

Press Release

Town of Yates

January 2, 2018

Proposed Amendments to Town of Yates Wind Energy Conversion Systems Local Law

After extensive research and considerable public input, the Yates Town Board began the process of amending our Wind Energy Facilities Law at our December 14, 2017, board meeting. The amendments will be reviewed by the Town of Yates Planning Board, subject to a Public Hearing on January 8, 2018, and be referred to the Orleans County Planning Board for their review.

The Yates Town Board has a deeper understanding of the rural character and local home rule values of our community as a result of our ongoing work in the Western Orleans Comprehensive Plan and the Lake Waterfront Revitalization Program committees. There is a growing body of research from reputable agencies, organizations, governments and municipalities which indicates significant risks to the public health, safety and welfare as a result of the increasingly recognized deleterious effects of poorly sited industrial wind turbines on human health, avian and bat habitats and flyways, noise and light pollution, hydrology, property values, prime agricultural land, tourism, scenic views, recreational areas, public gathering places, open spaces and cultural and historical resources.

Therefore, we have undertaken a reasoned approach to amending our local wind law supported by facts:

1. The U.S. Fish and Wildlife Service recommends no wind turbines within 3 miles of the Lake Ontario shoreline for the Town of Yates in order to avoid possible severe impact on avian flyways and habitat.
2. The State of Vermont Public Service Board recommends 42 dBA daytime and 39 dBA nighttime noise limits at residential receivers.
3. Numerous towns, counties, states and countries have determined that increased setbacks from residences, property lines, villages, sensitive areas and other important locations are critical steps governments should take to mitigate the negative effects of industrial wind turbines. The Town of Yates is not basing its proposed setback amendments solely upon other zoning laws. Rather, in our review of the findings and regulations of dozens of such laws, we find a compellingly reasonable approach to the diligent protection of public safety, welfare and health.

Please find attached a table depicting the current local wind law in comparison to the proposed amendments. The footnotes to the table provide references which support the amendments.

Sincerely,

Yates Town Board

Section of 591 (Wind Energy Facilities Law)	Current Law	Proposed Amendment
Setback from Lake Ontario Shoreline - (H)(2)(a)(ii)	From the Waterfront Revitalization Area Boundary as established in the Town of Yates LWRP: (1) A minimum of 1800 feet. (2) A minimum of 4.5 times the Total Height.	From the Lake Ontario shoreline: (1) Three miles. ⁱ
Noise limits at residential receivers – (H)(26)(b)	A-Weighted level Daytime (7AM to 8PM) = 45 Nighttime (8PM to 7AM) = 40	A-Weighted level Daytime (7AM to 8PM) = 42 Nighttime (8PM to 7AM) = 39 ⁱⁱ
Setback from non-participating property lines - (H)(2)(c)	From property lines: (i) Properties on which a residence or business structure is present: A minimum of 3.0 times the Total Height) from Project Property Line. (ii) Properties on which no residence or business structure is present (vacant properties): A minimum of 4.5 times the Total Height from the Project Property Line. This higher setback is designed to afford the owner of vacant properties the same setback as owners of developed properties.	From the Project Property Line (property lines of Non-Participant properties): (i) 0.5 miles or 6 times the Total Height of the turbine, whichever is greater.* *the references for all setback amendments are found in endnote ‘iii’ ⁱⁱⁱ
Setback from all public roads and highway rights-of-way - (H)(2)(d)	From all public road and highway right-of-ways: (i) A minimum of 1800 feet. (ii) A minimum of 3.0 times the Total Height.	From all public road and highway rights-of-way: (i) 0.5 miles or 6 times the Total Height of the turbine, whichever is greater.
Setback from the boundary of any village or hamlet – (H)(2)(f)	From the boundary of the Village of Lyndonville (i) A minimum of 1800 feet. (ii) A minimum of 4.5 times the Total Height	From the boundary of any village or hamlet: (i) 1 mile
Setback from all boundaries with other towns – (H)(2)(g)	From all boundaries with other towns: (i) A minimum of 1800 feet. (ii) A minimum of 3.0 times the Total Height.	From all boundaries with other towns: (i) 0.5 miles or 6 times the Total Height of the turbine, whichever is greater.
Setback from residences – (H)(2)(h)	From residences: (i) A minimum of 1800 feet. (ii) A minimum of 4.5 times the Total Height.	From residences: (i) 0.5 miles or 6 times the Total Height of the turbine, whichever is greater.
Setback from schools, churches, and cemeteries, measured from the property line of such uses – (H)(2)(i)	N/A	From schools, churches, and cemeteries, measured from the property line of such uses: (i) 1 mile

