

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

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

County
City of Sidney, New York
Town
Village

Local Law No. 2 of the year 2003

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
JUN 18 2003
MISCELLANEOUS
& STATE RECORDS

A local law amending the Town of Sidney Zoning Ordinance with the
(Insert Title)
addition of definitions and standards for the construction
of Wind Energy-deriving Towers.

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

County
City of Sidney, New York as follows:
Town
Village

Section 1. The following definitions shall be added to Section 300 of Article III of the Zoning Ordinance of the Town of Sidney New York :

Wind Energy-Deriving Tower / Wind Turbine Accessory Facilities or Equipment: Any structure other than a wind turbine, related to the use and purpose of deriving energy from such towers, located at the tower facility.

Nacelle: The portion of the wind turbine that connects the rotor to the support tower, and houses the generator, gearbox, drive train, and braking system.

Right of Way: A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

Siting Agency: Persons or persons who are applying to site a wind energy-deriving tower facility.

Tower Facility: A site where one or more wind energy-deriving tower(s) or wind turbines will be located, including all accessory facilities or equipment.

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

Wind Energy-Deriving Tower / Wind Turbine – Any tower, pole, or other structure, whether attached to a building, guyed, or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for producing electricity.

Wind Energy-Deriving Tower / Wind Turbine (Large Project) – More than three (3) towers, poles, or other structures, whether attached to a building, guyed, or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for producing electricity intended to provide wholesale electricity production for delivery on the local transmission network. Any wind energy-deriving tower/wind turbine not meeting the definition of a wind energy-deriving tower/wind tower (Small Project) shall, for the purposes of this Local Law, be considered a wind energy-deriving tower/wind tower (Large Project).

Wind Energy-Deriving Tower / Wind Turbine (Small Project) – Three (3) or less towers, poles, or other structures, whether attached to a building, guyed, or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for producing electricity and is intended to reduce on-site consumption of utility power. Wind energy-deriving towers/wind towers not meeting the requirements of this definition shall be considered wind energy-deriving towers/wind towers (Large Project).

§ 2. Section 701 of Article VII of the Zoning Ordinance of the Town of Sidney New York is amended as follows:

4. Wind Energy-Deriving Tower(s) / Wind Turbine(s) (Small Project). Such tower(s)/wind turbine(s) are subject to the standards and requirements of Section 6 (C) of Article X-C of this Local Law.

§ 3. Paragraph 7 of Section 700 of Article VII of the Zoning Ordinance of the Town of Sidney New York is further amended as follows:

- (H) Wind Energy-Deriving Tower(s) / Wind Turbine(s) (Large Project) as regulated in Article X-C of this Local Law.

§ 4. Paragraph 8 is added to Section 800 of Article VIII of the Zoning Ordinance of the Town of Sidney New York as follows:

8. Wind Energy-Deriving Tower(s) / Wind Turbine(s) (Small Project) as an accessory use. Such tower(s)/wind turbine(s) are subject to the standards and requirements of Article 6 (C) of Article X-C of this Local Law.

§ 5. Section 800-A of Article VIII of the Zoning Ordinance of the Town of Sidney New York as follows:

Section 800-A – Special Permit Uses

1. Wind Energy-Deriving Tower(s) / Wind Turbine(s) (Large Project) as regulated in Article X-C of this Local Law.

§ 6. Article X-C of the Zoning Ordinance of the Town of Sidney New York is added as follows:

Article X-C

Wind Energy-Deriving Tower(s) / Wind Turbine(s) (Large Project)

The development of Wind Energy-Deriving Tower(s)/Wind Turbine(s) (Large Project) and related structures shall be permitted by Special Use Permit approval by the Town Planning Board. Wind Energy-Deriving Tower(s) / Wind Turbine(s) (Large Project) and Facilities shall be subject to the to the following supplemental requirements in addition to the standards listed under Article X.

