

**Resolution of the Town of Farmersville
Francis Pete Lounsbury, Supervisor**

Members of the Town Council: Donna Vickman | Pamela Tilton | Mark Heberling | Richard Westfall
Clerk: Bridget Holmes

DATE: _____

RESOLUTION NUMBER: _____ YEAR: _____

MOVED BY: _____ SECOND BY: _____

TITLE: **Resolution Issuing a Negative Declaration for Local Law Number 1 of 2020
Entitled “Wind Energy Facilities Local Law of the Town of Farmersville,
NY”**

WHEREAS, before the Town Board of the Town of Farmersville (the “Town Board”) is a Local Law entitled “Local Law Number 1 of 2020 Wind Energy Facilities Law for the Town of Farmersville, NY” (the “Action”); and

WHEREAS, the Town Board is the Lead Agency pursuant to the State Environmental Quality Review Act (“SEQRA”), as it is the only agency that has discretionary approval authority over this Action; and

WHEREAS, the Town Board has determined that the Action is a “Type I” action under SEQRA; and

WHEREAS, the Town Board has duly considered the Action, the comments of the public at a public hearing, the full Environmental Assessment Form, the criteria for determining significance set forth in 6 NYCRR § 617.7(c), the proposed Negative Declaration, and such other information deemed appropriate; and

WHEREAS, the Town Board has identified the relevant areas of environmental concern has taken a hard look at these areas, and has made a reasoned elaboration of the basis for its determination; now therefore be it:

RESOLVED, by the Town Board of the Town of Farmersville that:

1. Based upon a thorough review and examination of the known facts relating to the Action and its careful review of all potentially adverse environmental impacts, and the entire record and proceedings relating to the Action, the Town Board finds that the Action will not have a significant adverse impact on the environment and that a draft environmental impact statement will not be prepared.
2. The attached negative declaration, incorporated herein by reference, is issued and adopted for the reasons stated in the attached negative declaration.
3. The Town Supervisor and/or Town personnel are hereby authorized and directed to distribute copies of the resolution as necessary and to publish the requisite notice in the ENB.
4. This resolution is effective immediately.

The resolution as stated above is hereby adopted by a majority vote of the Town of Farmersville Town Board at an official meeting held on the 10th day of February in the year 2020, the ayes and nays take and recorded below:

_____ Francis Pete Lounsbury, Supervisor

_____ Donna Vickman, Councilmember

_____ Pamela Tilton, Councilmember

_____ Mark Heberling, Councilmember

_____ Richard Westfall, Councilmember

CERTIFIED:

Bridget Holmes, Clerk
Town of Farmersville

NEGATIVE DECLARATION
Determination of Non-Significance

Lead Agency: Town of Farmersville’s (“Town”) Town Board (“Town Board”).

Date: February 10, 2020

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (“State Environmental Quality Review Act”) of the Environmental Conservation Law.

The Town of Farmersville Town Board (the “Town Board”), as lead agency, has reviewed the proposed action (“Action”) and determined that it will not have a significant adverse environmental impact and that a Draft Environmental Impact Statement will not be prepared.

Name of Action: Local Law 1 of 2020 Wind Energy Facilities Law of the Town of Farmersville, NY (hereinafter “2020 Local Law”). The 2020 Local Law does not authorize any specific project or construction.

Location of Project Site: The proposed 2020 Local Law is of Town-wide applicability.

SEQRA Status: Type I.

Description of Action: The Town is adopting the 2020 Local Law, specifically, the new Wind Energy Facilities Law of the Town. The proposed 2020 Local Law replaces and repeals other prior laws and contains substantive requirements on, among other things, the siting of Wind Energy Facilities. This Action does not authorize construction, nor does it permit a specific project or development.

Reasons Supporting this Determination:

Members of the current Town Board, whether old or new, have had over two years to review various studies related to wind energy facilities, including the World Health Organization’s recommendations, and studies relating to infrasound, noise and human health impacts from noise and infrasound. The current members of the board, previous members, and residents in Farmersville have read many peer reviewed and credible studies related to industrial wind facilities. Two of those prior Town Board members remain members of the Town Board. Three new members were elected in the general election held in November of 2019. Some of the current Town Board members regularly review studies, testimony and data regarding industrial wind facilities and in the context of the current Article 10 proceedings, to better educate themselves on the various human and environmental impacts of wind energy facilities. All of the current Town Board members, whether or not they were Town Board members in 2018 were present for a public hearing held in October of 2018 on a then draft 2018 wind facilities law, during which residents and property owners in Farmersville, among others, were heard from on their concerns and desires for preservation of rural attributes and community character. It is clear from the many public hearings and/or meetings held on wind energy facilities locally (Article 10 proceedings and others), from the comments of the public, and from the survey conducted by the Town Board in 2018, as well as the November 2019 general election results which placed on the Farmersville Town Board a voting majority that vowed to better protect residents and the environment in the

passage of any wind energy facilities law, that greater protections for residents and the environment were needed than those provided in any existing wind energy facilities law. In fact, the Cattaraugus County Planning Board rejected a version of the current law of the Town of Farmersville because it was not consistent with the comprehensive plan of the county which values rural character and preservation of environmental attributes. This Action addresses the shortcomings of prior laws in this regard.

The Town Board identified the relevant areas of environmental concern and took a hard look at each of the identified areas as required by the State Environmental Quality Review Act (“SEQRA”). The Town Board compared the proposed Action with the criteria for determining significance identified in 6 NYCRR § 617.7(c) (I) and in accordance with 6 NYCRR § 617.7(c)(2) and (3). As indicated below in the discussion of each criterion specified in 6 NYCRR § 617.7(c)(1), the Action will not have a significant adverse impact on the environment.