ⁱ USFWS Letter January 12, 2016, Lighthouse Wind LLC Case no 14-F-0485, <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={3BEC608F-A192-42A5-B28E-B3F0FBDBAC4E}>
Camp Perry Case, June 2017, <https://www.wind-watch.org/news/2017/06/30/bird-conservation-groups-win-fight-against-great-lakes-wind-project/>
Top 10 Myths About Wind Energy and Birds, December 6, 2017, Myth #8, [https://abcbirds.org/top-10-myths-wind-energy-birds/;](https://abcbirds.org/top-10-myths-wind-energy-birds/)
Wind Energy: Great Lakes Regional Guidelines, 2011, p.28, https://www.conservationgateway.org/ConservationByGeography/NorthAmerica/UnitedStates/michigan/Documents/Ewert_WindEnergy2011.pdf.

ii State of Vermont, Public Service Board Press Release, November 7, 2017, <http://puc.vermont.gov/sites/psbnew/files/documents/SoundRule/PUC%20Adopts%20Sound%20Rule%20Press%20Release.pdf>

iii Town of Cape Vincent, NY, WECS Zoning Law, pp 70-72, <http://townofcapevincent.org/index.php/document-center/miscellaneous/215-cape-vincent-zoning-law-final-2016/file.html>; Town of Lyme, NY, WECS Law, pp 18-19, <http://www.townoflyme.com/uploads/2/0/1/2/20124871/windlaw2.pdf>. State of Vermont, Public Service Board (PSB), May 2017 General Recommended Rule (over-ruled in legislative party-line vote October 12, 2017), Section 5.703 (C), "Each turbine and any sound-producing equipment located within the footprint of the turbine array shall be set back horizontally no less than ten (10) times the turbine's height as measured from base to the tip of a blade in the upright vertical position." http://mediad.publicbroadcasting.net/p/vpr/files/201705/final_proposed_psb_rule_5.700.pdf. Setback Analysis Table Below, Councilman John Riggi, 12/12/17 -- All setback information in table below is derived from one of three sources, 1) Office of Energy Efficiency & Renewable Energy, <https://windexchange.energy.gov/policies-incentives>; 2) Wind Power Grab – Setbacks, <https://windpowergrab.wordpress.com/setbacks/>; or 3) Directly from the applicable zoning laws.

Town of Yates Setback Assessment 12/20/2017

Sample Size: 55

Source Links:

- <https://windexchange.energy.gov/policies-incentives>
- <https://windpowergrab.wordpress.com/setbacks/>
- Locality Specific References
- Accepted News Outlets

Town	From Residence	REFERENCE	Comment
Akron, MI	1,000	http://nebula.wsimg.com/970392276af38dd267d7471d5b962d22?AccessKeyId=D9E21015512935A67E2A&disposition=0&alloworigin=1	
Allegany, NY	2,500	http://www.allegany.org/images/upload/town_allegany_wind_energy_law_adopted_8-28-07.pdf	2500 ft = 762m (Town Zoning Ordinance)
Antrim, NH	2,460	http://www.antrimnh.org/Pages/AntrimNH_Planning/Large%20Scale%20Wind%20Ordinance_MARCH-%202012%20Ballot.pdf	5X turbine height from occupied buildings 3,100ft for 620ft turbine
Bowman, ND	2,000	http://www.bowmand.com/data/upfiles/media/Bowman%20County%20Zoning%20Ordinance.pdf	
Buckfield, ME	5,280	http://www.sumnermaine.dreamhosters.com/?page_id=24	8,060ft setback for 620ft turbine
Cape Vincent, NY	2,952	http://townofcapevincent.org/index.php/document-center/miscellaneous/215-cape-vincent-zoning-law-final-2016.html	6X turbine height from nearest residence 3,720ft for 620ft turbine
Caratunk, ME	7,920	http://www.onlinesentinel.com/news/caratunk-residents-approve-new-wind-turbine-ordinance_2011-11-17.html	1.5miles from any property line =2.4km (Ordinance)
Claybanks Township, MI	2,999	http://www.claybankstowship.org/documents/Claybanks%20Twp.%20Ordinance%20Book.pdf	3000 ft from property line of Nearest non-participating receptor (law)

