

**TOWN OF OTISCO**  
**Local Law No. 1 of 2024**  
**Wind Energy Systems**

**Be it enacted by the Town Board of the Town of Otisco, Onondaga County, New York, as follows:**

**1. LEGISLATIVE INTENT.**

The Town Board of the Town of Otisco finds that wind energy is an abundant, renewable and nonpolluting energy resource of the Town and that its conversion to electricity will reduce the Town's and its inhabitants' dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.

The Town Board of the Town of Otisco further finds and declares that the regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health and safety of property owners, neighboring property owners and the general public, and to preserve the aesthetics of the community.

The Town of Otisco, through this Local Law, seeks to promote the safe, effective, and efficient use of wind powered energy systems within the Town in order to reduce on-site and off-site consumption of utility-supplied energy, and to balance the use of such wind powered energy systems with potential impacts on the health, safety and welfare of the residents of the Town of Otisco and to preserve and protect the environment and aesthetic qualities of the Town of Otisco.

The purpose of this Local Law is to regulate the placement, construction, and modification of wind powered energy systems in the Town and relates to Small Wind Energy Systems (defined below) intended to primarily provide electricity to the owner with any excess electricity being transferred to the electrical grid.

Large-Scale Wind Turbine Energy Systems (commonly referred to as “wind farms”) (also defined below) which are typically intended to generate energy for sale off-site to power companies or retail users, are regulated by New York State, whose laws, rules and regulations, including, but not limited to Chapter 388 of the Laws of 2011 (Article 10 of the Public Service Law, or PSL Article 10), known as the Article 10 process, and the requirements of the NYS Office of Renewable Energy Siting (ORES) created under the Accelerated Renewable Energy Growth and Community Benefit Act apply to any Large-Scale Wind Turbine Energy Systems in the Town.

**2. DEFINITIONS.** As used in this Local Law, the following terms shall have the meanings indicated, unless the context or subject matter requires otherwise.

- **BUILDING CODE** – As used in this Local Law, the term “Otisco Building Code” refers to Town of Otisco Local Law No. 3 of 2010 titled “A Local Law Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention

and Building Code” and the term “New York State Building Code” refers to the New York State Fire Prevention and Building and Property Maintenance Code.

- **LARGE-SCALE WIND TURBINE ENERGY SYSTEMS** – Refers to the building, repowering, or operation of all electrical generating facilities capable of generating 25 Megawatts (“MW”) or more, and existing electric generating facilities seeking to increase capacity to more than 25 MW, either alone or in conjunction with other wind turbine energy systems owned by the same owner, Lessee, developer or any person or entity affiliated with them, or electrical generating facilities capable of generating 20-24.9 MW which are eligible and opt to be approved under Article 10 of the Public Service Law or other State law.
- **UTILITY POLES, RADIO, TELEVISION, TELEPHONE AND WIRELESS INTERNET SYSTEMS** - Commercial poles, towers and structures that support the transmission of electricity, radio, television, telephone and wireless Internet signals.
- **SMALL WIND ENERGY SYSTEMS** - A wind energy conversion system consisting of a wind turbine, Tower, or equipment to attach the system to a roof, and associated control or conversion electronics which has a rated capacity of no more than 15 kW for single-family residential use only and no more than 125 kW for farming applications, with the power being generated by such systems not being for resale to any other individual and/or commercial entity, except that excess electricity generated by a Small Wind Energy System may be transferred to the electrical grid in compliance with applicable laws, rules and regulations and the requirements of the applicable electric utility company.
- **SYSTEM HEIGHT** - With regard to a Small Wind Energy System, the combination Tower height plus blade length.
- **TOWER** - With regard to a Small Wind Energy System, the structure on which the wind turbine is mounted.
- **TOWER HEIGHT** - With regard to a Small Wind Energy System, the height above grade of the fixed portion of the Tower.
- **TURBINE** - The parts of a Small Wind Energy System including the blades, generator and tail.

## 1. APPLICABILITY.

- A. All provisions of this Local Law shall apply to all Small Wind Energy Systems and equipment installations modified or installed within the Town of Otisco after the effective date of this Local Law.
- B. All Small Wind Energy Systems and related equipment system installations shall require a valid Building Permit to be issued prior to installation or construction. If no Building Permit was required when the installation commenced or was completed before the effective date of this Local Law, such Small Wind Energy

Systems and equipment shall not be required to meet the requirements of this Local Law except that the replacement of any such Small Wind Energy System in total after the effective date of this Local Law shall require the issuance of a Building Permit relative to such replacement.

- C. All Small Wind Energy Systems and equipment shall be designed, erected and installed in accordance with applicable codes, regulations and industry standards as referenced in the New York State Building Code as amended from time to time, and the Otisco Building Code.
  
