

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 Town Village

FILED
STATE RECORDS

FEB 21 2023

(Select one.)
of Sangerfield

Local Law No. 1 of the year 2023

DEPARTMENT OF STATE

A Local Law to Amend the Town of Sangerfield Zoning Ordinance to Add Provisions Regarding Power Generating Windmills as On-Site Use Wind Energy Systems

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

County City Town Village

(Select one.)
of Sangerfield as follows:

TOWN OF SANGERFIELD LOCAL LAW NO. 1-2023

A LOCAL LAW TO AMEND THE TOWN OF SANGERFIELD ZONING ORDINANCE TO ADD PROVISIONS REGARDING POWER GENERATING WINDMILLS AS ON-SITE USE WIND ENERGY SYSTEMS

BE IT ENACTED by the Town Board of the Town of Sangerfield as follows:

SECTION 1. PURPOSE AND INTENT.

The Town of Sangerfield desires to allow renewable and clean energy resources by permitting small on-site wind energy systems while also addressing the potential negative impacts of such uses by designating where such uses may be located and providing regulations and reviewing authority to the Town Zoning Board of Appeals in order to protect the health, safety and welfare of the Town. The Town of Sangerfield also desires to prohibit the siting of large-scale commercial wind turbines or "wind farms" in the Town due to the negative health, safety and welfare impacts associate with such use including visual impacts, impacts on property values and the consumption of large areas of land, including potential large agricultural areas. The Town of Sangerfield intends to strike a balance between permitting renewable energy on a small scale while discouraging large scale wind projects that have broader negative impacts on the Town.

SECTION 2. AUTHORITY.

This Local Law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law §10.

SECTION 3. AMENDMENT TO APPENDIX 1 ("DEFINITIONS").

Appendix 1 ("Definitions") of the Town of Sangerfield Zoning Ordinance is hereby amended to include the following definitions:

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

“SMALL WIND ENERGY SYSTEM” or “ON-SITE USE WIND ENERGY SYSTEM” - A wind energy conversion system consisting of a wind turbine, a tower, and associated controller-conversion electronics which has a rated capacity of no greater than 25 kW for single-family residential related use and no greater than 125 kW (for non-residential and farm applications) and which is intended to reduce on-site consumption of utility power.

“WIND ENERGY CONVERSION SYSTEM” - A machine that converts the kinetic energy in the wind in a usable form (commonly known as a “wind turbine” or “windmill”). The wind energy conversion system or “WECS” includes all parts of the system.

SECTION 4. NEW ARTICLE 8 REGULATING ON-SITE USE WIND ENERGY SYSTEMS.

A new Article 8 of the Town of Sangerfield Zoning Ordinance is hereby created to read in its entirety as follows:

Article 8. On-site Use Wind Energy Systems.

Section 801. Intent and Purpose. The Town of Sangerfield, through these regulations, seeks to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity. The Town of Sangerfield recognizes that wind energy is an abundant, renewable, non-polluting energy resource and that its conversion to electricity will reduce our dependence on non-renewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. It is therefore the intent and purpose of these regulations to balance the encouragement of this renewable resource with any impacts such use may have on health, welfare and safety to the community and preserving and protecting the aesthetic qualities of the Town of Sangerfield.

These regulations relate to small or on-site use wind energy systems and do not address large-scale wind turbines or “wind farms” which are typically intended to sell energy directly to power companies or retail users and/or to upload such energy to the power grid. Non-small wind energy systems or large-scale wind turbines or “wind farms” are a prohibited use in the Town of Sangerfield and shall require a use variance.

Section 802. Permits Required. No person, firm or corporation, or other entity being the owner or occupant of any land or premises within the Town of Sangerfield shall use or permit the use of land or premises for the construction of a tower for on-site use wind energy deriving purposes without obtaining a special use permit approval issued by the Zoning Board of Appeals as hereinafter provided.

Section 803. Special Use Permit. In addition to the criteria established pursuant to Section 604.8, the following criteria are hereby established for purposes of granting a special use permit for an on-site use wind energy conversion system under this chapter:

- a. Noninterference. Individual on-site use wind energy conversion systems shall not be installed in any location along the major axis of an existing microwave communications operation where its operation is likely to produce an electromagnetic interference in the link’s operation.
- b. Proximity to Radio, Television and Telephone Systems. Individual on-site use wind energy conversion systems shall not be installed in any location where its proximity interferes with existing fixed broadcast, retransmission, or reception antennae for radio, television or wireless phone.

