

PROPOSED LOCAL LAW NO. 2008-5
A LOCAL LAW GOVERNING THE USE OF WIND ENERGY CONVERSION
SYSTEMS IN THE TOWN OF SPAFFORD

Section 1. The Town of Spafford Zoning Ordinance, as amended, is further amended as follows:

Article IX entitled “Zoning Board of Appeals” shall be revised by adding a new section beginning with paragraph “7” regarding “Wind Energy Conversion Systems” to state in its entirety as follows:

7. Wind Energy Conversion Systems

a. Purpose.

The Town Board of the Town of Spafford adopts this Local Law to promote the effective and efficient use of the Town's wind energy resource through wind energy conversion systems (WECS), and to regulate the placement of such systems so that the public health, safety, and welfare will not be jeopardized. It is the purpose of these amendments to provide adequate regulations to properly site WECS to preserve and protect the aesthetic qualities of the Town of Spafford, as well as to mitigate any potential impacts on surrounding properties and the residents of the Town.

b. Definitions

1. Site – the parcel of land on which a wind energy facility is to be located.
2. Wind Energy Conversion System (WECS) – a machine that converts the kinetic energy in the wind into a usable form (commonly known as a “windmill” or “wind turbine”) and which is intended for personal use to generate on-site power and reduce on-site consumption of utility power.
3. Wind Energy Facility – any wind energy conversion system, including all related cables and equipment necessary for its operation.
4. Total Height – the total height of the tower or pole and the furthest vertical extension of the WECS.

c. Applicability.

1. The requirements of this section shall apply to all wind energy facilities proposed, approved, operated, modified or constructed after the effective date of this local law.
2. Wind energy conversion systems are permitted in the Residential Agricultural (RA) district only, subject to the application and approval requirements set forth below.

3. No more than one wind energy conversion system shall be permitted on a particular parcel, subject to the application and approval requirements set forth below.

4. Any sub division that creates more than one parcel still owned by one individual or entity cannot be used for a wind energy conversion system on each parcel as long as it is still owned by one individual or entity.

d. Applications for Wind Energy Conversion Systems

1. A WECS shall only be permitted, altered or relocated upon application for and receipt of a special permit from the Zoning Board of Appeals.

2. A special permit for a WECS shall not be issued unless the Zoning Board of Appeals determines that the application meets all of the following criteria:

a) shall not be installed in any location along the major axis of an existing microwave communications where its operation is likely to produce electromagnetic interference in the link's operation.

b) shall not be installed in any location where its proximity interferes with existing fixed broadcast, retransmission or reception antenna for radio, television or wireless telephone service providers.

c) shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 40 dbA, measured at the boundaries of all the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of special permit application.

d) shall contain an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

e) the minimum distance between the ground and any part of the WECS rotor blade system shall be twenty (20) feet.

f) all cables and power transmission lines from the WECS electricity generation facilities shall be underground.

g) each WECS shall be set back from all residential structures located on the property and all property lines a minimum distance equal to the total height of the WECS plus five percent of such height.

h) no WECS shall be located closer than 200 feet from any parcel located in the Residential Lake (RL) district.

i) the total height of a WECS shall not exceed 60 feet.

3. The Zoning Board of Appeals may require the applicant to provide adequate and suitable screening, fencing, anti-climbing protection or other protective measures as it deems necessary or proper to reduce or eliminate aesthetic impacts and ensure the public health and safety of the residents of the Town of Spafford.

e. Removal

If a WECS is inoperable for a period of at least 12 consecutive months, the Zoning Board of Appeals shall have the authority to terminate the special permit and require the owner of the WECS to remove it from the parcel within a reasonable period of time.

f. Separability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law.

Section 2. This local law shall take effect immediately upon filing in the office of the New York State Secretary of State.