

**G.M.L. §239 REFERRAL TO THE YATES COUNTY PLANNING BOARD**

**RECEIVED**

YCPD Office Log # 2009-59

Date Received OCT 16 2009

**From:** Town of Benton REAL PROPERTY TAX SERVICE  
PLANNING DEPARTMENT

**To:** Yates County Planning Board, 417 Liberty St., Penn Yan, NY 14527

**Applicant:** Town of Benton

**1. Location:** \_\_\_\_\_

**2. Tax Map #:** \_\_\_\_\_ **2a. Zoning District:** \_\_\_\_\_

**3. Type of Application or Proposal:**

<input type="checkbox"/> Use Variance	<input type="checkbox"/> Area Variance	<input type="checkbox"/> Special Use Permit
<input type="checkbox"/> Subdivision Review	<input type="checkbox"/> Site Plan Review	<input type="checkbox"/> Zoning Text Amendment
<input type="checkbox"/> Zoning Map Amendment (Rezoning)	<input checked="" type="checkbox"/> Other <u>Local Law</u>	

**3b. Date of meeting at which the local board expects to take final action:** \_\_\_\_\_

**4. Applicable Sections of Zoning Code:** \_\_\_\_\_

**5. Description:** "amending the Wind Energy Facilities Overlay (W-E-F) District Regulations in the Town of Benton Zoning Law"

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**6. Reason Referred:** 500' from \_\_\_\_\_

**7. Enclose the complete application including the following:**

<input type="checkbox"/> <b>SEQR Documentation</b>	
<input type="checkbox"/> <b>Detailed Description</b>	
<ul style="list-style-type: none"> <li>• Type of Business</li> <li>• Hours of Operation</li> </ul>	<ul style="list-style-type: none"> <li>• Number of Employees</li> <li>• Anticipated Traffic</li> </ul>
<input type="checkbox"/> <b>Site Plan</b>	
<ul style="list-style-type: none"> <li>• Title, Scale, North Arrow, Dimensions</li> <li>• Portion of the Property to be Developed</li> <li>• Streets, Easements, Utilities</li> <li>• Driveways, Parking (Existing &amp; Proposed)</li> <li>• Structures (Existing &amp; Proposed)</li> </ul>	<ul style="list-style-type: none"> <li>• Landscape Features (i.e., streams, ponds, hedges) (Existing &amp; Proposed)</li> <li>• Lighting &amp; Signage (Location and content)</li> <li>• Grading Plan, Drainage &amp; Erosion Control (During &amp; After Construction)</li> </ul>

*As declared in G.M.L. §239-l, m, and n, it is in the public interest to have the Yates County Planning Board review certain actions that may have inter-community and countywide impacts. Within thirty days of a complete submittal of the referred matter (or at least two days before the referring board's final action), the County Planning Board shall report its recommendations thereon to the referring agency. If the County Planning Board fails to report within 30 days, the body having jurisdiction to act may do so without such report.*

(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.

County  
City  
**Town of Benton**  
Village

Local Law No. **4** of the year **2009**.

A local law **"Amending the Wind Energy Facilities Overlay (W-E-F) District Regulations in the Town of Benton Zoning Law"**  
(Insert Title)

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

County  
City  
**Town of Benton**  
Village

as follows:

Section 1. Paragraph B. of Section 110-15.1 (Wind Energy Facilities Overlay (W-E-F) District) of the Town of Benton Zoning Law is hereby amended with the addition of the following definition:

ACCESSORY BUILDING – barn, shop, garage, shed or any other building not considered to be an occupied building.

Section 2. Paragraph B. of Section 110-15.1 of the Town of Benton Zoning Law is hereby amended with the deletion of the definition of "OCCUPIED BUILDING" and the addition of a new definition of "OCCUPIED BUILDING" to read as follows:

OCCUPIED BUILDING – A residence, school, hospital, church, public library (or other building used for public gathering) that is occupied or in use when the permit application is submitted..

Section 3. Paragraph H. of Section 110-15.1 of the Town of Benton Zoning Law is hereby amended with the addition of a new subsection (9) to read as follows:

(9) Turbine Height. Turbine height shall not exceed 407 feet (base to top of extended blade).

Section 4. Paragraph I. of Section 110-15.1 of the Town of Benton Zoning Law is hereby amended by having subsections (2) and (3) be renumbered to become subsections (3) and (4) respectively and by adding a new subsection (2) to read as follows:

- (2) Accessory buildings. Wind turbines shall be set back from any accessory building a distance of not less than 1.25 times the turbine height.

Section 5. VALIDITY.

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 not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 6. SUPERSEDING EFFECT.

Pursuant to New York Municipal Home Rule Law, Section 22, the provisions of this law are to supersede any inconsistent provision of state or local law.

Section 7. EFFECTIVE DATE.

This local law shall take effect immediately upon filing with the Secretary of State.

(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.4 of 2009 of the Town of Benton was duly passed by the Benton Town Board on \_\_\_\_\_, 2009, 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<sup>1</sup>.)**

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)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly 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)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_. 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)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_. Such local 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.

**5. (City local law concerning Charter revision proposed by petition.)**

<sup>1</sup> 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.

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2005 of the City of \_\_\_\_\_ 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.

*(Seal)*

\_\_\_\_\_  
Clerk of the Town

Date: \_\_\_\_\_

**(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 ONTARIO

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.

\_\_\_\_\_  
Town Attorney  
Town of Benton

Date: \_\_\_\_\_

## Appendix C

## State Environmental Quality Review

**SHORT ENVIRONMENTAL ASSESSMENT FORM**

For UNLISTED ACTIONS Only

**PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)**

1. APPLICANT/SPONSOR TOWN OF BENTON	2. PROJECT NAME LOCAL LAW AMENDING WIND ENERGY REGULATIONS
3. PROJECT LOCATION: Municipality TOWN OF BENTON County YATES	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) WIND OVERLAY DISTRICT MAP	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: LOCAL LAW TO AMEND WIND ENERGY FACILITIES OVERLAY DISTRICT REGULATIONS.	
7. AMOUNT OF LAND AFFECTED: Initially _____ acres    Ultimately _____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: AR1 DISTRICT CONTAINING AGRICULTURAL FARM LAND WITH SCATTERED RESIDENTIAL AND LIGHT COMMERCIAL.	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: _____ Date: _____ Signature: _____	

**If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment**

**PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)**

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? <span style="float: right;">If yes, coordinate the review process and use the FULL EAF.</span>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? <span style="float: right;">If No, a negative declaration may be superseded by another involved agency.</span>	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)	
C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:	
C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:	
C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:	
C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:	
C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:	
C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:	
C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:	
D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?	
<input type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, explain briefly:	
E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?	
<input type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, explain briefly:	

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

<input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which <b>MAY</b> occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.	
<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action <b>WILL NOT</b> result in any significant adverse environmental impacts <b>AND</b> provide, on attachments as necessary, the reasons supporting this determination.	
_____	_____
Name of Lead Agency	Date
_____	_____
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
_____	_____
Signature of Responsible Officer in Lead Agency	Signature of Preparer (If different from responsible officer)

**Reset**