- c. Scenic View Sheds. Individual tower facilities for on-site use wind energy conversion systems shall not be installed in any location that would substantially detract from or block the view(s) of all or a portion of a recognized scenic viewshed, as viewed from any public road, right-of-way or publicly owned land within the Town of Sangerfield or that extends beyond the border of the Town of Sangerfield. For purposes of this subsection, consideration shall be given to any relevant portions of the current, amended and/or future Town of Sangerfield Comprehensive Plan and/or any other current, amended and/or future officially recognized Town planning document or resource.
- d. Noise Limitations. The level of noise produced during wind turbine operation shall not exceed 50 dba beyond the present ambient sound levels at pre-construction levels, as measured at the boundaries of the closest parcels that are owned by non-site owners and that abut either the site parcels or any other parcels adjacent to the site held in common by the owner of the site parcel, as those boundaries exist at the time of the special use permit application. The Applicant will be required to submit technical data to the satisfaction of the Zoning Board as to this requirement. This obligation shall be a continuing obligation with exceptions only for short-term events such as utility outages and severe windstorms.
- e. Height. It is recognized that wind turbines require greater heights to reach elevations with wind currents reasonably adequate to generate energy. On-site use wind energy conversion systems shall not exceed a total height of 100 feet for single-family residential applications (less than or equal to 25 kW) and shall not exceed a total height of 155 feet for non-residential applications (i.e. farm, small business, etc. – less than or equal to 125 kW) from the ground to the top of the highest point of blade height (tip) as extended at its highest vertical point, provided that the application includes specific evidence that the proposed total height does not exceed the height recommended by the manufacturer or distributor of the on-site use wind energy conversion system.
- f. FAA Requirements. If the proposed site is near an airport, seaplane base, or established flight zone, such wind energy conversion system must meet all Federal Aviation Administration requirements.
- g. Ground Clearance. The minimum distance between the ground and any part of the rotor blade must be 30-feet.
- h. Emergency Shutdown/Safety. The Applicant shall post an emergency telephone number so that the appropriate entities may be contacted should any wind turbine need immediate repair or attention. This telephone number should be clearly visible on a permanent structure or post located outside of the fall zone of the tower. Location should be convenient and readily noticeable to someone likely to detect a problem. Further, no wind turbine shall be permitted which lacks automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components or enclosed shelter.
- i. Lightning Protection. All energy towers shall have lightning protection.

- j. Ownership. Ownership of the wind energy conversion system must be the same as the owner of the fee interest in the real property upon which it is situated. In the event of transfer of ownership of the premises, the ownership of the wind energy conversion system must also be transferred to same owner or the tower must be decommissioned.
- k. Utility Service. All power lines from the wind turbines to on-site interconnection equipment shall be located underground and installed by certified professionals and must meet all applicable national, state and local electrical codes.
- l. Lighting. No on-site use wind energy conversion systems under this provision shall be artificially lighted, unless so required by the FAA. Use of nighttime, and overcast daytime conditions, stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration may be subject to on-site field testing before the Zoning Board as a prerequisite to the Board's approval with specific respect to existing residential uses within 2,000 feet of each tower for which such strobe lighting is proposed.
- m. Access Road. To the greatest extent possible, existing roadways shall be used for access to the site and its improvements. In the case of constructing any roadways necessary to access the WECs, they shall be constructed in a way that allows for the passage of emergency vehicles in the event of an emergency. Each application shall be accompanied by correspondence from the responding fire department and emergency care provider as to the acceptability of the proposed ingress and egress to the tower.
- n. Security/Anti-Climb Device. The design of each device shall not allow for climbing by the public for a minimum height of 15-feet from the ground.
- o. Decommissioning. The Applicant shall submit to the Zoning Board a letter of intent committing the owner, and his or her successors-in-interest, to notify the building inspector within thirty (30) days of the discontinuance of the use of the on-site use wind energy conversion system. This letter of intent shall be filed with the Building Inspector prior to the issuance of a Building Permit. The owner shall remove the obsolete or unused wind turbines and accessory structures within one (1) year 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 Section and the cost of removing the on-site use wind energy deriving tower and accessory structures shall be placed as a lien on the property owner's tax bill. In addition, a decommissioning bond shall be filed with the Town Clerk to cover the costs of the complete removal of the tower and shall not be allowed to lapse or terminate. In addition, should the wind energy conversion system be non-operational for any continuous six (6) month period, the approvals granted shall be deemed void and the wind energy conversion system shall be decommissioned subject to a new approval under this Section. Such bond shall be in place prior to the issuance of a building permit.
- p. Setbacks. Wind energy conversion systems shall comply with all setbacks within the effected zone. However, in addition all on-site use wind energy conversion systems shall be setback a distance equal to the height of the tower plus blade length plus an additional 25-feet from all property lines, public roads, power lines and pre-

existing and future structures. Additional setbacks may be required by the Zoning Board in order to provide for the public's safety, health and welfare, including the possibility of ice thrown from the blades.

