

Local Wind Law Options

One of the most frequent requests we get at *Alliance for Wise Energy Decisions* (AWED), is for help in writing a local industrial wind energy ordinance. (We'd appreciate your [feedback](#) if you have anything to contribute to this issue.)

An underlying assumption of our recommendations, is that the majority of the local legislators are *genuinely* focused on what is in the best interest of: neighbors to such a project, community businesses, and the local environment. [Read [this](#) about how easy it is for legislators to get off track.]

In the unfortunate case where representatives have been co-opted, the basic choices are: **1)** if they are open-minded, educate them back to reality, **2)** replace them with citizen-oriented people, or **3)** sue them to act responsibly [a federal [section 1983 lawsuit](#) is the most powerful option available].

Even when the community has conscientious representatives, an industrial Wind Energy Facility (WEF) is a unique, highly technical matter that local legislators rarely have expertise with. That's the reason the [WiseEnergy.org](#) website was created: to educate citizens and their representatives on industrial wind energy.

After you have educated, citizen-oriented legislators, what are your ordinance options? There are two primary ways you can go with industrial wind energy: **1)** *regulate* it, or **2)** *prohibit* it. There are some interesting options here, so let's look at these closer...

Regulate Wind Energy —

In North Carolina we have taken this route — and it has proven to be very [successful](#). The KEY premise behind this choice is that regulations are **not** about excluding wind energy, but rather to provide reasonable protections to citizens, existing businesses and the local environment. *I can not emphasize the importance of that perspective too strongly!*

What protections are reasonable? There are literally dozens of complications from wind energy development, so we have condensed them down to the five most important concerns that need to be properly addressed by a local ordinance: **1)** Property Value Guarantee, **2)** Property Line Setbacks, **3)** Noise Limits, **4)** Environmental Tests, and **5)** Decommissioning.

In each of these areas, the conditions should be written based on: **a)** scientific evidence, and **b)** legal precedent. See this [discussion](#) for more specifics about each of the five key regulated matters.

Since wind energy is a relatively new legal matter, there may not be a lot in the way of case law. In that situation, our advice is to extract what relevant material there is (maybe from other seemingly unrelated areas), and then to forge ahead writing a law that provides protections that are in the best interest of the community.

There are many communities throughout the US that have written good wind regulations (e.g. [Sumner \(Maine\)](#), [Eddington \(Maine\)](#), [Sweetwater \(Wyoming\)](#), [Trempealeau County \(Wisconsin\)](#), [Union \(Wisconsin\)](#), [Madison \(Idaho\)](#), and [Jackson \(Maine\)](#)).

In our view the absolute best example of a regulatory local wind ordinance is [Carteret County \(NC\)](#), closely followed by the [Town of Newport \(NC\)](#). Let me know any questions on either of these.

Prohibit Wind Energy (Option 1) —

One of my other activities has been to assist my NY town in fighting off a proposed major commercial water extraction business. Over the last ten years the history of this is a [very long story](#) — but so far we have been successful. Right now the town is reviewing its options for an ordinance, and we have been ably assisted by some very competent attorneys.

One proposal put forward is an outright prohibition of commercial water extraction. Briefly, the recommended strategy is not to single out that one activity, but rather to include it with a smorgasbord of other “objectionable” business ventures — that are defined as “prohibited uses.”

In doing some research on the origins of this measure, it seems that it came about because a NY town wanted to prohibit fracking. What they came up with is no small matter, and has even gotten the attention of the [NY Times](#).

When I first saw this draft ordinance, I immediately thought that wind energy could easily be inserted as one of the several prohibited items. I’ve taken the liberty to [tweak the words](#) a bit to demonstrate how wind energy could be incorporated, and am sharing that with you. For NYS people I can put you in touch with the competent attorney responsible for the original document.

Prohibit Wind Energy (Option 2) —

Under the category of “There’s more than one way to skin a cat” you should be aware of an organization called *Community Environmental Defense Legal Fund* ([CELDF](#)). They go about addressing these types of situations (industrial wind energy) in a completely different way.

My layperson’s translation is that they feel that corporations (e.g. wind developers) have usurped rights that they are not Constitutionally entitled to. Their strategy is to have community meetings to educate citizens about that, and then assist them in writing a law to protect their inherent interests.

Several communities have passed laws prohibiting industrial wind energy (among other things). Here is a sample story about the Town of [Grafton](#) (NH) and the accompanying CELDF [press release](#).

Here is the [law](#) passed by Sugar Hill (NH), prohibiting industrial wind energy provided by outside developers. This [background document](#) prepared for those citizens beforehand is very instructive... The [Town of Wales](#) (NY) passed a similar law against fracking, which could be modified to include wind energy.

The possible downside of this approach is that the community is actually taking on bigger (e.g. Constitutional) issues. However, it may be appropriate, and others are doing it. For those interested, I can put you in touch with the appropriate CELDF personnel.

This was written from a US perspective, but even within the US, every state has their own quirks. Whether citizens fighting wind energy are in the US or not, there are some ideas here that can be adopted for their circumstances.

The bottom line is that we are in a serious fight, so the more options we are aware of — and take advantage of — the better.

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