

## 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.

STATE OF NEW YORK  
DEPARTMENT OF STATE  
**FILED**

**MAR 02 2009**

MISCELLANEOUS  
& STATE RECORDS

☐ County

☐ City of Hartsville

☒ Town

☐ Village

Local Law No. 1 of the year 2009

A local law Establishing a Moratorium With Respect to the Siting and Approval of Industrial Wind Turbines

(Insert Title)

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

☐ County

☐ City of Hartsville as follows:

☒ Town

☐ Village

Section 1. This local law shall establish a moratorium for a period of twelve (12) months, with respect to approvals for all projects involving industrial wind turbines one hundred (100) feet or greater in height.

Section 2. Legislative Intent, Findings of Fact, and Purpose.

a. This local law is proposed to address the rapid pace of development of industrial wind energy projects and the lack of adequate state or federal environmental or land use controls over such projects. In addition, research-based information on adverse environmental, noise, visual and health impacts of such projects is growing, and the Town Board seeks to take advantage of the latest information. The Town of Hartsville recognizes its current land use regulations may be deficient and may need to be revised to address the concerns of wind project developers, local landowners who have or may in the future contract with them, and local landowners who have not or will not contract with such wind project developers. Irreversible adverse impacts upon environmental resources in the Town could result from the unplanned and inadequately regulated development of industrial wind projects. It is also in the public's interest to ensure that such projects are sited in a manner that protects all local landowners' health, welfare and safety.

b. In order to allow the Town Board adequate time to review current local regulations and recent research pertaining to wind energy projects and their potential impacts, and to propose amendments to address

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

(1)

those concerns, this Board believes that a twelve (12) month moratorium is required to temporarily stay the issuance of approvals for all wind energy projects that include industrial wind turbines which are one hundred (100) feet or more in height.

Section 3. Scope of Controls.

During the effective period of this Local Law and as provided herein, no approvals shall be granted for any projects that include industrial wind turbines which are one hundred (100) feet or more in height.

Section 4. Variance and Appeal Provisions.

a. The Town Board shall have the power to vary or modify the strict application of any provision of this Local Law after holding a public hearing on any application for a variance or an appeal from a denial issued pursuant to this local law, provided that such public hearing is held on no less than thirty (30) days published notice in a newspaper of general circulation in the Town. Any variance or waiver by the Town Board shall be granted only upon a showing that strict application of this Local Law would impose unreasonable hardship upon the landowner, project developer or sponsor seeking such variance or waiver for siting approval.

b. The Town Board shall have the power to impose reasonable conditions upon the granting of a variance or appeal so as to ensure the legislative intent of the Board as set forth in Section 2 above is maintained.

Section 5. Effective Date.

This local law shall take effect immediately upon its filing with the Secretary of State and it shall remain in full force and effect for a consecutive period of twelve (12) months from its effective date unless extended by another local law adopted after a public hearing held upon no less than thirty (30) days notice published in a newspaper of general circulation in the Town.

**(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 2009 of the  
(County)(City)(Town)(Village) of Hartsville was duly passed by the  
Town Board on February 25, 2009, 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  
(Elective Chief Executive Officer\*)  
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  
(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.

Kay Miles, Town Clerk  
Clerk of the county legislative body, City, Town or Village Clerk or  
officer designated by local legislative body KAY MILES

(Seal)

Date: February 25<sup>TH</sup>, 2009

(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 ALLEGANY

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 T. Pullen  
Signature **David T. Pullen**

Town Attorney  
Title

County  
City  
of Hartsville  
Town  
Village

Date: February 25<sup>TH</sup>, 2009