- D. All Small Wind Energy Systems and equipment shall be subject to applicable requirements under the State Environmental Quality Review Act (“SEQR”).

**2. SMALL WIND ENERGY SYSTEMS.**

A. Required Permits. No person, firm, corporation or other entity being the owner or occupant of any land or premises within the Town of Otisco shall use or permit the use of land or any building for the construction of a Tower for an on-site Small Wind Energy System without first obtaining a Building Permit from the Town Code Enforcement Officer.

B. Building Permit Application. Applications for Building Permits to allow the installation of Small Wind Energy Systems shall be made on forms required for such purposes as issued by the Town with accompanying fees submitted in such amount as the Town Board may by Resolution establish and amend from time to time and publish in a Schedule of Fees.

C. Required Criteria. The following criteria are hereby established for purposes of granting a Permit for a Small Wind Energy System:

(1) Ownership. Ownership of the Small Wind Energy System must be the same as the owner of the fee interest in the real property upon which it is located or a Lessee under a valid, written Lease. In the event of transfer of ownership of the property or a Lease, the ownership of the Small Wind Energy System must also be transferred to the new owner or Lessee and the Town Clerk advised of the name, address, phone number and email address of the new owner or Lessee within 10 business days of the transfer, or the Tower and wind turbine must be decommissioned.

(2) Lot Requirements. Small Wind Energy Systems are permissible subject to the following: A Small Wind Energy System shall not be allowed on any parcel unless a main structure is occupied by inhabitants more than 25% of the time. In any event, there shall be no more than one Small Wind Energy System per parcel consisting of one (1) acre or less.

Properties containing in excess of one (1) acre may be permitted to have additional Small Wind Energy System Towers and Turbines so long as they comply with the

requirements of this Local Law.

(3) Net metering requirements. The applicant shall certify that the applicant will comply with the requirements contained in the New York State Net Metering Law and accompanying regulations unless the applicant intends, and so states on the Permit application, that the Small Wind Energy System will not be connected to the utility grid.

(4) Proximity to Utility Poles, Radio, Television, Telephone and Wireless Internet Systems. Small Wind Energy Systems shall not be located in any area where their proximity interferes with existing electric, transmission distribution lines, fixed broadcast, retransmission, or reception antennae for radio, television, or any microwave transmission systems such as cell phone Towers or wireless Internet transmission systems.

(5) Noise limitations. Noise emanating from Small Wind Energy Systems shall not exceed 50 decibels, as measured at the closest property line. The maximum noise level may be exceeded during short-term events such as severe storms involving high wind speeds (greater than 30 mph).

(6) Height. The height of the Tower shall not exceed 80 feet for residential applications and 150 feet for farming applications measured from the ground to the top of the highest point with the blade tip rotated at its highest vertical point.

(7) Lightning protection. All Small Wind Energy Systems shall have lightning protection approved by the Town's Code Enforcement Officer.

(8) Utility service. All power lines from the wind turbines to the interconnection equipment must be located underground, must meet all applicable national and state electrical codes and must be recorded with the New York Underground Facility Protection Organization (UFPO).

D. Setbacks. Small Wind Energy Systems shall comply with all setbacks required in the Town, in addition to the requirements listed below.

(1) All Towers will be placed in the rear or side yard;

(2) Setback distances shall be equal to 125% of the Tower height, plus the blade length, measured from all adjacent property lines;

(3) Setback distances shall be equal to 125% of the Tower fall/collapse zone (80' for residential applications and 150' for farming applications) from any dwelling inhabited by humans on the proposed site; and

(4) Anchor points for guy wires for the on-site use of a Small Wind Energy System Towers shall be located no closer than five (5) feet from a property line and clearly marked with caution or warning signs at least 4 feet in height and shall not be placed within twenty feet (20') or across any aboveground electric transmission distribution lines.

E. Additional Requirements. The following submission guidelines and requirements must be observed for the site plan approval process:

