

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.

Town of Clayton

Local Law No. 2 of the year 2011

A local law to Amend Local Law No. 1 of the Year 2007

Be it enacted by the Town Board of the Town of Clayton as follows:

Section 1.

Section 15 A. of Local Law No. 1 of the year 2007, as previously amended, shall be further amended to read as follows:

The sound level statistical sound pressure level (L(10)) due to any WECS operation shall not exceed 45 dBa when measured at a Participating Property Owner's Residence, a Non-Participating Property Owner's Property Line, a school, hospital, church or public library existing on the date of the WECs application. This sound level restriction may not be altered or waived by agreement between the applicant and Property Owner, and any such attempt to waive or lessen this requirement shall be ineffective and shall not be binding upon the Planning Board or the Town of Clayton.

The Town of Clayton shall retain, at the Project Owner's expense, the services of a qualified acoustical professional (Professional Engineer or Board Certified by the Institute of Noise Control Engineering), whose professional certification credentials shall be filed with the Town Clerk, to conduct an operational noise study of the Wind Project. The study will utilize ANSI S1.4 Type 1 sound level meters. Each meter will be equipped with an appropriate windscreen for conducting noise measurements in windy environments (oversize or secondary windscreens reflect the current state of the art). Average and statistical sound level metrics will be reported in 10-minute intervals to correlate with meteorological and operational data collection efforts. An additional meter may be located approximately one to two miles away to serve as a background location. The wind speed and direction at microphone height (approximately 5 feet) will be collected at the background location and at representative project monitoring locations. The monitoring period shall be a minimum of 7-days but may be extended if no significant wind events are monitored.

The necessity of wind to ensure a wind project is operational presents a unique situation not typically encountered in other industrial or transportation noise measurements protocols which focus on calm conditions. It is acknowledged that the measurement results may be complicated by non-turbine generated noise - be it wind induced noise on the microphone, rustling of vegetation, traffic or agricultural activities.

In order to ensure the measurements reflect turbine noise, rather than wind induced rustling, the measurement results will be evaluated to identify periods when microphone height level winds are low (less than 12 mph) yet winds at hub height are sufficient for turbine sound emissions and other potential sources of noise are minimal (as is typical of the nighttime hours).

In addition, the background location may be used to identify potential regulatory exceedences related to regional and non-project activities. The measured off-site background levels may also be used to acoustically subtract or adjust the measured on-site levels for regional or non-project related sound events. Measurement statistics shall include at a minimum the L90; the sound level exceeded 90% of the time. The L90 effectively filters out shorter duration events such as vehicle pass-by noise as such may better reflect the steady operational noise level consistent with the intent of establishing the noise level attributable to the project.

The selection of monitoring locations shall consider the effects of traffic on well traveled roads, heat pumps or power ventilated furnaces and other sources of potential extraneous and non-project related sounds noise. It is for these reasons that the monitoring locations may not be located at residences, but at similar distance from the turbines as the residences and acoustically representative of the project noise level at a residence. It is also understood that the natural sounds, the sound of the wind blowing through trees may at times exceed the regulatory thresholds. The intent of this protocol is to establish the long term sound level emanating from the project when contribution from other ambient sources of noise are minimal or have been corrected for.

The results of said study shall be certified to the Town by the qualified acoustical professional (Professional Engineer or Board Certified by the Institute of Noise Control Engineering).

Section 2.

The remaining portions of Local Law No. 1 of the year 2007, as previously amended by Local Law No. 1 of the year 2011, are hereby ratified and affirmed.

Section 3.

This local law shall take affect upon filing with the Secretary of State as required by the Municipal Home Rule Law.

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

{26019/20198/SKP/00382410.DOC}

(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. 2 of 2011 of the Town of Clayton was duly passed by the Town Board on December 14, 2011, 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 (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 adopted (Elective Chief Executive Officer\*) 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 \_\_\_\_\_ 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.)**

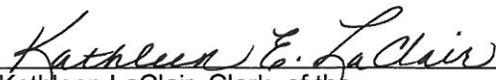
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_ of 20\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the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

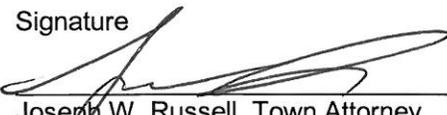
  
Kathleen LaClair, Clerk, of the  
Town of Clayton

Date: 12/15/2011

(seal)

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

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.

Signature  
  
Joseph W. Russell, Town Attorney  
Town of Clayton

Date: 12/20/11