

Wind - Small

# 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 underlining to indicate new matter.

STATE OF NEW YORK  
DEPARTMENT OF STATE  
**FILED**  
AUG 28 2003  
MISCELLANEOUS  
& STATE RECORDS

County \_\_\_\_\_  
City of \_\_\_\_\_ South Bristol  
Town \_\_\_\_\_  
Village \_\_\_\_\_

Local Law No. TWO of the year 2003

A local law Windmill Regulations  
(Insert Title)

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

County \_\_\_\_\_  
City of \_\_\_\_\_ South Bristol \_\_\_\_\_ as follows:  
Town \_\_\_\_\_  
Village \_\_\_\_\_

The intent of this local law is to promote and protect the health, safety and general welfare of the citizens of the Town of South Bristol by amending the Zoning Regulations of the Town of South Bristol to regulate the installation of residential and commercial wind powered electricity generating devices, and to prohibit industrial wind powered electricity generating devices or facilities within the boundaries of the Town of South Bristol.

The Comprehensive Plan, and these Zoning Regulations that are derived from it, are designed to conserve the natural beauty of the land, its lakes streams, forests and hills, so that South Bristol may be enjoyed to the fullest by this and succeeding generations of town residents and visitors. Those areas include, but are not limited to, Stid Hill, South Hill, Gannett Hill and Cleveland Hill and the classic glacial valleys between them, and the perspective of the town from the Ontario County Park, hills, valleys and Canandaigua Lake. The Town Board finds that even with the proposed windmill regulations, industrial windmills would adversely impact the neighborhood character, natural beauty and scenic environment of the town and, therefore, be contrary to the clearly stated intent in the Town's Comprehensive Plan.

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

These regulations will regulate and restrict the height, size, location and other features of windmills, and will after reasonable consideration of the character of the Town and its peculiar suitability for particular uses, conserve and enhance natural resources and land values and protect the existing properties and environment.

§§ 170-40 Residential Windmills, 170-41 Commercial Windmills, and 170-42 Industrial Windmills, with language as detailed below, are hereby added as an amendment to the Zoning Code of the Town of South Bristol. § 170-24 Windmills (WECS) is hereby repealed from the Zoning Code of the Town of South Bristol.

**§ 170-40. Residential Windmills.**

**A. Application Process.**

**(1) Special Use Permit.**

A special use permit shall be required. Therefore, § 170-22 of the South Bristol Code will apply.

**(2) Site Plan Review.**

A site plan review is required before a building permit may be issued for a residential windmill.

**(3) SEQR.**

SEQR review is required.

**B. Placement.**

**(1) Setbacks, Ice and Blade Throw.**

Setbacks from adjacent property lines, rights-of-way, easements, public ways or power lines (not to include individual residential feed line) shall be two times the maximum structure height or 1 ¼ times the maximum engineer-calculated ice or blade throw distance to the maximum point of impact, whichever is greater.

**(2) Districts Allowed In.**

R-1, R-3, R-5, NC, C-1, C-2, PD.

**(3) Number of Windmills Allowed per Parcel.**

One (1). Multiple parcels owned, controlled or beneficially managed by a person or persons, entity, or related entities, shall be considered to be one parcel.

**(4) Noise Level Limit.**

Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the boundaries of all of the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of special use permit application.

**(5) Guy Wires and Anchors.**

All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for any windmill tower from any property line shall be a distance of fifty (50) feet from any anchor point for guy wires or cables.

**(6) Lighting.**

- (a) No windmill tower shall be lighted artificially unless such lighting is required by a state or federal agency. Use of nighttime, and overcast daytime condition stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board, as a prerequisite to that board's approval, with specific respect to subdivision (b) as it applies to existing residential or commercial uses within 2000 feet of each tower for which such strobe lighting is proposed.
- (b) No individual tower facility shall be installed in any location that would substantially detract from or block view of a portion of a scenic view, as viewed from any public road right-of-way, publicly owned land or privately owned land within the Town of South Bristol.

**(7) Scenic/View Impact.**

No windmill shall be installed in a location where the Planning Board determines the windmill to be detrimental to the general neighborhood character. Final determination of permissible tower height and location on lot shall be decided by the Planning Board as part of the site plan review. No individual tower facility shall be installed in any location that would substantially detract from or block view of a portion of a scenic view, as viewed from any public road right-of-way, publicly owned land or privately owned land within the Town of South Bristol.

