

LOCAL LAW NO. 2000-1
OF THE TOWN OF FENNER

A LOCAL LAW TO AMEND
THE TOWN OF FENNER
LAND USE LOCAL LAW NO. 1997-1

Section I.

The purpose and intent of this local law is to provide for the establishment of a new zoning district under the Town of Fenner Land Use Local Law, as previously amended and enacted as Town of Fenner Local Law 1997-1 (hereinafter referred to a "Local Law 1997-1"), to define an area of the Town where commercial wind-powered electricity generation facilities may be developed in a manner hereby deemed to be compatible with, and in furtherance of the general health, welfare and safety of the residents of the Town of Fenner.

Section II.

Section 201, subsection "B" of Local Law 1997-1 is hereby amended to read as follows:

B. DISTRICT B. (SECTION 302)

District B shall consist of all lands within the Town of Fenner which are not contained in District A or in District C.

Section III.

Section 201 of Local Law 1997-1 is hereby further amended to add a new subsection "C" to read as follows:

C. DISTRICT C. (SECTION 303)

District C shall consist of all the lands within the following tax map parcels as said parcels are configured as of the date of adoption of this local law.

Tax Map Numbers:

Owners:

78.-1-38.1	Lloyd and Susan Lovely
78.-1-37.1	Robert Toole & William Larkin
78.-1-37.2	Philip H. Gott, Jr.
78.-1-29	Town of Fenner
78.-1-28.1	Town of Fenner
78.-1-28.2	Richard K. Foringer
78.-1-28.3	Richard K. Foringer
78.-1-28.23	Anthony Seitz
78.-1-28.22	Charles Seager
78.-1-28.21	Robert Butler
78-1-27	Kenneth Wilkinson
69.-1-16	Beryl Pratt
69.-1-36	Harold Geiger
69.-1-36.1	Harold Geiger, Jr.
69.-1-37	Robert Toole & William Larkin
69.-1-41	Alice Ross
69.-1-42	Joseph Balenski
70.-1-1	Russell Stone
70.-1-3	Russell Stone
70.-1-21	Russell Stone
70.-1-22	Scott & Donna Griffin
70.-1-23.11	Scott & Donna Griffin
70.-1-23.12	Scott & Donna Griffin
70.-1-27	Russell Stone

Section IV.

The “Land Use Map” referred to in Section 202 of Local Law 1997-1 and attached to Local Law 1997-1 as “Appendix B” is hereby amended to designate the lands described in Section III of this local law as “District C”

Section V.

The “Land Use Schedule” referred to in Section 203 of Local Law 1997-1 and included in Local Law 1997-1 as “Table 1” and the “Notes for Table 1” are hereby amended to read as follows:

TABLE 1

LAND USE SCHEDULE
Minimum Dimensions

	Lot Area	Lot		Yards*			Maximum Structure Height Ft.	Notes (See Page)
		Frontage*** Ft.	Depth Ft.	Front Ft.	Side Ft.	Rear Ft.		
“DISTRICT “A”								
Single-family unit	1 acre**	200	200	50	40	50	35	a, b
Two-family unit	1.5 acre	200	200	50	40	50	35	b
Multi-family	1.5 acre + 10,000 sq ft/unit	200	200	50	40	50	45	d, e
Farm	5 acres	200	200	50	40	50	None	c, g
DISTRICT “B”								
All “A” as above								
Mobile dwelling	1 acre	200	200	50	40	50	35	b
Mobile dwelling park*	5 acres	200	300	50	30	50		b, d, e, f
Individual Park Site	@ 10,000 sq. ft/unit	70	120	30	20	20	35	f
Business, professional, or Industrial, on separate lots	1 acre	200	200	50	40	50	35	b, d, e
DISTRICT “C”								
All “B”, as above								

*Corner lots are considered to have two front yards along the two roadways and two side yards.

**Acre = 43,560 sq. ft.

***Requirement of actual frontage along public highway, or if applicable, private access easement

All non-farm accessory buildings shall conform to front and side yard requirements of the district in which they are located

Notes for Table 1

- a. Measured from the road right-of-way. Applies to each side of a lot that adjoins a public road.

An alternative front yard minimum dimension measurement is permissible from the center of road-ways where neither road right-of-way bounds nor surveys are available: (1) on three rod roads (generally, but not necessarily, Town roads) set buildings back at least 75 feet from the centerline of the road; and (2) on four rod roads (Generally, but not necessarily, County roads) set buildings back at least 83 feet from the centerline of the road.

