

Local Law # 2 of 2011
Town of Winfield Non-Commercial Wind Energy Towers Law

Be it enacted by the Town Board of the Town of Winfield, Herkimer County, New York as follows:

1. TITLE

This local law shall be known as the Town of Winfield Non-Commercial Wind Energy Towers Law.

2. AUTHORITY FOR ENACTMENT OF LOCAL LAW

The Town Board of the Town of Winfield, pursuant to the authority granted under Section 10 of the Municipal Home Rule Law of the State of New York, hereby enacts the “**Town of Winfield Non-Commercial Wind Energy Towers Law**”.

3. PURPOSE

The Town Board of the Town of Winfield hereby finds that in order to promote and protect the health, safety and general welfare of the citizens of the Town of Winfield, Herkimer County, New York it is appropriate and necessary to enact the following local law regulating the constructing, installation, maintenance and operation of wind powered energy generating devices within the town. The zoning regulations of the Town of Winfield are designed to preserve the natural beauty of the lands within the Town of Winfield and to protect the health, safety and general welfare of the citizens of the Town. The Town Board finds and determines the erection, installation, maintenance and operation of towers or other structures within the Town including, but not limited to, structures commonly known as windmills or wind energy generating facilities, will have an impact on the natural beauty, scenic environment and the character of various neighborhoods and areas within the Town. In order to protect the general health, safety and welfare of the citizens of the Town, and in order to preserve the natural beauty and character of the Town, the Town of Winfield finds and determines that it is necessary to regulate and restrict the erection, construction, maintenance and operation of towers including but not limited to windmills within the Town.

4. DEFINITIONS

For the purposes of this local law, the following terms shall have the following meanings:

- A. “Windmill or wind energy tower” shall mean a wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics.
- B. “Windmill Height” shall mean the height above grade, that the farthest extension of any blade, turbine, or other structure attached to the windmill tower extends above grade level.

5. APPLICATION PROCESS

In order to erect, construct, modify, operate or maintain a windmill within the Town of Winfield, the applicant must first satisfy the following requirements:

- A. Special Use Permit shall be required;

- B. Site Plan Review is required before a building permit may be issued for the construction, modification, operation or erection of a windmill;
- C. Any and all environmental review required under the provisions of the State Environmental Quality Review Act must be completed.

6. LOCATION

Windmills may be erected in all zones within the Town of Winfield.

7. MINIMUM LOT SIZE

No windmill shall be erected on any parcel containing less than one (1) acre.

8. LIMITATION ON NUMBER OF TOWERS

Only one windmill shall be permitted per parcel, provided, however, that in the event that there is more than one residential structure on a parcel, the number of windmills shall not exceed the number of residential structures on the parcel. For the purposes of this section, a residential structure shall be a building with separate cooking facilities, which is suitable for use as a year round residence.

9. HEIGHT LIMITATION

No windmill shall exceed 120 feet from ground level. Height shall include the farthest extension of any blades, turbines or other structures attached to the windmill tower. On parcels less than 5 acres the maximum height is 65 feet from ground level. Height shall include the farthest extension of any blades, turbines or other structures attached to the windmill tower.

10. MINIMUM HEIGHT OF BLADE OF TURBINE

No windmill blade or turbine shall, during normal operation of the windmill, be closer than 30 feet from ground level.

11. SET BACK REQUIREMENT

Placement of any windmill shall be a distance of at least 1.5 times the “windmill height” of the tower and any blades or turbines from any lot line of the parcel on which the windmill is erected. No guy wire or anchoring shall be located within 10 feet of any boundary line of the parcel on which the windmill is erected.

12. CONSTRUCTION

All windmills shall meet the following requirements:

- A. Compliance with New York State Building Code.
Building permit applications for windmills 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 New York State Uniform Building Code and certified by a licensed professional engineer shall also be submitted.
- B. Compliance with National Electrical Code.
Building permit applications for windmills shall be accompanied by a line drawing of the electrical components on the plot plan in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- C. Utility Notification
No windmill shall be installed until evidence has been provided that the utility company which is the owner of the electrical system to which the windmill is proposed to be connected has approved the connection of the

windmill to the utility company's power grid. Off-grid systems shall be exempt from this requirement.

D. Sign

At least one sign posted at five (5) feet above ground level shall be posted on the tower warning of shock or high voltage and potential harm from the machinery.

E. Over-Speed Controls

All units must be equipped with manual and automatic over-speed controls.

F. Advertising Signage.

No signage, other than the sign(s) required by sub-paragraph D hereof and a manufacturer's label may be attached to any windmill.

G. Surface of Tower and Blades.

The tower and blades shall be painted a non-reflective, unobtrusive color which blends with surrounding landscape.

13. CONNECTING CABLES

All power transmission lines from the windmill shall be underground.

14. ACCESSORY STRUCTURES

Any and all accessory structures shall comply with the requirements of the zoning ordinance for accessory structures in general.

15. ANTI-CLIMBING DEVICE

All windmills shall be constructed, erected and maintained in a fashion to prohibit climbing, either by erection of a fence of at least 8 feet in height or limiting climbing apparatus to a minimum level of 12 feet above ground level.

16. ILLUMINATION

There shall be no illumination; either permanent or temporary, on any windmill, except as may be required by a federal or state law, rule or regulation.

17. REMOVAL OF STRUCTURES WHICH ARE NOT OPERATIONAL

Any special use permit issued pursuant to this local law shall terminate immediately in the event that a windmill is not operational for a period of one year. Upon termination of the special use permit, the owner shall remove the windmill tower or accessory structures within 180 days.

18. MAXIMUM OUTPUT

The maximum electrical output of any such system shall be 125 kw.

19. ENFORCEMENT

The Town Codes Enforcement Officer and Town Attorney shall have the authority to enforce the provisions of this local law. The following penalties and/or enforcement proceedings shall apply to all violations of this local law.

- A. Any person owning, controlling, managing or having the right to possession of a parcel of land within the Town who shall undertake the construction, erection, maintenance, or operation of a windmill within the Town of Winfield in violation of the provisions of this local law or who shall be in non-compliance with the terms and conditions of any permit issued pursuant to this local law, or shall be in violation of any state, federal or local law, rule or regulation applicable to such structure shall

be guilty of an offense and subject to a fine of not more than \$1,000, or to imprisonment for a period of not more than 30 days or both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each week, or portion thereof, such violation shall continue. A week shall constitute of 7 consecutive days commencing on Monday and ending on Sunday.

- B. In addition to the fine and/or imprisonment provided for in Article 18A above, the Town may institute a civil proceeding to collect civil penalties in the amount of \$1,000 for each violation of this local law. Each week that such violation continues shall be deemed a separate violation. A week shall constitute 7 consecutive days commencing on Monday and ending on Sunday.
- C. In addition to the fines, imprisonment or civil penalties provided for in Article 18A and 18B above, in the case of any violation or any threatened violation of any of the provisions of this local law, including the terms and conditions imposed by any permit issued pursuant to this local law, in addition to any other remedies and penalties, the Town may institute an action or proceeding in a court of appropriate jurisdiction to prevent such unlawful erection, structural alteration, reconstruction, operation and/or maintenance of a windmill within the Town of Winfield or to remove any such structure which is not in compliance with this local law.

20. SEVERABILITY CLAUSE

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.

21. EFFECTIVE DATE

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

Dated: April 27, 2011
West Winfield, New York

Debrah B. Jones, Clerk
Town of Winfield