**(8) Broadcast Interference.**

- (a) No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
- (b) No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personnel communication systems would produce electromagnetic interference with signal transmission or reception.
- (c) The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.

**(9) Location on Lot.**

Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

**C. Specifications.**

**(1) Maximum Height Limit.**

Maximum height limit shall be no greater than 100 feet.

**(2) KW Limit.**

10 KW.

**(3) Color.**

Residential windmills must be battleship gray unless an agency of the state or federal government mandates something different.

**(4) Structure.**

Lattice or solid tube.

**(5) Type.**

All types of windmills will be allowed.

**(6) Design and Specifications.**

Detailed design and specification will be required during site plan review.

**(7) Bird Migration Study.**

No bird migration study shall be required for residential windmills.

**(8) Ice Buildup Sensors.**

Ice buildup sensors are not required for residential windmills.

**(9) Connecting Cables.**

All power transmission lines from the windmill electricity generation facilities shall be underground.

**(10) Blade to Ground Distance.**

The lowest portion of the blade may not be closer than 25 feet to the ground.

**D. Notice and Safety Considerations.**

**(1) Signs.**

**(a) Caution Signs.**

Caution signs shall be placed at the setback limits warning of ice and blade throws. Signs shall be placed at 100 foot intervals and be 4 to 6 feet high (at eye level). Said signs shall be a minimum of one foot square and no larger than two

square feet in size and shall have the words "CAUTION: FALLING OBJECTS" printed thereon. In addition, the owner's name and address shall be printed thereon.

(b) Other signs.

There shall be no other signs affixed to the windmill, accessory buildings or enclosure.

(2) Fencing.

Access to the tower shall be limited either by means of a fence six (6) foot high around the tower base with a locking gate or by limiting tower climbing apparatus to no lower than twelve (12) feet from the ground.

(3) Limit Tip Speed.

No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

**E. Operating Considerations.**

(1) Removal if Not Operational.

Any windmill, which has not been in active and continuous service for a period of one (1) year, shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within six (6) months of the cessation of active and continuous use of such windmill.

(2) Landscaping.

Upon completion of installation the site shall be returned as close as possible to its natural state.

(3) Building and Grounds Maintenance.

Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in an on-site storage building. All maintenance equipment, spare parts, oil, etc shall also be kept in said on-site storage building.

(4) Ownership Changes.

If the ownership of a windmill operating under a special use permit changes, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. However, the change in ownership shall be registered with the Code Enforcement Officer, and the sign required under subdivision 170-40.D(1)(a) shall be changed accordingly.

(5) Windmill Modifications.

Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

**F. Certifications.**

**(1) Routine Inspection Report.**

An inspection report prepared by an independent professional engineer licensed in the State of New York will be required at the time of installation. The inspection report required at the time of installation will be for the structure and the electronics and will be given to the Code Enforcement Officer.

**(2) Insurance – Liability.**

Prior to issuance of a building permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation and transmission facility.

**(3) National and State Standards.**

The applicant shall show that all applicable manufacturers, New York State and U. S. standards for the construction, operation and maintenance of the proposed windmill have been met or are being complied with. Windmills shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant for a windmill special use permit shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards.

**(4) Performance Bond (Removal).**

(a) The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the windmill is discontinued. The requirements of subdivision (c) below shall apply. The Town Engineer and the Town Attorney shall judge this letter of credit or other surety adequate and satisfactory before a building permit is issued. Said letter of credit shall be forfeited if removal is not completed by the deadline specified in subdivision (c) below.

(b) If transmission service from a windmill is to be discontinued for a period exceeding six (6) months, the owner of such windmill shall notify the Code Enforcement Officer within thirty (30) days of the date such discontinuance commenced.

(c) Any windmill which has not been in active and continuous service for a period of one (1) year shall be removed from the premises to a place of safe and legal

no

disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within six (6) months of the cessation of active and continuous use of such windmill.

(5) Lightning Strike/Grounding.

The applicant shall show that all applicable manufacturers, New York State and U. S. standards for the construction, operation and maintenance of the proposed windmill have been or are being complied with.

(6) Environmental Contamination by Oil.

A performance bond will be required to deal with this situation. The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit the maximum amount letter of credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. The Town Engineer and the Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.

(7) Wind Speed/Wind Load.

Certification is required by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

(8) Continuing Obligations.

All requirements detailed in subdivisions 170-40.F(1-7) above remain in force for the life of the special use permit.

**§ 170-41. Commercial Windmills.**

**A. Application Process.**

(1) Special Use Permit.