- q. Public Hearing. No action shall be taken by the Zoning Board to issue a special use permit or to grant a use or area variance in relation to an application for an on-site use wind energy system until after public notice and public hearing. Proper notice of a hearing before a Board shall be given by legal notice published in the official newspaper of the Town of Sangerfield at least five (5) days before the date set for such public hearing(s) and written notice mailed to the Applicant or his agent at the address given in the application to be considered. The Applicant shall be responsible for notifying, by certified mail, all property owners of record within 500-feet of the outside perimeter of the boundary line of the property involved in the application of the time, date and place of such public hearing by mail at least ten (10) days prior to such hearing. Notice shall be deemed to have been given if mailed to the property owner at the tax billing address listed on the property tax records of the Town Assessor or at the property address. At least seven (7) days prior to such hearing, the Applicant shall file with the Board his/her Affidavit verifying the mailing of such notices. Failure of the property owners to receive such notice shall not be deemed a jurisdictional defect.
- r. Waiver. The Zoning Board may, upon exercise of its reasonable discretion, waive one or more of the submission requirements imposed herein. Relief from all other requirements must be made by way of area or use variance from the Zoning Board.

Section 804. Submission Requirements and Standards for All Applications. The following submission requirements must be observed regarding a special use permit application:

- a. Completed application form as supplied by the Town of Sangerfield for a special use permit for an on-site use wind energy conversion system.
- b. Proof of ownership of the premises involved or proof that the Applicant has written permission of the owner to make such application.
- c. A plot plan and development plan drawn in sufficient detail, as prepared by a licensed engineer or surveyor, clearly describing:
 - i. Property lines and physical dimensions of the proposed site, including contours at 5-foot intervals;
 - ii. Location, approximate dimensions and types of all existing structures and uses on the site;
 - iii. Location and elevation of the proposed on-site use wind energy conversion system;
 - iv. Location of all existing above-ground utility lines and other on-site use wind energy conversion system within one thousand two hundred (1,200) linear feet of the site;
 - v. Location and size of structures or trees above 35-feet within a 500-foot radius of the proposed on-site use wind energy conversion system;
 - vi. Where applicable, the location of all transmission facilities proposed for installation;

- vii. Location of all roads and other service structures proposed as part of the installation;
- viii. 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;
- ix. Soil type at construction site.

d. Yard Placement. All WECS shall be located and placed in rear yards and upon yards in an appropriate manner to accomplish the goals and criteria as provided herein.

e. Color. Neutral paint colors (grays) may be required to achieve visual harmony with the surrounding area.

f. Applications shall demonstrate that there will be no adverse impact on migratory bird patterns.

g. In no event shall more than one (1) on-site use wind energy system be granted for a residential lot, unless a variance is obtained from the Zoning Board of Appeals.

h. All applications shall be accompanied by a full environmental assessment form, including a visual impact analysis. The following additional material may be required by the Zoning Board:

- i. Digital elevation model based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three (3) miles from the center of the project. Scaled use shall depict a three (3) mile radius as not smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features.
- ii. No fewer than four (4) color photos taken from locations within a three (3) mile radius from the proposed location, as selected by the Zoning Board and computer enhanced to simulate the appearance of the as-built aboveground site facilities as they would appear from these locations.

i. Additional Review Criteria. In addition to the above, no special use permit shall be approved unless the Zoning Board determines that the proposed on-site use wind energy system complies with the following:

- i. That the use is oriented in its location upon the site, as to layout, coverage, screening, means of access and aesthetics so that:
 1. The flow control and safety of traffic and human beings shall not be adversely affected to an unreasonable degree;
 2. That there be reasonable compatibility on all respects with any structure or use in the neighborhood, actual or permitted, which may be directly substantially affected;
 3. That there should not be any unreasonable detriment to any structure or use, actual or permitted, in the neighborhood; and
 4. That there be a reasonable provision for open space, yards and recreation areas appropriate to the structure and use.

Section 805. Compliance with Uniform Building Code.