Colfax, NE	2,000	http://www.colfaxne.com/pdfs/planning_zoning/Zoning_Regulations.pdf	
District of Argyle, Nova Scotia	3,280	http://thechronicleherald.ca/novascotia/119413-argyle-votes-to-increase-wind-farm-buffer	1,000 metres away from homes.
Divide County, ND	15,840	http://www.dividecountynd.org/vertical/sites/%7B23645B69-53AD-4DAC-B0E7-3EA806F706B3%7D/uploads/April2017_ZoningOrdinance.pdf	5 times the height from property lines
Freeborn County, MN	2,640	https://library.municode.com/mn/freeborn_county/codes/code_of_ordinances?nodeId=CO_CO_CH26REENSY	
Frankstown Township, Blair County, PA	2,500	http://frankstowntownship.com/wp-content/uploads/2016/02/FRANKZONEORDFINAL.pdf	
Frontier County, NE	1,000	http://www.co.frontier.ne.us/content/Zoning/regulations.pdf	
Gage County, NE	1,980	http://www.gagecountynebraska.us/pdfs/Wind%20Energy%20Regs%20-%20County%20Board%20final.pdf	OR 3 times height from residences
Golden Valley County, ND	2,000	http://www.goldenvalleycounty.org/zoning/GVCzoning.pdf	
Goodhue County, MN	3,280	http://www.co.goodhue.mn.us/documentcenter/view/2428	1000m (10X Rotor Diameter)*
Grant County, ND	2,000	http://www.grantcountynd.com/vertical/sites/%7BB70A9DE5-9DD9-4C14-99FE-4866CCAAE038%7D/uploads/Grant_County_final_Zoning.pdf	
Halifax, Nova Scotia	3,280	Http://pugwashwindfarm.blogspot.com/2011/08/hrm-says-turbines-must-keep-distance.html	(Council Approved) 1000m to habitable building
Harper County, KS	1,000	http://harpercountyks.gov/DocumentCenter/View/12480	
Hartsville, NY	2,460	http://concernedcitizens.homestead.com/files/windfarms/Hartsville/Hartsville_Draft_L.L.No.2_2009.2.pdf	Maximum 3dBA above background Sound and minimum 2460 ft from dwelling= 749,8m (local law)
Ireland	3,280	http://www.irishtimes.com/newspaper/ireland/2012/0409/1224314547516.html	larger turbines of 50m-150m would have to be a minimum of 1km to 2km away
Lafargeville, NY	2,723	http://www.townofleans.com/uploads/3/9/3/0/39304171/2017_wind_law.pdf	5.5X turbine height from property line 3,410ft for 620ft turbine

Lenawee County, MI	2,001	http://www.mlive.com/opinion/bay-city/index.ssf/2011/11/letter_townships_standing_up_t.html	2000ft+consent+ compensation for loss of value 609.6m (Township Wind Ordinance)
Lincolnshire County Council, UK	2,297	http://parishes.lincolnshire.gov.uk/Files/Parish/380/LCCWindFarmPositionStatementJune2012.pdf	Therefore, unless through assessment, it can be demonstrated that there would be acceptable noise levels within the 2km radius of a residential property, the minimum distance should be 2km
Litchfield, NY	2,460	https://docs.google.com/file/d/0B-WpWUdCegK6NVZ5TGZdUpRNC1ZaWZ2Y0hhWmVWZw/edit?pli=1	
Lyme, NY	5,280	http://www.townoflyme.com/uploads/2/0/1/2/20124871/lyme_zoning_2017_final.pdf	From rural villages, 2mi setback from Lake Ontario 1mi from Schools and Churches 1mi from Great Lakes Seaway Trail
Madison County, ID	5,280	https://library.municode.com/id/madison_county/codes/code_of_ordinances?nodeId=PTIUNDECO_CH109MIPR_ARTVWITU	3 times the total height from the property line From Property Line: 1,860 for 620ft turbine.
Marin County, CA	1,240	https://library.municode.com/ca/marin_county/codes/code_of_ordinances?nodeId=TIT22DECO_ARTIIISPLGEDERE_CH22.32STSPLAUS_22.32.180WIENCOSYWE	2 times the height 1,240ft for a 620ft turbine
Meredith, NY	3,000	https://townofmeredith.files.wordpress.com/2011/09/wind-law-2008.pdf	Ambient Sound +5dB(A)
Monroe County, WI	1,000	https://library.municode.com/wi/monroe_county/codes/code_of_ordinances?nodeId=CH47ZO_ARTVSUDIRE_DIV3WIENFA_S47-677WIENFASIPEREAP	1.1 times the height from property lines
Montville, ME	6,463	http://nebula.wsimg.com/c8d2daa3cf5cee9a845f65818910db0e?AccessKeyId=A93CA9D4D8E53736F659&disposition=0&alloworigin=1	1 mile or 13 times the turbine height= 500ft x 13 = 6500 ft = 1.98 km (Town Ordinance)
Moscow, ME	7,919	http://bangordailynews.com/2010/12/04/news/moscow-maine-sets-rules-for-wind-turbines/	1.5miles from any property line =2.4km (Ordinance)