A special use permit shall be required. Therefore, § 170-22 of the South Bristol Code will apply.

(2) Site Plan Review.

A site plan review is required before a building permit may be issued for a residential windmill.

(3) SEQR.

SEQR review is required.

**B. Placement.**

**(1) Setbacks, Ice and Blade Throw**

Setbacks from adjacent property lines, rights-of-way, easements, public ways, power lines, or areas or structures customarily used by the public shall be two times the maximum structure height or 1 ¼ times the maximum engineer-calculated ice or blade throw distance to the maximum point of impact, whichever is greater.

**(2) Districts Allowed In.**

R-1, R-3, R-5, NC, C-1, C-2, PD.

**(3) Number of Windmills Allowed per Parcel.**

One (1). Multiple parcels owned, controlled or beneficially managed by a person or persons, entity, or related entities, shall be considered to be one parcel.

**(4) Noise Level Limit.**

Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the boundaries of all of the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of special use permit application.

**(5) Guy Wires and Anchors.**

All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for any windmill tower from any property line shall be a distance of fifty (50) feet from any anchor point for guy wires or cables.

**(6) Lighting.**

(a) No windmill tower shall be lighted artificially unless such lighting is required by a state or federal agency. Use of nighttime, and overcast daytime condition stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board, as a prerequisite to that board's approval, with specific respect to subdivision (b) as it applies to existing residential or commercial uses within 2000 feet of each tower for which such strobe lighting is proposed.

(b) No individual tower facility shall be installed in any location that would substantially detract from or block view of a portion of a scenic view, as viewed from any public road right-of-way, publicly owned land or privately owned land within the Town of South Bristol.

**(7) Scenic/View Impact.**

No windmill shall be installed in a location where the Planning Board determines the windmill to be detrimental to the general neighborhood character. Final determination of

permissible tower height and location on lot shall be decided by the Planning Board as part of the site plan review. No individual tower facility shall be installed in any location that would substantially detract from or block view of a portion of a scenic view, as viewed from any public road right-of-way, publicly owned land or privately owned land within the Town of South Bristol.

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- (a) No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
- (b) No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personnel communication systems would produce electromagnetic interference with signal transmission or reception.
- (c) The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.

**(9) Location on Lot.**

Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

**C. Specifications.**

**(1) Maximum Height Limit.**

Maximum height limit shall be no greater than 100 feet.

**(2) KW Limit.**

20 KW.

**(3) Color.**

Commercial windmills must be battleship gray unless an agency of the state or federal government mandates something different.

**(4) Structure.**

Lattice or solid tube.

**(5) Type.**

All types of windmills will be allowed.

**(6) Design and Specifications.**

Detailed design and specification will be required during site plan review.

**(7) Bird Migration Study.**

No bird migration study shall be required for commercial windmills.

**(8) Ice Buildup Sensors.**

Ice buildup sensors are not required for commercial windmills.

**(9) Connecting Cables.**

All power transmission lines from the windmill electricity generation facilities shall be underground.

**(10) Blade to Ground Distance.**

The lowest portion of the blade may not be closer than 25 feet to the ground.

**D. Notice and Safety Considerations.**

**(1) Signs.**

**(a) Caution Signs.**

Caution signs shall be placed at the setback limits warning of ice and blade throws. Signs shall be placed at 100 foot intervals and be 4 to 6 feet high (at eye level). Said signs shall be a minimum of one foot square and no larger than two square feet in size and shall have the words "CAUTION: FALLING OBJECTS" printed thereon. In addition, the owner's name and address shall be printed thereon.

**(b) Other signs.**

There shall be no other signs affixed to the windmill, accessory buildings or enclosure.

**(2) Fencing.**

Access to the tower shall be limited either by means of a fence six (6) foot high around the tower base with a locking gate or by limiting tower climbing apparatus to no lower than twelve (12) feet from the ground.

**(3) Limit Tip Speed.**

No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

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Any windmill, which has not been in active and continuous service for a period of one (1) year, shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within six (6) months of the cessation of active and continuous use of such windmill.

**(2) Landscaping.**

Upon completion of installation the site shall be returned as close as possible to its natural state.

**(3) Building and Grounds Maintenance.**

Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in an on-site storage building. All maintenance equipment, spare parts, oil, etc shall also be kept in said on-site storage building.