- (1) Tower design.
  - (a) The Tower shall be designed to handle the maximum potential load as certified by a New York State licensed engineer. In addition to the requirements in the prior section, under no circumstances shall the height of the system exceed the height recommendations specified by the manufacturer of the system.
  - (b) The minimum distance between the ground and the turbine blades must be 25 feet, measured at the lowest point of the blade arc.
  - (c) The Tower shall maintain a galvanized finish.
  - (d) No wind Tower, Turbine, building or other structure associated with a Small Wind Energy System may be used to advertise or promote any product or service. A weather-resistant sign plate no greater than two square feet in size containing the name of the current owner or operator, emergency phone number, and current address of such owner/operator shall be located on the exterior surface of the Tower or of the fence surrounding each Tower and viewable by the Code Enforcement Officer. Such sign shall also warn of electrical shock or high voltage. No other word or graphic representation, other than appropriate warning signs, may be placed on a wind Turbine or Tower, so as to be viewable from any public road.
  - (e) The Small Wind Energy System shall not be artificially lighted unless required by the Federal Aviation Administration (“FAA”) or other appropriate authority having jurisdiction. The use of stroboscopic lighting to satisfy Tower facility lighting requirements for the FAA may be subject to on-site field testing before the Town Board as a prerequisite to the Board's approval of such lighting, with notice to be provided to existing residential uses within 2,000 feet of each Tower for which such strobe lighting is proposed.
  - (f) The Tower shall be enclosed with a six-foot tall fence or the base of the Tower shall otherwise not be climbable by non-authorized persons for a distance of 15 feet from the base of the Tower.
  - (g) To the greatest extent possible, existing roadways shall be used for access to the Tower. In case any new roadways must be constructed to access the Small Wind Energy System, they shall be constructed in such a way as to allow for the passage of emergency vehicles in the event of an emergency and in accordance with the Town’s Driveway Permit Application.
  - (h) The Small Wind Energy System shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure on the Tower structure, rotor blades, or turbine components. The applicant shall file a document explaining how the Small Wind Energy System may be shut down in case of an emergency with the Town Code Enforcement Officer.

- (2) Surveys dated within ten (10) years of the Building Permit application prepared by a New York State licensed surveyor or engineer shall show all of the following:
- (a) Property lines and physical dimensions of the proposed site.
  - (b) Location, dimensions and types of all existing structures and uses on the site;
  - (c) Location and elevation of the proposed on-site Small Wind Energy System (which can be drawn or indicated on the survey);
  - (d) Location and size of structures or trees above 30 feet tall within a 120-foot radius of a proposed Small Wind Energy System for residential applications and 200 feet for farming applications;
  - (e) Location of all roads and other service structures proposed as part of the installation;
  - (f) Location of all existing aboveground utility lines, transmission Towers and existing Small Wind Energy Systems within 1,200 linear feet of the site;
  - (g) Location of all transmission facilities proposed for installation;
  - (h) A general description of the soil on surface type where the proposed Tower and Turbine is to be situated (e.g. natural soil, fill (including material), stone on gravel surface, etc.).
  - (i) Line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the Otisco Building Code and New York State Codes. This information can be supplied by the manufacturer;
  - (j) Compliance with the requirements contained in the New York State Net Metering Law and accompanying regulations unless the applicant intends, and so states on the application, that the Small Wind Energy System will not be connected to the utility grid;
  - (k) Wind survey or other substantiation demonstrating that proposed site is capable of meeting the manufacturer's specified electrical output requirements. Any such wind survey or other substantiation must be conducted at the exact proposed construction site so as to demonstrate the existence of sufficient wind to power the system.

F. Waiver. The Town Board may, under appropriate circumstances, and in its sole discretion, waive one or more of the submission requirements contained herein.

### **3. OVERSIGHT; FEES; INSPECTIONS; REPAIR; PENTALTIES FOR OFFENSES.**

A. Inspections. The Code Enforcement Officer shall have the right at any reasonable time to enter, in the company of the owner or the owner's agent, the premises or land on which a Small Wind Energy System is being or has been constructed to inspect all components of the installation. When practicable, the Code Enforcement Officer shall provide the owner

with written notice of his/her intent to conduct an inspection at least 24 hours before such inspection. Upon inspection, the Code Enforcement Officer may order the owner to make repairs or alterations to the system in the event that the system is deemed deficient or dangerous, and may order that the Small Wind Energy System cease operation until such repairs or alterations are made. In the event that the Small Wind Energy System is deemed to pose an immediate danger to life or property, the Code Enforcement Officer shall have the right to enter the property or premises forthwith, without the owner being present, and to take such action as is deemed reasonably necessary to eliminate such danger.

- B. Failure to repair. In the event the owner or Lessee of a Small Wind Energy System fails to make the repairs or alterations requested by the Code Enforcement Officer within six (6) months, the Code Enforcement Officer shall order the owner to remove the wind turbine and all accessory structures from the property within 45 days. If the owner fails to remove the Tower and accessory structure within such time, the Town shall arrange to have the Tower, wind turbine and all accessory structures removed. The total expense of such removal shall constitute a lien on the real property on which the wind turbine and accessory structures were located until paid or otherwise satisfied or discharged.
- C. Nonuse. If any Small Wind Energy System is not operated for a continuous period of 12 months, the Town will notify the owner by certified registered or express mail and provide 45 days for a response.

(1) In the response, the owner or Lessee shall set forth reasons for the operational disruption and provide a timetable within which the system is to become operable. Such timetable for corrective action shall not exceed 45 days.