As set forth above, this Action does not authorize the construction of wind energy generating facilities, nor does it permit a specific project or development. It does, however, provide more protective substantive requirements than those in effect prior, that apply to the siting and operation of such facilities. These amendments are the result of careful study and evaluation by the Town Board. Any proposed project would necessarily require a review pursuant to SEQRA, or an environmental review pursuant to otherwise applicable law, or if over 25 megawatts, through the Article 10 process. The substantive requirements set forth herein have been designed to reduce adverse impacts from future proposed projects, to mitigate impacts on community character, public safety, and aesthetics, consistent with the community's plans and goals.

The Town Board makes the following findings relative to the proposed 2020 Local Law, which support the issuance of a Negative Declaration: Careful siting and protections applicable to wind energy facilities are of paramount importance. Local communities have, through zoning, site plan approval, regulation and careful planning, been primary protectors of their citizenry. This 2020 Local Law will contribute to this effort. The adoption of Article 10 of the Public Service Law does not negate this responsibility, and in fact recognizes it. The substantive requirements set forth in this 2020 Local Law will provide the tools available to the Town to ensure that significant adverse environmental impacts are mitigated to the maximum extent practicable.

As more fully set forth below, the proposed 2020 Local Law, while not authorizing development, ensures that appropriate protections and substantive requirements are in place that will take into account and mitigate potential adverse environmental impacts from wind energy facilities:

(i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;

a. Traffic Impacts

The 2020 Local Law will not have a significant adverse impact upon traffic or transportation. This Action does not authorize the construction of wind energy generating facilities, nor does it permit a specific project or development. The 2020 Local Law incorporates traffic concerns and impacts into its decision-making process by requiring the analysis of transportation impacts and transportation plans. This regulation provides the mechanisms and

substantive requirements to reduce potential impacts. The proposed amendments will not have an impact on traffic.

b. Noise Impacts

This Action does not authorize the construction of wind energy generating facilities, nor does it permit a specific project or development. However, the substantive requirements impose limitations on noise from wind energy generating facilities and require an applicant to demonstrate compliance with those standards. Appropriate standards have been developed herein and are intended to ensure that wind energy generating facilities are sited so as to minimize adverse environmental impacts from such noise. The noise standards in the 2020 Local Law address methodology, compliance demonstrations, and ongoing enforcement. There will be no significant adverse noise impacts from the adoption of this 2020 Local Law.

c. Air Quality Impacts

The 2020 Local Law will not create a significant adverse impact to air quality. No construction is contemplated by the 2020 Local Law.

d. Wetland Impacts

This Action does not authorize the construction of wind energy generating facilities, nor does it permit a specific project or development. Any future construction that may be contemplated must comply with applicable Federal, State, and local laws with respect to wetland impacts and the 2020 Local Law provides greater setback protections for wetlands than prior laws addressing such subject.

e. Erosion, Flooding and Drainage Impacts

This Action does not authorize the construction of wind energy generating facilities, nor does it permit a specific project or development. Thus, there will be no erosion, flooding, or drainage impacts from the proposed 2020 Local Law. The 2020 Local Law includes substantive requirements that stormwater runoff and erosion control shall be managed in a manner consistent with all applicable state and federal laws and regulations, and greater setbacks from FEMA floodplains than prior wind laws contemplated.

f. Solid Waste Production

There will be no increase in intensity of use or construction; thus, the proposed 2020 Local Law will not increase solid waste production.

(ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;

No construction is contemplated. Thus, there will be no removal or destruction of large quantities of vegetation or fauna as the result of the proposed 2020 Local Law. Nor will there be substantial

interference with the movement of any resident or migratory fish or wildlife species. There will not be any impacts on a significant habitat area or any impacts on wildlife. As set forth above, the proposed local law provides review and substantive requirements for the protection of wildlife and habitats.

(iii) the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 617.14(g) of this Part;

There is no Critical Environmental Area within the Town of Farmersville, thus there will be no significant adverse impacts.

(iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;

The proposed 2020 Local Law is consistent with the Town and Cattaraugus County's current plans and goals. Siting requirements and setbacks where such uses are appropriate, represent the Town's legislative judgment that the proposed 2020 Local Law is consistent with its plans and goals and provide protection mechanisms for appropriate siting.

(v) the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;

This Action does not authorize the construction of wind energy generating facilities, nor does it permit a specific project or development. However, the proposed 2020 Local Law includes substantive requirements related to setbacks and siting that specifically take into account potential visual and aesthetic impacts. A visual impact study is required to be submitted, together with a shadow flicker analysis. Lighting is restricted, except as required by the FAA and the proposed 2020 Local Law requires Aircraft Detection Lighting Systems ("ADLS") for large turbines, which are sensor-based systems designed to detect aircraft as they approach an obstruction or group of obstructions; these systems automatically activate the appropriate obstruction lights until they are no longer needed by the aircraft. Underground installation of collection lines is a mandatory requirement. These are examples of the standards that work to mitigate impacts from a potential project. The proposed 2020 Local Law's has incorporated protective setbacks greater than any required by any prior local wind facilities law.

(vi) a major change in the use of either the quantity or type of energy;

There will be no such impacts.

(vii) the creation of a hazard to human health;

There will be no such impacts. The proposed 2020 Local Law contains protective setbacks relating to noise limits and structure, road and well setbacks to protect human health.

(viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;

There will be no such impacts. The proposed 2020 Local Law does not represent a substantial change in the use or intensity of use of land from current law.

(ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;

There will be no such impacts.

(x) the creation of a material demand for other actions that would result in one of the above consequences;

There will be no such impacts.

(xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or

There will be no such impacts.

(xii) two or more related actions undertaken, funded approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

There will be no such impacts.

For Further Information:

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Town Supervisor

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