- b. Where community water supply and sewer are used, one-half lot area and smaller bordering yards are permitted. Lot: 100 feet front x 150 feet depth. Yards: 30 feet front x 20 feet sides x 50 feet rear.
- c. Accessory farm buildings (silos, barns, etc.) are exempt from height limits.
- d. Requires a special use permit issued by the Planning Board.
- e. A landscaped screening zone at least 15 feet wide shall be maintained by the owner of those sides of his lot that adjoin any residential property owned by another party.
- f. Each mobile dwelling site shall connect to an access road within the mobile dwelling park, and the front yard of each lot shall be measured from the edge of this access road.
- g. Upon the issuance of a special permit by the Planning Board, not more than two units of supplementary housing for relatives or hired hands employed by the farm; each unit must be provided with an adequate sewage disposal system, does not require separate lots.
- h. The minimum setback distance between each production line commercial wind power electricity generation unit (wind turbine tower) and: all surrounding property lines, overhead utility lines, any dwellings, and any other generation units, above-ground transmission facilities, and separate meteorological facilities, shall be equal to no less than 1.5 times the proposed structure height plus the rotor radius. No experimental, home-built, or prototype wind turbines shall be allowed without documentation by the applicant of their maximum probable blade throw distance in the event of failure and determination by the Planning Board of appropriate setback distances on the basis of that documentation.

Section VI.

Local Law 1997-1 is hereby amended to add a new Section 3030 to read as follows:

Section 303 - DISTRICT C

The purpose of this district is to foster the development of the Town's windpower resource while preserving the farmlands and adjoining settlements as compatible adjoining uses.

Section 303.1 - PRINCIPAL USES PERMITTED

- A. One and two-family dwellings built on a foundation, including modular dwellings.
- B. Farms and farm buildings for related agricultural activities
- C. Mobile dwellings on individual lots.

Section 303.2 - ACCESSORY USES PERMITTED

- A. Same as Section 301.2
- B. Home businesses conducted by the residents
- C. Accessory buildings necessary to the principal use and which do not include any activity commonly conducted as a separate business.

Section 303.3 - USES REQUIRING A SPECIAL PERMIT

- A. Same as Section 301.3
- B. Mobile dwelling parks.
- C. All retail sales, eating, service and professional establishments
- D. Day camps, guest or vacations homes for pay, private clubs and seasonal camps
- E. Commercial outdoor recreation such as ski runs, snowmobiles parks, miniature golf courses, driving ranges, race tracks and hunting and fishing preserves.
- F. More than one residence structure on a lot for a farm (See note (g) to Table 1).
- G. Wind power electricity generation and transmission facilities. (See note (h) to Table 1). -

Section 303.4 - USES PROHIBITED

All other uses prohibited in this district.

Section VII.

Local Law 1997-1 is hereby amended to add a new Section 606.31 to read as follows:

Section 606.31- **ADDITIONAL STANDARDS FOR GRANTING SPECIAL USE PERMITS FOR WIND POWER ELECTRICITY GENERATION AND TRANSMISSION FACILITIES**

No special use permit shall be granted for commercial wind power electricity Generation and/or transmission facilities unless it is determined by the Planning Board that the proposed use meets all of the following criteria, in addition to those general criteria listed in Section 606.3:

- 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 interference with signal transmission or reception.
- C. 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 Section 606.3(D) as it applies to existing residential uses within 2000' of each tower for which such strobe lighting is proposed.
- D. No individual tower facility shall be installed in any location that would substantially detract from or block view of a portion of a recognized scenic viewshed, as viewed from any public road right-of-way or publicly owned land within the Town of Fenner, that extends beyond the border of the Town of Fenner.
- E. 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 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.

- F. 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.
- G. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
- H. All power transmission lines from the wind generation electricity generation facilities to on-site substations shall be underground.
- I. Procedures acceptable to the Planning Board for emergency shutdown of power generation units shall be established and posted prominently and permanently on at least one location on the road frontage of each individual unit site.
- J. 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 tower or towers or any other part(s) of the generation and transmission facility.

Section VIII.

Local Law 1997-1 is hereby amended to add a new Section 606.41 to read as follows:

Section 406.41 SUBMISSION OF ADDITION SUPPORTING DATA FOR
SITE PLAN OF WIND POWER ELECTRICITY
GENERATION AND TRANSMISSION FACILITIES

In addition to the site plan material listed in Section 606.4, the following material shall be submitted to the Planning Board for commercial wind power electricity generation and/or transmission facilities:

- A. Digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three miles from the center of the project. Scale used shall depict 3-mile radius as not smaller than 2.7 inches, and the base map shall be a published topographic map showing cultural features.

- B. No fewer than four and no more than the number of proposed individual wind turbines plus three color photos, no smaller than 3"x5" taken from locations with a 3-mile radius from it an to be selected by the Planning Board, and computer-enhanced to simulate the appearance of the as-built above ground site facilities as they would appear from these locations.

Section IX

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