neville  
Southold Town Clerk

**RESULT:**     **ADOPTED [UNANIMOUS]**  
**MOVER:**     Albert Krupski Jr., Councilman  
**SECONDER:** William P. Edwards, Councilman  
**AYES:** Krupski Jr., Edwards, Ross, Wickham, Evans, Russell