
TOWN OF SHELBY

LOCAL LAW # __ OF 2024

A Local Law Imposing a Temporary Moratorium on the Consideration and/or Approval of Applications for Wind Energy Conversion Systems Special Use Permits

Introduced by: _____

WHEREAS, the Town Board of the Town of Shelby recognizes that the amended and restated Town of Shelby Zoning Ordinance, adopted in 2003, would allow for the creation of Wind Energy Overlay Districts (**WEOD**) within the Agricultural/Residential (**AR**) and Industrial (**I**) Districts upon review and approval of an application for Wind Energy Conservation Systems (**WECS**) Special Use Permit, and

WHEREAS, the Town Board has come to understand that creation of Wind Energy Facilities (“**Facilities**”) which would result from application review and approval may negatively impact the health, safety, and welfare of neighboring property owners and the general public, and

WHEREAS, the Facilities present potentially significant effects on the aesthetic and visual experience of the Town, such as the noise, lighting, and shadow flicker effects incidental to its operation. Additionally, the large structures necessary to operating the Facilities would be visible from all parts of the Town, thereby diminishing the visual appeal of the Town as a whole, and

WHEREAS, the vast, elevated nature of the Facilities may present a risk to bird and bat populations if not properly sited and regulated, and

WHEREAS, construction and installation of such a large structure presents possible traffic problems and damage to local roads, and

WHEREAS, The Town Board of the Town of Shelby deems it to be in the public interest to cease acceptance and temporarily suspend the processing of applications for WECS Special Use Permits and WEODs. This temporary suspension shall be in effect until such time as Article V, Section 597 (Wind Energy Overlay Zone) and Article VI, Section 660 (Alternative Energy Systems) of the Town Zoning Law can be reviewed and amended as the Town Board sees fit. Accordingly, this moratorium shall be established for a period of six (6) months from the effective date of this Local Law to provide adequate time for the Town Board to analyze the

aforementioned Town Zoning Law sections and determine the appropriate revisions and amendments. A provision is made in this Local Law to allow for a six-month extension of the six (6) month moratorium if necessary, and

WHEREAS, the Town Board of the Town of Shelby hereby finds that, without a temporary halt on the processing of any applications for WECS Special Use Permits and WEODs, there is potential that such uses could be located in areas which could cause disruptions to neighborhoods and other nearby residents, create travel and safety issues in connection with the construction and operation of the Facilities, and materially affect the visual appeal of the Town, and

WHEREAS, the Town Board also finds that it is in need of time to perform the necessary analysis of the potential uses which should be allowed under the WECS Special Use Permits and to provide a plan conducive to planned, orderly growth and development of the Town, and

WHEREAS, a public hearing will be conducted in connection with this Local Law on Wednesday the 17th day of July, 2024 at 7:00 PM after due notice and publication thereof,

NOW THEREFORE BE IT ENACTED by the Town Board of the Town of Shelby, New York that for a period of six (6) months following the effective date of the adoption of this Local Law, the Town of Shelby's Town Board, the Town Planning Board, the Town Zoning Board of Appeals, and the Town Zoning Officers shall not permit, accept, process, interpret, deliberate upon, decide, deny, nor make any determination upon any applications for approval of WECS Special Use Permits and WEODs governed by Article V, Section 597 and Article VI, Section 660 of the Town's Zoning Law, and

BE IT FURTHER ENACTED that this moratorium shall apply to all such applications submitted after the introduction of this Local Law, and

BE IT FURTHER ENACTED that this Local Law shall be binding on the Town Board, Planning Board, Zoning Board of Appeals, Zoning Officers, Codes Enforcement Officers, and all Town officials and employees, and any applicant or real property owner in the Town desiring to apply for or receive a WECS Special Use Permit, and

BE IT FURTHER ENACTED that during the period of the moratorium, the Town Board shall endeavor to complete all reasonable and necessary review, study, analysis and, if warranted, revisions of the Town of Shelby Zoning Law concerning the regulations currently authorized under Sections 597 and 660 of the Regulations,

BE IT FURTHER ENACTED that this moratorium shall be in effect for a period of six (6) months from its effective date. This Local Law shall be subject to renewal for a cumulative period of up to an additional six (6) months if necessary, by resolution(s) of the Town Board, and

BE IT FURTHER ENACTED that, to the extent that any law, ordinance, rule, or regulation, or parts of any laws, ordinances, rules or regulations of the Town of Shelby are in conflict with any provision of this Local Law, concerning special uses, site plans, building permits and procedural requirements, this Local Law shall control and supersede such laws, ordinances, rules or regulations, and

BE IT FURTHER ENACTED that, should any owner of any property affected by this Local Law suffer any extraordinary hardship in carrying out the strict letter of this Local Law, then the owner of the property can apply to the Town Board of the Town of Shelby, in writing, for a variance from the strict compliance with this Local Law, upon submission of evidence of such extraordinary hardship. For the purposes of this Local Law, extraordinary hardship should not be the mere delay in being permitted to make an application or waiting for a decision on the application for site plan review, or of a permitting process, during the period imposed by the moratorium and this Local Law.

BE IT FURTHER ENACTED, if any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered, and the remaining provisions shall remain in full force and effect.

BE IT FURTHER ENACTED, this Local Law shall take effect immediately upon its filing with the Secretary of State in accordance with New York Municipal Home Rule Law.