

CHAPTER 149

WIND TURBINE GENERATING FACILITIES

Adopted by the Town Board of the Town of Henderson on November 10, 2010.

SECTION I

- § 150-1. Title
- § 150-2. Purpose
- § 150-3. Authority
- § 150-4. Findings
- § 150-5. Permits Required
- § 150-6. Definitions
- § 150-7. Applicability
- § 150-8. Purpose and Intent
- § 150-9. Enforcement, Penalties and Remedies for Violations

SECTION II

- § 150-10. Severability

SECTION I

§ 150-1. Title

- A. This Local Law may be cited as the “Wind Turbine Generating Facilities” law of the Town of Henderson, New York.”

§ 150-2. Purpose

- A. The Town Board of the Town of Henderson adopts this chapter to prevent harming public health and safety, and to avoid jeopardizing the welfare of the residents from negative aspect of wind generating facilities.

§ 150-3. Authority

- A. The Town Board of the Town of Henderson 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. The supersession authority of New York Municipal Home Rule Law, § 10(1)(d)(3); specifically as it relates to determining which body shall have power to grant variances under this Local Law, to the extent such grant of power is different than under town Law §267.
5. New York Town Law, Article 16 (Zoning).
6. 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).
7. New York Town Law §64(17-a)(preservation of historic places/protection of aesthetic interests), (23)(General powers).

§ 150-4. Findings

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

1. While wind energy is a potential abundant, renewable and nonpolluting energy resource of the Town, and its conversion to electricity may reduce dependence on nonrenewable energy sources and decreases the air and water pollution that results from the use of conventional energy sources, the potential benefits must be balanced against potential impacts.
2. Regulation 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 Commercial Wind Farms represent significant potential aesthetic impacts because of their large site, lighting, and shadow flicker effects.
4. Installation of large-scale multiple-tower Commercial Wind Farms can create drainage problems through erosion and lack of sediment control of facility and access road sites, and harm farmlands through improper construction methods.
5. Large-scale multiple-tower Commercial Wind Farms may present risks to the property values of adjoining property owners.
6. Large scale Commercial Wind Farms may be significant sources of noise, which, if unregulated, can negatively impact adjoining properties, particularly in areas of low ambient noise levels.

7. Construction of large-scale multiple-tower Commercial Wind Farms can create traffic problems and damage local roads.
8. If improperly sited, large-scale multiple-tower Commercial Wind Farms can interfere with various types of communications.
9. The Town has many scenic view sheds which would be negatively impacted by large-scale multiple-tower Commercial Wind Farms.

§ 150-5. Permits Required

- A. No Commercial Wind Farm shall be constructed, reconstructed, modified, or operated in the Town of Henderson.
- B. No Private Wind Turbine Tower shall be construed, reconstructed, modified, or operated in the Town of Henderson.
- C. No Wind Measurement tower shall be constructed, reconstructed, modified, or operated in the Town of Henderson.
- D. This Local Law shall apply to all areas of the Town of Henderson.

§ 150-6. Definitions

- A. As used in this chapter, the following terms shall have the meanings indicated:

WIND TURBINE GENERATING FACILITY (COMMERCIAL WIND FARM)- Wind generating facilities which generate original power on site to be transferred to a transmission system for distribution to customers. The definition of commercial wind power generating facilities shall not include individual wind power generating facilities erected and used primarily for private use.

WIND TURBINE TOWER-Wind generating facility which generates original power on-site.

WIND TURBINE TOWER, PRIVATE-An individual wind turbine tower used to generate power for on-site use by the property owner or home-owner, except for the required electrical current feed-back to the power company.

WIND MEASUREMENT TOWER-a tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

§ 150-7. Applicability

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

§ 150-8. Purpose and Intent

- A. The purpose of this Article is to prohibit All Commercial Wind Farms and Private Wind Farms.

§ 150-9. Enforcement, Penalties and Remedies for violations

- A. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this Chapter.

SECTION II

§ 150-10. Severability

- A. 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.