

Local Law Filing

New York State Department of State
99 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.

~~County~~
~~City~~ of Clarendon, Orleans County, New York
~~Town~~
~~Village~~

Local Law No. 2 of the year 2008.

A local law known as the "Wind Energy Facility Law of the Town of Clarendon, New York."
(Insert Title)

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

~~County~~
~~City~~ of **Clarendon, Orleans County, New York** as follows:
~~Town~~
~~Village~~

SECTION 1: Section 672, entitled "WIND ENERGY FACILITIES," is added to the Town of Clarendon Zoning Ordinance to read in its entirety as follows:

WIND ENERGY FACILITIES

Article I

§ 672.A Title.

This Local Law shall be known as the "Wind Energy Facility Law of the Town of Clarendon, New York."

§ 672.B Purpose.

The Town Board of the Town of Clarendon adopts this Local Law to promote the effective and efficient use of the Town's wind energy resource through wind energy conversion systems (WECS), without harming public health and safety, and to avoid jeopardizing the welfare of the residents.

§ 672.C Authority.

The Town Board of the Town of Clarendon enacts this Local Law under the authority granted by

1. Article IX of the New York State Constitution, § 2(c)(6) and (10).
2. New York Statute of Local Governments, §10(1), (6), and (7).

3. New York Municipal Home Rule Law, §10(1)(i) and (ii) and §10 (1)(a)(6), (11), (12), and (14).

4. New York Town Law, Article 16 (Zoning).

5. New York Town Law §130(1)(Building Code), (3)(Electrical Code), (5)(Fire Prevention), (7)(Use of streets and highways), (7-a)(Location of Driveways), (11)(Peace, good order and safety), (15)(Promotion of public welfare), (15-a)(Excavated Lands), (16)(Unsafe buildings), (19)(Trespass), and (25)(Building lines).

6. New York Town Law §64(17-a)(protection of aesthetic interests), (23)(General powers).

§672.D Findings.

A. The Town Board of the Town of Clarendon finds and declares that:

1. While wind energy is a potential abundant, renewable and nonpolluting energy resource, and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources, the potential benefits must be balanced against potential impacts.

2. Regulations of the siting and installation of wind turbines is necessary for protecting the health, safety, and welfare of neighboring property owners and the general public.

3. Large-scale multiple-tower Wind Energy Facilities represent significant potential aesthetic impacts because of their large size, noise, lighting, and shadow flicker effects.

4. There are numerous sites in the Town of Clarendon which would be significantly impaired if the viewshed included utility-scale wind turbines. This is particularly true in Clarendon compared to other communities because the flat nature of the landscape significantly increases the viewshed in which a large structure will be seen.

5. There are six historic cemeteries in the Town. These resources would be negatively impacted by the noise, shadow flicker, and visual imposition of utility-scale wind turbines in the Town.

6. Installation of large-scale multiple-tower Wind Energy Facilities can create drainage problems through erosion and lack of sediment control for facility and access road sites, and harm farmlands through improper construction methods.

7. The Town of Clarendon does not have the low density of residences typically found in wind farm host communities. Residential density is spread out evenly. The pattern of residentially zoned land is a checkerboard-type pattern with residential properties intermingled with agricultural properties. The location of residences and land designated for residential development throughout the community is inconsistent with the development of utility-scale wind turbines in the Town.

8. Large-scale multiple-tower Wind Energy Facilities may present risks to the property value of adjoining property owners.

9. Large-scale Wind Energy Facilities may be significant sources of noise, which, if unregulated, can negatively impact adjoining properties, particularly in area of low ambient noise levels.

10. Construction of large-scale multiple-tower Wind Energy Facilities can create traffic problems and damage local roads.

11. If improperly sited, large-scale multiple-tower Wind Energy Facilities can interfere with various types of communications.

12. Sufficient areas exist in the County and Western New York region for the placement of any needed utility-scale wind turbines. The Towns of Ridgeway, Shelby and Murray all have laws allowing large wind farms. Numerous areas throughout the Western New York region have better access to the electric grid and stronger wind resources than Clarendon. Hundreds of megawatts of wind energy generating facilities are being constructed throughout the Western New York region in areas where the facilities do not present the same intrusion on the landscape, and therefore have less impacts.

§ 672.E Incentive Zoning Required.

A. No Wind Energy Facility shall be constructed, reconstructed, modified, or operated in the Town of Clarendon except as authorized and in compliance with Article XI, Incentive Zoning, of the Zoning Ordinance of the Town of Clarendon.