(2) If the owner or Lessee is unable to place the Small Wind Energy System back in service on or before 120 days from the date the Town mailed the notice required under this section, the owner shall remove the wind Turbine, Tower and all accessory structures from the site, as well as restore the site to its original condition, within 30 days. Failure to remove the wind Turbine, Tower and accessory structures and restore the site in accordance with these requirements shall be a violation of this Local Law.

#### **4. VIOLATIONS.**

A. The Town's Code Enforcement Officer shall be charged with enforcing the provisions of this Local Law.

B. The failure to comply with any of the provisions of this Local Law shall be an Offense as contemplated by Article 10 of the New York Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One-Thousand Dollars (\$1,000.00) or imprisonment for not more than 10 days, or both, for the first offense. Any subsequent offense within a ninety (90) day period shall be an unclassified Misdemeanor as contemplated by Section 80.05 of the New York State Penal Law, punishable by a fine of not more than One-Thousand Five-Hundred Dollars (\$1,500.00) or imprisonment for a period of not more than 30 days, or both. For purposes of this subparagraph A, each day

that a violation of this Local Law exists shall constitute a separate and distinct offense.

C. Compliance with this Local Law may also be compelled and violations of this Local Law shall be subject to being restrained by Court Order or by other injunctive relief by a Court of competent jurisdiction in an action brought on behalf of the Town of Otisco.

D. In the event the Town is required to take legal action to enforce this Local Law, upon conviction, the violator shall be responsible for any and all necessary costs incurred by the Town in enforcing this Local Law relative thereto, including the Town's reasonable attorney's fees, costs, including Court costs and expenses, and such amounts shall be determined and assessed by the Court. If such costs and expenses are not paid in full within thirty (30) days from the date they are determined and assessed by the Court, such costs and expenses shall be charged to the property(ies) within the Town on which the violation occurred, by including such costs and expenses in the next annual Town Tax Levy against such property(ies), and such costs and expenses shall be a lien upon such property(ies) until paid.

E. If a Court determines that a violation of this Local Law results from the acts or omissions of an employee or agent of a person, corporation, limited liability company, partnership, association, firm, organization or other type of entity while such employee or agent is acting within the scope of such employee's or agent's employment or agency, in addition to finding such employee or agent liable for the fines, penalties and expenses of the Town in taking legal action to enforce this Local Law as provided in this paragraph 12, the Court may also find such employer, corporation, limited liability company, partnership, association, firm, organization or other type of entity to be vicariously liable for the fines, penalties and expenses of the Town in taking legal action to enforce this Local Law as provided in this paragraph 12. Further, to the extent permitted by other applicable law, a Court may impose the imprisonment penalties set forth in subparagraph A, above, on such employee or agent and/or on one or more shareholders, members, partners or owners of a corporation, limited liability company, partnership, association, firm, organization or other type of entity found by the Court to be vicariously liable for the acts or omissions of any of its employees or agents.

F. If a person or entity is found to be in violation of the provisions of this Local Law, their permit may be revoked if violations are not cured within thirty days (30) of notice of violation.

G. Multiple or continuous violations of this Local Law shall be subject to legal action

for injunctive relief.

H. If a Building Permit for a solar energy device is denied based upon a failure to meet the requirements of this Local Law, the applicant may seek relief in accordance with the established procedures and time limits of the Otisco Building Code and New York State Law.



**5. TAX EXEMPTIONS AVAILABLE UNDER N.Y. REAL PROPERTY TAX LAW § 487.**

The Town Board reserves the right to deny any tax exemption under N.Y. Real Property Tax Law § 487 applicable to any SMALL WIND ENERGY SYSTEM or LARGE-SCALE WIND TURBINE ENERGY SYSTEMS within the Town for which construction begins subsequent to the effective date of this Local Law.

**6. SEVERABILITY.**

If any clause, sentence, paragraph, section, article, subdivision, provision, or part of this Local Law shall be adjudged by any Court of competent jurisdiction to be void, invalid or unenforceable, such adjudication or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations and only apply to the clause, sentence, paragraph, section, article, subdivision, provision, or part thereof directly involved in the controversy in which such adjudication or judgment shall have been rendered or so adjudged, and the remainder of this Local Law shall remain valid and in full force and effect.

**7. CONFLICT WITH OTHER LAWS.**

Where this law differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal government, the more restrictive or protective of the Town and the public shall apply.

**8. EFFECTIVE DATE.**

This Law shall become effective upon filing with the New York State Secretary of State.

**9. AUTHORITY.**

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law is intended to supersede any inconsistent provisions of Town Law to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

**Town Board of the Town of Otisco**

**January 8, 2024**

**Be it so Ordered by the Town Board of the Town of Otisco.**