- a. Building permit applications shall be accompanied by standard drawings of structural components of the on-site use wind energy conversion system, including support structures, tower, base and footings. Drawings and any necessary calculations shall be certified, in writing, by a New York State Registered Professional Engineer that the system complies with the New York State Fire Prevention and Building Code. This Certification would normally be supplied by the manufacturer.
- b. Where the structure, components or installation vary from the standard design or specification, the proposed modification shall be certified by a New York State Registered Professional Engineer for compliance with the Seismic and Structural Design Provisions of the New York State Fire Prevention and Building Code.

Section 806. Compliance with State, Local and National Electric Codes.

- a. Building permit applications shall be accompanied by a line drawing identifying the electrical components of the wind system to be installed in sufficient detail to allow for a determination that the manner of installation conforms with the National Electric Code. The application shall include a statement from a New York State Registered Professional Engineer indicating that the electrical system conforms with good engineering practices and complies with the National Electric Code, as well as applicable State and Local Electrical Codes. This certification would normally be supplied by the manufacturer. All equipment and materials shall be used or installed in accordance with such drawings and diagrams.
- b. Where the electrical components of an installation vary from the standard design or specifications, the proposed modifications shall be reviewed and certified by a New York State Registered Professional Engineer for compliance with the requirements of the National Electric Code and good engineering practices.

Section 807. Guy Wires. Anchor points for guy wires for the on-site use wind energy conversion system tower shall be located within property lines and not on or across any above-ground electric transmission distribution lines.

Section 808. Insurance. The Applicant, owner, lessee or assignee shall maintain a current insurance policy which will cover installation and operation of the on-site use wind energy conversion system at all times. Said policy shall provide a minimum of \$500,000.00 property and personal liability coverage.

Section 809. Inspections. The Building Inspector and/or Town Engineer shall have the right at any reasonable time to enter, in the company of the owner or his agent, the premises on which a wind energy conversion system is being or is constructed, to inspect all parts of said wind energy conversion system installation and require that repairs or alterations be made if in his judgment, there exists a deficiency in the operation or the structural stability of the system. If necessary, the Building Inspector or Town Engineer may order the system secured or to otherwise cease operation. It shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb or property.

Section 810. Districts Where Allowed. Subject to the issuance of a special use permit, small wind energy systems are allowed in all zoning districts in the Town.

Section 811. Power to Impose Conditions. In granting any approval for an on-site use wind energy conversion system, the Zoning Board may impose reasonable conditions to the extent that such Board finds that such conditions are necessary to minimize any adverse effect or impacts to the proposed use on neighboring properties.

Section 812. Fees. Fees for applications and permits under this Section shall be established by resolution of the Town Board of the Town of Sangerfield. It shall be the applicant's responsibility to reimburse the Town for any and all reasonable and necessary legal, engineering and other professional fees incurred by the Town in reviewing and administering an application under this Section.

Section 813. Waiver. The Zoning Board may, under appropriate circumstances, waive one or more of the submission requirements contained herein.

SECTION 5. AMENDMENT OF SECTIONS 301.3, 302.2 AND 303.1.

Sections 301.3, 302.2 and 303.1 of the Town of Sangerfield Zoning Ordinance are hereby amended to add "SMALL WIND ENERGY SYSTEM" or "ON-SITE USE WIND ENERGY SYSTEM" as a use requiring a special permit.

SECTION 6. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment is rendered.

SECTION 7. EFFECTIVE DATE.

This local law shall become effective immediately.

(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. 1 of 2023** of the **Town of Sangerfield** was duly passed by the **Town Board** on **February 14, 2023**, 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 **Town of Sangerfield** was duly passed by the **Town Board** on _____, 20 ___, and was (approved/not approved/ repassed after disapproval) by the **Town Board** and was deemed duly adopted 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 **Town of Sangerfield** was duly passed by the **Town Board** on _____, 20 ___, and was (approved/not approved/ repassed after disapproval) by the **Town Board** on _____, 20 ___. Such local law was submitted to the people by reason of a (mandatory/permisive) 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 **Town of Sangerfield** was duly passed by the **Town Board** on _____, 20 ___, and was (approved/not approved/ repassed after disapproval) by the **Town Board** 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.

5. **(City local law concerning Charter revision proposed by petition.)**

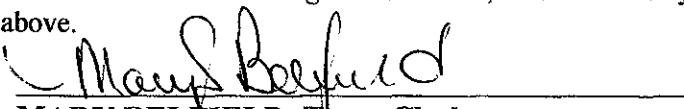
I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20 ____ of the **City of _____** having been submitted to referendum pursuant to the provisions of section (36/37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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.


MARY BELFIELD, Town Clerk
Town of Sangerfield

(Seal)

Date: February 14, 2023