A. The purpose of these supplementary requirements and standards is to regulate the development of Wind Energy-Deriving Tower(s) / Wind Turbine(s) (Large Project) and related structures in the Town of Sidney consistent with the general purposes stated in the Zoning Ordinance of the Town of Sidney, to accommodate the necessary infrastructure for the provision of Wind Energy-Deriving Tower(s)/Wind Turbine(s) (Large Project) and related structures within the Town, to address the visual, aesthetic and land use compatibility aspects of Wind Energy-Deriving Tower(s)/Wind Turbine(s) (Large Project) and related structures and more specifically to:

1. Encourage the location of Wind Energy-Deriving Tower(s)/Wind Turbine(s) in areas where the adverse impacts on the community are minimized;
2. Encourage the configuration of Wind Energy-Deriving Tower(s)/Wind Turbine(s) in a way that minimizes the adverse visual impact of the towers;
3. Enhance the provisions of Wind Energy-Deriving Tower(s) / Wind Turbine(s) within the Town;
4. Encourage the co-location or shared use of proposed and existing Wind Energy-Deriving Tower(s) / Wind Turbine(s) sites; and
5. Minimize the total number of Wind Energy-Deriving Tower(s) / Wind Turbine(s) throughout the Town.

TOWN OF SIDNEY, NY
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(B) Applicants for the proposed development of a wind energy-deriving tower facility shall submit with the application a plan showing the following information:

- (1) Name of the project, boundary lines of parcel that project will be located on, a location map showing proposed site's location, date, north arrow and scale of the plan.
- (2) Name and address of the owner of the parcel where development is proposed, developer and seal of the engineer, architect, or surveyor preparing the plan.
- (3) A map showing all existing lot lines, easements and right of ways, and a sketch plan showing proposed road access including provisions for paving, if any, proposed transmission lines and accessory facilities, and location of all existing and proposed utility systems to the facility.
- (4) A survey of the land to be leased, if applicable.
- (5) A map showing existing and proposed topography at five-foot contour intervals.
- (6) A landscape plan showing all existing natural land features, trees, forest cover and all proposed changes to these features including size and type of plant material and erosion control measures.
- (7) State Environmental Quality Review Act (SEQRA) Environmental Assessment Form (EAF).
- (8) Photography assessing the visibility from key viewpoints, existing tree lines, and proposed elevations. Pictures shall be digitally enhanced to simulate the appearance of the as-built above ground site facilities as they would appear from distances within a three (3) mile radius of such wind turbines. Pictures from specific locations may be required by the planning board and all pictures shall be no smaller than 5" X 7".
- (9) Documentation of the proposed intent and capacity of energy generation as well as a justification for the height of any wind energy deriving tower and justification for any clearing required.
- (10) Preliminary report prepared by the wind turbine siting agency describing:
 - (i) Surrounding topography in relation to the capabilities for generation of electricity by wind,
 - (ii) Required improvements for construction activities, including those within the public's right of way or land controlled by the Town of Sidney,

- (iii) Proposed mitigation measures for visual impacts of tower facility,
 - (iv) Proposed safety measures to mitigate wind energy-deriving tower failure.
- (11) Elevation map showing the wind energy-deriving tower's height and design including a cross-section of the structure and components of the nacelle; the wind energy deriving tower's compliance with applicable structural standards; and the wind energy-deriving tower's abilities in terms of producing energy.
 - (12) Demonstration of a need for the proposed wind energy-deriving tower facility.
 - (13) A description of the general geographic areas that would be acceptable for wind projects within the Town of Sidney; furthermore, demonstration that the proposed site is the most appropriate site within the immediate area for the location of the wind energy deriving tower facility.
 - (14) Description of the applicant's long range plans which project market demand and long range facility expansion needs within the Town.
 - (15) Digital elevation model-based project visibility map showing the impact of visibility of the project from other locations, to a distance radius of three (3) miles from the center of the project. The base map used shall be a published topographic map showing natural and structural or built features.
 - (16) Report showing soil logs, soil profile analysis, and storm water run-off calculations for the area being disturbed.
 - (17) Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, and flooding of other properties, as applicable. There should be pre-construction and post construction drainage calculations for the site done by a certified engineer. From this the engineer must show how there will be no increase in runoff from the site.
 - (18) If any license, approval, permit, certification or any type of registration or similar type of endorsement is required from any other agency, the applicant shall notify the Planning Board of such requirement and the Board shall coordinate the review as deemed appropriate.
 - (19) The Planning Board, upon request in writing by the applicant, may waive specific requirements of this Section B when its opinion such information is not necessary for the Board to take into account when considering an application. Any such waiver will not have the effect of nullifying the spirit and intent of these standards, the Comprehensive Plan, or any other regulations or ordinance, if such exist.

