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August 23, 2010

New York Department of State  
State Records and Law Bureau  
41 State Street  
Albany, NY 12231

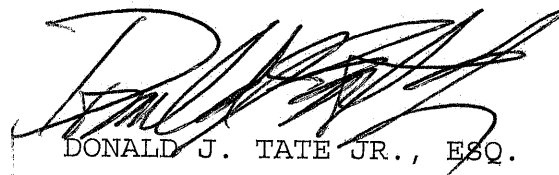
RE: Town of Berlin - Local Law #1 of 2010

Dear Sir or Madame:

Enclosed herewith for filing with the Secretary of State please find Local Law #1 of 2010.

If you require anything further please do not hesitate to contact the undersigned at once.

Very truly yours,



DONALD J. TATE JR., ESQ.

DJT/cel  
Enclosure

cc: Town of Berlin

# 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 underlining to indicate new matter.

County

City of

Berlin

Town

Village

Local Law No. 1

of the year 2010

A local law

(Insert Title)

Wind Energy Conversion System  
Construction Moratorium.

Be it enacted by the

(Name of Legislative Body)

Town Board

of the

County

City of

Berlin

Town

Village

as follows:

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

(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. 1 of 2010 of the ~~(County)~~(City)(Town)(Village) of Berlin was duly passed by the Town Board on August 12 2010, in accordance with the applicable provisions of law.  
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)

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.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

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.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

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.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

\* 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.

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

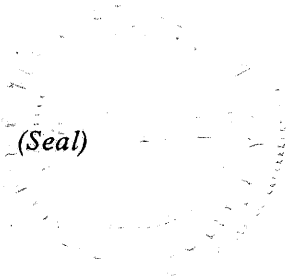
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority 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 \_\_\_\_\_, above.



Aune Maurer  
Clerk of the County legislative body, City, Town or Village Clerk  
or officer designated by local legislative body

Date: August 21, 2010

(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 RENSSELAER

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.

[Signature]  
Signature

Town Attorney  
Title

County  
City of BERLIN  
Town  
Village

Date: 8/23/2010

**LOCAL LAW #1 OF 2010  
TOWN OF BERLIN, NEW YORK**

**WIND ENERGY CONVERSION SYSTEM  
CONSTRUCTION MORATORIUM  
IN THE TOWN OF BERLIN**

**SECTION 1. ADOPTION OF LOCAL LAW AND TITLE**

This Local Law is enacted by authority of the New York State Constitution, the Town Law of the State of New York, the Municipal Home Rule and the Police Powers granted thereunder and pursuant to Article XI of the Town Land Use Regulations (Local Law #2 10/13/88).

This Local Law shall be known as the Wind Energy Conversion System Construction Moratorium in the Town of Berlin and shall amend Local Law #2 10/13/88 of the Town of Berlin.

**SECTION 2. LEGISLATIVE INTENT**

It is the purpose of this law to regulate the construction of Wind Energy Conversion Systems as herein defined, in order to achieve the following:

1. To preserve character and quality of life in the Town of Berlin neighborhoods and business areas.
2. To allow the Town Board time to consider the issue of Wind Energy Conversion Systems, in general, and specifically:
  - a. Adjust Fees and Schedules to compensate the Town for expenses.
  - b. Requirement for insurance and/or Bond by the party requesting the permit
  - c. Requirement to dismantle the Wind Energy Conversion System within 30 days of the cessation of service from that unit.
  - d. Requirement to return the land used for (improved upon/altered) the Wind Energy Conversion System to as close to its original condition as possible and approved by the Town.
  - e. Requirement for environmental impact statement or equivalent as permitted by New York State Law – SEQR
3. To maintain the general welfare and safety for the Town of Berlin residents.
4. To follow the New York State Energy Policy which strongly encourages the drafting of policy that is conducive to the development of alternative energy such as wind power, in a timely fashion while protecting the common good of the town.

**SECTION 3. MORATORIUM**

The provisions of the Town Land Use Regulations contrary to or inconsistent with the moratorium hereby enacted are suspended during the period of this moratorium. During such period, application or approvals of applications under the Town Land Use Regulations for Site Plan approval, zoning variances, building permits, and/or conditional use permits shall not be accepted or made for any Wind Energy Conversion System.

#### **SECTION 4. PERIOD OF MORITORIUM**

This moratorium shall remain in effect for a period of one year from the date of enactment with the provision for the removal of the moratorium if a Local Law for the construction of Wind Energy Conversion Systems is approved by the Town Board in a shorter timeframe.

#### **SECTION 5. INCONSISTENCY**

All local laws and regulations inconsistent or in conflict with the local law are hereby amended to the extent of such conflict or inconsistency.

#### **SECTION 6. DEFINITIONS**

As used in this law, the following terms shall have the meanings indicated:

Wind Energy Conversion System shall be defined as:

- a. Any unit designed to utilize wind power to generate electricity.
- b. Any tower greater than thirty-five (35) feet in height and which does not exceed three hundred (300) feet in height.
- c. Wind Energy Conversion Service Facility means persons, firms or corporations supplying electrical power service, including all equipment, apparatus, facilities and devices used in supplying electrical power.

#### **SECTION 7. SEVERABILITY**

The provisions of this local law are declared to be severable, and if any section, subsection, sentence, clause or part hereof for any reason is held to be invalid, unconstitutional or otherwise unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of any remaining section, subsection, sentences, clauses or part of this local law.

#### **SECTION 8 WAIVER**

Should the enforcement of this moratorium result in undue hardship or practical difficulties, the Town Board, in its sole discretion, may waive or vary any provision of this local law consistent with the purposes, and objective of this law and the Town Land Use Regulations and public health, welfare and safety of the community.

#### **SECTION 9. EFFECTIVE DATE**

This local law shall be effective immediately upon filing and acceptance by the Secretary of State.