**(4) Ownership Changes.**

If the ownership of a windmill operating under a special use permit changes, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. However, the change in ownership shall be registered with the Code Enforcement Officer, and the sign required under subdivision 170-40.D(1)(a) shall be changed accordingly.

**(5) Windmill Modifications.**

Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

**F. Certifications.**

**(1) Routine Inspection Report.**

An inspection report prepared by an independent professional engineer licensed in the State of New York will be required at the time of installation. The inspection report required at the time of installation will be for the structure and the electronics and will be given to the Code Enforcement Officer.

**(2) Insurance – Liability.**

Prior to issuance of a building permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation and transmission facility.

**(3) National and State Standards.**

The applicant shall show that all applicable manufacturers, New York State and U. S. standards for the construction, operation and maintenance of the proposed windmill have been met or are being complied with. Windmills shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant for a windmill special use permit shall furnish evidence, over the signature of a professional

engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards.

**(4) Performance Bond (Removal).**

- (a) The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the windmill is discontinued. The requirements of subdivision (c) below shall apply. The Town Engineer and the Town Attorney shall judge this letter of credit or other surety adequate and satisfactory before a building permit is issued. Said letter of credit shall be forfeited if removal is not completed by the deadline specified in subdivision (c) below.
- (b) If transmission service from a windmill is to be discontinued for a period exceeding six (6) months, the owner of such windmill shall notify the Code Enforcement Officer within thirty (30) days of the date such discontinuance commenced.
- (c) Any windmill which has not been in active and continuous service for a period of one (1) year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within six (6) months of the cessation of active and continuous use of such windmill.

**(5) Lightning Strike/Grounding.**

The applicant shall show that all applicable manufacturers, New York State and U. S. standards for the construction, operation and maintenance of the proposed windmill have been or are being complied with.

**(6) Environmental Contamination by Oil.**

A performance bond will be required to deal with this situation. The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit the maximum amount letter of credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. The Town Engineer and the Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.

**(7) Wind Speed/Wind Load.**

Certification is required by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

**(8) Continuing Obligations.**

All requirements detailed in subdivisions 170-41.F(1-7) above remain in force for the life of the special use permit.

**§ 170-42. Industrial Windmills.**

Industrial windmill electricity generating facilities are contrary to the Comprehensive Plan and general intent of the Zoning Code of the Town of South Bristol and are not compatible with the health, safety or general welfare of the citizens of the Town, and are therefore not permitted within the boundaries of the Town of South Bristol.

**Additional References to Windmills in Zoning Code.**

The following sections of the South Bristol Code shall be amended to include:

§ 170-16.D add: (12) Residential Windmills. (13) Commercial Windmills.

§ 170-16.1.D add: (12) Residential Windmills. (13) Commercial Windmills.

§ 170-16.2.D add: (14) Residential Windmills. (15) Commercial Windmills.

§ 170-16.3.D add: (18) Residential Windmills. (19) Commercial Windmills.

§ 170-17.D add: (16) Residential Windmills. (17) Commercial Windmills.

§ 170-17.1.D add: (18) Residential Windmills. (19) Commercial Windmills.

§ 170-22.E add: (11) § 170-40, Residential Windmills. (12) § 170-41, Commercial Windmills.

**Repeal of Existing Regulations.**

The Town Board hereby repeals §170-24 Windmills (WECS), and the existing definition of "Windmill" in § 170-9 Terms defined, of the Zoning Regulations of the Town of South Bristol.

**Definitions.**

The Town Board hereby adds the following definitions to § 170-9 Terms defined.

**WINDMILL** – a device that converts the kinetic energy of the wind, by the use of a set of rotating blades and is usually elevated from ground level on a tower, into electrical or mechanical power.

**WINDMILL, RESIDENTIAL** – a windmill that provides electrical or mechanical power to an individual residence and can be either the primary or a secondary source of energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.

**WINDMILL, COMMERCIAL** – a windmill that provides electrical or mechanical power to an individual home occupation, farm, or other single commercial enterprise and can be either the primary or a secondary source of energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.

**WINDMILL, INDUSTRIAL** – a windmill, or series of windmills in a facility, whose purpose is to generate electricity that is fed into a power grid for sale.

**WINDMILL HEIGHT** – the total height of the structure including blades.

**Severability Clause.**

If any section, paragraph, subdivision or provision of this local law shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision or provision adjudged invalid, and the rest of this local law shall remain valid and effective.

**Effective Date.**

All provisions of this local law take effect upon filing by the Town Clerk with the New York Secretary of State.