

LOCAL LAW FILING

**New York State Department of State
41 State Street, Albany, NY 12231**

(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 underling to indicate new matter.

County

City of

Town

Village

DUNKIRK

Local Law No. 2. of the year 2009.

A local law extending a moratorium for a period of nine months on the establishment, construction, or erection of a wind energy conversion system in the Town of Dunkirk.

Be it enacted by the Town Board of the

County

City of

Town

Village

DUNKIRK

Section One - Purpose:

The Town Board of the Town of Dunkirk is aware of applications for commercial and non-commercial wind energy conversion systems in Chautauqua County and in Western New York. Currently, there is no effective legislation applicable in the Town of Dunkirk to regulate the establishment, construction, erection and maintenance of these types of systems. The Town Board requires time to refer this matter to the Planning Board for zoning recommendations and to gather such other and further necessary information as will lead the Town Board to enact legislation to protect the health, safety and welfare of the Town of Dunkirk.

Section Two -- Definitions

Wind Energy Conversion System -- (WECS) -- shall mean any mechanism designed for the purpose of converting wind

energy into electrical energy. WECS may be commercial or non-commercial. A commercial WECS shall be defined as the prime use of a parcel of land and generates and supplies electrical power for off-site use. A non-commercial WECS is one that is incidental and subordinate to another use on the same parcel and generates and supplies electrical power for on-site use.

Section Three – Scope of Controls

During the effective period of this Local Law the Town Board of the Town of Dunkirk the Zoning Board of Appeals of the Town of Dunkirk, the Planning Board of the Town of Dunkirk, the Building Inspector/Code Enforcement Officer, and Zoning Enforcement Officer shall not grant any permit or approval that would have as a result the establishment, placement, construction, erection, enlargement or addition or modification of or to any new or existing wind energy conversion system whether commercial or non-commercial as defined herein.

The Town Board of the Town of Dunkirk reserves the right to direct the Town Building Inspector/Code Enforcement Officer to revoke or rescind any building permit or approval issued in violation of this Local Law.

Any permit or approval previously issued by the Town of Dunkirk or any board or officer thereof, prior to the enactment of this Local Law, but where the establishment, placement, construction, erection, enlargement or addition or modification of any new or existing wind energy conversion system, whether commercial or non-commercial, has not occurred prior to the enactment of this Local Law, said prior approval or permit shall be deemed null and void and of no further effective.

Section Four – Term

The moratorium imposed by this Local Law shall be in effect for a period of nine months from the effective date of this Local Law.

Section Five – Penalties

Any person, firm or corporation that shall establish, place, construct, enlarge or erect any new or any addition or modification to an existing wind energy conversion system, whether commercial or non-commercial, in violation of the provisions of this Local Law, or shall otherwise violate any of the provisions of this Local Law, shall be subject to a) such penalties as may be otherwise be applicable by local law, ordinance, rule or regulation of the Town of Dunkirk for such violations of the Town of Dunkirk Zoning Law, and b) injunctive relief in favor of the Town of Dunkirk to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction that may have taken place in violation of this Local Law.

Section Six – Validity

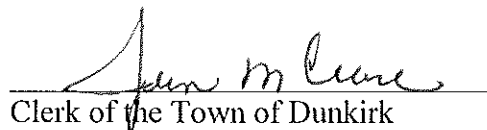
The invalidity of any provision of this Local Law shall not effect the validity or any other provision of this Local Law that can be given effect without such an invalid provision.

Section Seven – Effective Date

This Local Law shall become effective immediately upon filing with the office of the Secretary of State.

1. I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2009 of the Town of Dunkirk was duly passed by the Town Board of the Town of Dunkirk on May 12, 2009, in accordance with the applicable provisions of law.

(Seal)

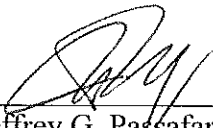

Clerk of the Town of Dunkirk

Date: 5/14/09

(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 CHAUTAUQUA

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.



Jeffrey G. Passafaro

Attorney
Town of Dunkirk

Date: May 14, 2009