

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 of _____ Volney _____
- Town
- Village

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED

AUG 25 2008

Local Law No. 2 of the year 20 08

MISCELLANEOUS
& STATE RECORDS

A local law regulating Wind Energy Conversion Systems in the Town of Volney
(Insert Title)

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

- County
- City of _____ Volney _____ as follows:
- Town
- Village

(Delete this line of text and enter text of local law here)

SECTION 1: INTENT:

In order to balance the need for clean, renewable energy resources and the necessity to protect the public health, safety and welfare of the community, the Town of Volney finds these regulations are necessary to ensure that wind energy conversion systems are appropriately designed and safely sited and installed.

This ordinance establishes the regulations and criteria which allow compatible accessory uses to be located within the various land use districts. Unless otherwise provided, all accessory uses are subject to the same regulations as the sponsoring primary use.

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

SECTION 2: DEFINITIONS:

Residential Wind Energy System: A wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, which has a rated capacity of not more than 5 kW and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.

Tower: The vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.

SECTION 3: REGULATIONS:

Residential wind energy systems shall be permitted use in all zoning classifications where structures of any sort are allowed, with the exception of R-2 which is prohibited; all others subject to certain requirements as set forth below:

A) **Tower height:** The tower height shall not exceed 60 feet, without the permission of the Zoning Board. The height of all towers in the Town of Volney must also comply with all Federal, State and FAA regulations.

B) **Clearance of Blade:** No portion of the residential wind energy system shall extend within thirty feet of the ground. No blades may extend over parking areas, driveways or sidewalks.

C) **Set-back:** No part of the wind system structure, including guy wire anchors, may extend closer than ten feet to the property boundaries of the installation site. Set backs for the system tower shall be no farther from the property line than the height of the system, provided that it also complies with any applicable fire setback requirements.

D) **Automatic Overspeed Controls:** All wind energy conversion systems shall be equipped with manual (electronic or mechanical) and automatic over speed controls to limit the blade rotation speed to within the design limits of the residential wind energy system.

E) **Sound:** Residential wind energy systems shall not exceed 65 dBA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

F) **Approved Wind Turbines:** Residential wind turbines must be approved under an Emerging Technology program such as the California Energy Commission, IEC or any other small wind certification program recognized by the American Wind Energy Association (AWEA) or the U.S. Department of Energy. Non-certified residential wind turbines must submit a description of the safety features of the turbine prepared by a registered mechanical engineer.

G) **Compliance with Uniform Building Code:** Building permit applications for residential wind 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 analysis is frequently supplied by the manufacturer. Wet stamps shall not be required.

H) **Compliance with FAA Regulations:** Residential wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

I) **Compliance with National Electric Code:** Building permit applications for residential 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 the installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.

J) **Utility Notification:** No residential 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.

SECTION 4: ABANDONMENT OF USE:

A windmill or WECS which is 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 and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the building permit by the Town of Volney.

SECTION 5: PENALTIES:

Any person who violates any provisions of this Local Law shall be guilty of an offense and shall upon conviction be subject to a fine of not less than \$100 or more than \$500 for the first offense. The penalty for second or subsequent offenses shall be not less than \$500 or more than \$1,000 or imprisonment for a period of 15 days or both such fine and imprisonment. Each day such violation is permitted to continue after notification of violation shall constitute a separate offense and shall be punishable as such.

SECTION 6: SEVERABILITY

Should any portion whatsoever of this Local Law be held invalid or unenforceable for any reason, by any Court of competent jurisdiction, such portion shall be deemed severable, but only to the extent of such holding, and such holding shall not affect the remaining portions thereof.

SECTION 7: EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Department 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 20 08 of the ~~(County)(City)(Town)(Village)~~ of Volney was duly passed by the Town Board on August 14, 2008, 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.

Barbara A. MacEwen
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body
BARBARA A. MACEWEN, TOWN CLERK
Date: 8-14-08

(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 OSWEGO

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.

Allison J. Nelson
Signature
Town Attorney
Title

~~County~~
~~City~~ of Volney
Town
~~Village~~

Date: 8/19/08