(C) STANDARDS-The development of wind energy-deriving towers (Large Project) and related structures shall be permitted with approval by the Town Planning Board. The development of wind energy-deriving towers (Small Project) shall be permitted with approval of the Code Enforcement Officer. All wind energy-deriving towers and facilities shall be subject to the following requirements, except as noted.

(A) Specific Provisions

1) Location.

Applicants for wind energy-deriving towers shall locate, erect and site towers in accordance with the following requirements:

- a. No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce disturbance in the links operation.
- b. No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
- c. No individual tower facility shall be installed in any location where there is a recognized migratory flight path for birds or at a location where birds commonly congregate, unless applicant can demonstrate that the operation of the wind energy-deriving tower will not have a significant impact on either migrating or resident birds.
- d. All wind turbine towers shall be set back from adjacent property lines and any pre-existing structures by a distance at least equal to its fall zone as certified by a New York State Licensed Professional Engineer plus an additional fifty percent (50%) of its fall zone. Additional setbacks may be required by the Planning Board in order to provide for the public safety, health and welfare. The Planning Board may waive setback requirements from adjacent properties if such adjacent properties will also be participating in the wind project.
- e. The level of noise produced during wind tower operation shall not exceed 50 (DBA) measured at a distance of 1000 feet from the base of the wind energy-deriving tower or from the nearest residential structure.

2) Emergency Shutdown / Safety.

- a. Applicant shall post an emergency telephone number so that the appropriate people may be contacted should any wind energy-deriving tower need immediate attention.
- b. No wind turbine shall be permitted to lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components or nacelle.

3) Lighting.

Wind energy-deriving towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA).

4) Utility Service.

All power transmission lines from the wind generation electricity generation facilities to on-site substations shall be underground.

5) Height.

- a) The minimum distance between the ground and any part of the rotor blade should be thirty (30) feet.
- b) The height of any wind energy-deriving tower shall be limited to the minimum required to provide needed energy by demonstrated demand.

6) Access Road.

Existing roadways shall be used for access to the site whenever possible. In the case of constructing roadways, they shall be constructed in a way so that they are not conspicuous to the surrounding environment.

7) Accessory Structures / Facilities.

Transmission facilities and or buildings shall be located behind ridges or vegetation to screen from visibility.

8) Security Provisions.

No climbing device of any kind shall be attached to the wind turbine closer than fifteen (15) feet from the ground and shall be added to the outside.

9) Decommissioning.

With the exception of Wind Energy-Deriving Tower(s) / Wind Turbine(s) (Small Project), the applicant shall submit to the Planning Board a letter of intent committing the tower owner, and his/her successors in interest, to notify the Code Enforcement Officer within thirty (30) days of the discontinuance of use of the wind energy-deriving towers. This letter shall be filed with the Code Enforcement Officer to the issuance of a building permit. The owner of any Wind Energy-Deriving Tower(s) / Wind Turbine(s) (Small Project or Large Project) shall remove the obsolete or unused wind turbines and accessory structures from any site and restore the site to pre-construction conditions within three (3) years days of such notification. Failure to notify and/or remove the obsolete or unused tower in accordance with these regulations shall be a violation of this local law and the cost of removing the wind energy deriving towers and accessory structures shall be placed as a lien on the property owners tax bill.

10) Post – Installation.

With the exception of Wind Energy-Deriving Tower(s) / Wind Turbine(s) (Small Project), a post-installation field report identifying the facilities generation of electricity, and impacts upon the environment shall be submitted to the Town.

(D) The Planning Board may approve the application, deny the application, or grant the application with written stated conditions.

Action on the application shall be by written decision based upon substantial evidence submitted to the Planning Board.

§ 7. EFFECTIVE DATE

This Local Law shall take effect immediately upon the 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. 2 of 2003 of the ~~(County)~~(City)(Town)(Village) of Sidney, New York was duly passed by the Town Board on June 12, 2003, 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)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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.

Nancy N. Norton

Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body
Nancy N. Norton, Town Clerk

(Seal)

Date: 6/13/2003

(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 Delaware

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,

Paul F. Eaton, Jr.

Signature Paul F. Eaton, Jr.

Town Attorney
Title

~~County~~
~~City~~ of Sidney, New York
~~Town~~
~~Village~~

Date: 6/13/03