Navajo County, AZ	2,640	http://www.navajocountyaz.gov/Portals/0/Departments/Planning%20and%20Zoning/Documents/Energy/Wind%20Ordinance%20-%20Ordinance%2006-10%20-%20Wind%20Energy%20Generation%20Facilities%20-%20as%20approved%20by%20BOS%20-%2026-OCT-10%20-%20Recorded%202010-18699.pdf	
New South Wales, Australia	6,461	http://www.telegraph.co.uk/news/worldnews/australiaandthepacific/australia/8975571/Australian-state-launches-worlds-toughest-wind-turbine-laws.html	
Newport, NC	5,000	http://www.townofnewport.com/userfiles/cms_documents/documents/Zoning_Ordinance_916.pdf	
Ontario, Canada	1,805	https://www.ontario.ca/document/technical-guide-renewable-energy-approvals/required-setback-wind-turbines	
Otsego County, MI	1,250	http://www.otsegocountymi.gov/wp-content/uploads/2015/12/Zoning-Amended-12.2015.pdf	
Pictou County, Nova Scotia	3,280	http://www.county.pictou.ns.ca/images/stories/PDF/bylaws/Wind_Energy_LUB_Amendment.pdf	
Porter, NY	1,200	https://www.townofporter.net/sites/porterny/files/uploads/town_of_porter_zoning_law_complete.pdf	
Potter County, PA	1,750	http://www.pottercountypa.net/post/_docs/2016_SALDO.pdf	
Quebec Province	2,461	http://www.scribd.com/doc/61485585/Argosy-November-19-2009	(Bylaw) 750m to residence or 2km to towns
Roanoke County, VA	1,000	https://library.municode.com/va/roanoke_county/codes/code_of_ordinances?nodeId=PTICOCO_APXAZOOR_ARTIVUSDEST_S30-87-7WIENSYLAWIENSYUT	From nearest homes
Rock County, WI	2,641	http://www.newmexicocare.org/2pages/union_ord.htm	2640ft=804.6m (ordinance)
Saskatchewan, Canada	16,404	http://www.saskatchewan.ca/government/news-and-media/2016/september/19/guidelines-for-winter-power-projects	From Sensitive areas*
St. Lawrence County, NY	1,000	https://www.stlawco.org/data/files/Departments/Planning/WindFarmModelOrdinance2007.pdf	
Stark County, ND	2,000	http://www.starkcountynd.gov/vertical/sites/%7B32FA3A56-B3F6-4B8B-A428-F9C97B78EC24%7D/uploads/Stark_County_Zoning_Ordinance_10-2-12%281%29.pdf	2.5 times the height from property lines
Sumner County, KS	1,000	http://www.co.sumner.ks.us/Portals/ks-sumner/Planning%20Zoning/Floodplain%20Airport%20CSWEP/CWSEP%20Regulations.pdf	

Sweetwater, WY	2,640	https://www.sweet.wy.us/DocumentCenter/View/1499	5.5 times the Wind Generation Device or 1/2 mile, whichever distance is greater
Templeau County, WI	5,280	http://docs.wind-watch.org/wind_ordinance_11-28-07-final-draft-1.pdf	Sound - Audible Noise due to Wind Energy Facility or Wind Turbine operations shall not exceed the lesser of five (5) decibels (dBA) increase over the existing background noise level (L90) or exceed forty (40) decibels (dBA) for any period of time
Tipton County, IN	1,000	http://www.in.gov/oed/files/Tipton_County_Wind_Ordinance_(see_Sec_522).pdf	
Umatilla County, OR	10,560	http://aeinews.org/archives/1687	2mi from rural home
Union, WI	2,640	http://www.tn.union.wi.gov/Docs_by_cat_type.asp?doccatid=200&locid=123	
Victoria State Government Australia	6,562	http://www.abc.net.au/news/2011-06-27/wind-farm-setbacks-policy-to-remain/2772716	Landowners within 2km have Right of VETO (law)
Williams, ND	1,400	http://www.williamsnd.com/usrfiles/dept/122/forms/Zoning%20Ordinance%20and%20Subdivision%20Regulations%20Final.pdf	
Average Setback (ft)	3,514		