B. This Local Law shall apply to all zoning districts of the Town of Clarendon.

§ 672.F Definitions

As used in this Local Law the following terms shall have the meanings indicated:

EAF – Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

RESIDENCE – means any dwelling for habitation, either seasonally or permanently by one or more persons. A residence may be part of a multi-dwelling or multipurpose building, and shall include buildings such as hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

SEQRA – the New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

SITE – The parcel of land where the WECS is to be placed. The Site could be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements.

WIND ENERGY CONVERSION SYSTEM (“WECS”) – A machine that converts the kinetic energy in the wind into a usable form (commonly known as a “wind turbine” or “windmill”).

WIND ENERGY FACILITY – Any Wind Energy Conversion System, including all related infrastructure, electrical lines and substations, access roads and accessory roads and accessory structures.

§728.G Applicability.

A. The requirements of this Local Law shall apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this Local Law.

SECTION 2: Severability.

Should any provisions 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.

SECTION 3. Effective date.

This Local Law shall be effective immediately 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. 2 of 2008, of the ~~(County)~~ (City) (Town) (Village) of Clarendon, New York was duly passed by the Clarendon Town Board on August 19th, 2008, 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) _____ was duly passed by the _____ on _____ 20____, and was (approved) (not disapproved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 2008, 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 2008 of the ~~(County)~~ (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 2008, and was by the _____ on _____ 2008. 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 2008 of the ~~(County)~~ (City) (Town) (Village) of _____ was duly passed by the Board of Trustees

on _____ 2008, and was (approved) (~~not disapproved~~) (~~repassed after disapproval~~) by the _____ on _____ 2008. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 2008, in accordance with the applicable provisions of law.

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.

*** 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.**

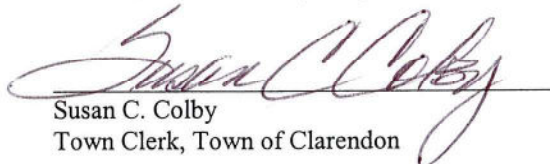
6. (County local law concerning adoption of Charter.)

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 of 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.

(SEAL)



Susan C. Colby
Town Clerk, Town of Clarendon

Date: 8-19-08

(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 ORLEANS

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.


David C. Schubel
Town Attorney

County _____
City of Clarendon
Town _____
Village _____

Date: 8-19-08

RESOLUTION NO. RM2008-171

**RESOLUTION ADOPTING LOCAL LAW NO. 2 OF THE YEAR 2008
A LOCAL LAW KNOWN AS THE "WIND ENERGY FACILITY LAW OF
THE TOWN OF CLARENDON, NEW YORK"**

At a Regular Meeting of the Clarendon Town Board held August 19, 2008 at the Town Hall, 16385 Church Street, Clarendon, NY, Motion was made by Councilman E. John DeFilipps to adopt the following Resolution; Seconded by Councilman Allen W. Robinson.

WHEREAS, Local Law No. 2 of the Year 2008 of the Town of Clarendon, Orleans County, New York State known as the "Wind Energy Facility Law of the Town of Clarendon, New York." having been introduced on the 17th day of June, 2008 and such local law having been in its final form upon the desks or tables of the members of the Town Board at least seven (7) calendar days prior to its final passage, and a public hearing on said local law having been duly called and held on July 15th, 2008 at 6:18 PM at the Clarendon Town Hall, 16385 Church Street in said Town; it is

RESOLVED, that said Local Law No. 2 of the Year 2008 of the Town of Clarendon be and the same hereby is adopted in all respects and in the same form as introduced; and it is

FURTHER RESOLVED, that David C. Schubel, Attorney for the Town of Clarendon, be and they are hereby directed, to forward the appropriate copies of such local law to those individuals and/or agencies entitled to receive the same for filing.

Upon being put to a vote, the foregoing Resolution was unanimously adopted as follows:

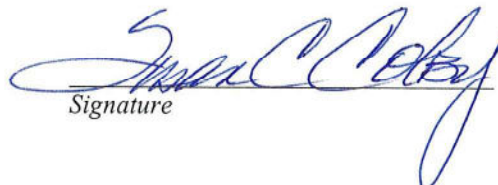
E. John DeFilipps	Aye
Paul Nicosia	Aye
Allen Robinson	Aye
William Campbell	Aye
Richard Moy	Aye

CERTIFICATE OF CLERK

State of New York:
County of Orleans: ss

I, Susan C. Colby, being the duly elected Town Clerk of the Town of Clarendon, County of Orleans, New York State, do hereby certify that I have compared the attached Resolution No. RM2008-171 duly adopted by the Town Board of the Town of Clarendon on the 19th day of August, 2008 with the original being a part of the minutes for said meeting now on file in my office, and the same is a correct and true copy of said Resolution.

Dated: August 20, 2008


Signature