

# Hi neighbors,

We are CCRP, the Concerned Citizens for Rural Preservation, a volunteer group of ordinary citizens providing information about Industrial Wind and Solar projects in New York based on thousands of hours of research. When we were faced with a proposed industrial energy project called North Ridge Wind, our neighbors came to help us. Now we are coming to you to share information we have gained about industrial energy development.

We have prepared this document to alert you to the new draft siting regulations established by the state for all future industrial wind, solar, and battery storage facilities. This is our attempt to break down and help you explore one topic at a time, enabling you to better understand industrial renewable energy. Use the source links to view videos, read documents, and explore websites for more information. Of course this is not a complete unraveling of these particular topics and we encourage you to conduct further research to better educate yourself, your friends, and family.

We know it looks overwhelming, but we are hoping you will look through the information to become familiar with what could be coming to your town soon. Our reason for sharing this information is to emphasize the importance of creating and passing local laws that reflect your town's vision for the future before the state or a developer does it for you. If a developer (or in the near future, NY State) begins signing leases in your community, they are planning a fundamental transformation of your town without your knowledge, and they will be using the new state's [Section 94c regulations](#) to accomplish this.

The most important fact you need to know is that your town board LOSES the ability to issue a permit for any project over 25 megawatts. Instead that will be [decided](#) by the NY State Office of Renewable Energy Siting (ORES). Your local law, or lack thereof, may determine whether or not your town will be [targeted](#) for an industrial power plant to be built there.

## To maintain Home Rule you need local laws.

Our caution is, the state and the developer have the right to take advantage of any unintended shortsightedness if details are left out of your laws. Creating strong protections NOW, allows your board and your citizens to consider any relaxation of the requirements later, if and when you are presented with a specific project by a developer. In the next few months the state will be implementing new diminished standards for siting and you will be required to accept them. Time is of the essence.

Since 2011 major electric generating facilities larger than 25 MW were sited according to New York State's Article 10 law. But now, in 2020, the new fast tracking law and regulations of Section 94c will be implemented, greatly reducing Municipal Home Rule ([MHR](#)).

## Wind and solar energy "farms" are not agriculture.

We argue, allowing a property owner to do what they want with their property is different from a developer doing what they want with the leased property.

An industrial energy lease and so called "good neighbor" agreements give the wind or solar developer control of the property and excludes the property owner from any say in the developer's planned use. Grouped together, these leases allow a corporation, not individual property owners, to control a very large tract of land in a town. **As a result, your new "small town" neighbor will now be a large corporate tenant and an industrial power plant.** Beware, there is always an expansion to [push up with taller turbines](#) and out to [adjacent properties](#) and towns. There is never "one" project phase and "done."

This dooms our communities to permanent ineligibility for more appealing economic development possibilities due to the state's inappropriate setbacks and dangerous [vibration](#) and noise [regulations](#). This essentially creates [trespass zoning](#), restricting ALL OTHER property owners' land use rights, not the developers'. In addition, large scale wind and solar projects have proven to be unwilling to [pay taxes](#).

## Regardless of where your town stands on the issue of renewable energy resources, you need to make sure that siting requirements do not harm your citizens.

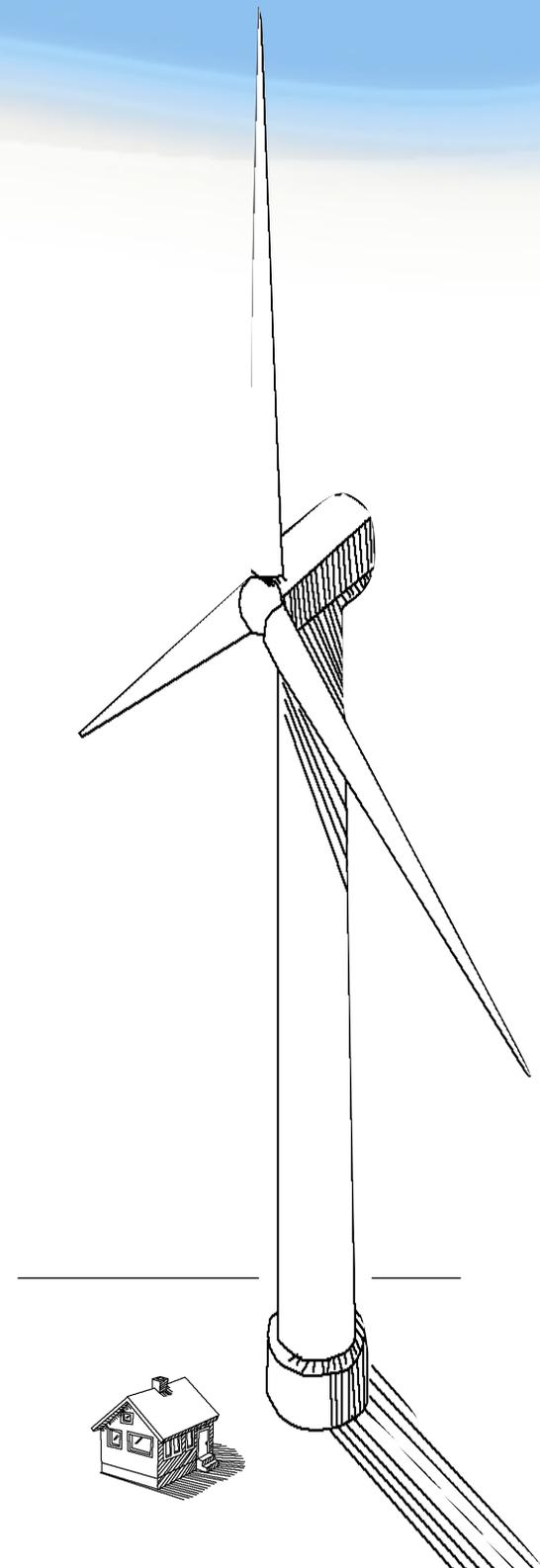
### Concerned Citizens for Rural Preservation

We are a volunteer group of citizens who joined together in a effort to provide information about the industrial wind project that has been proposed in Hopkinton and Parishville, NY. We believe that ALL members of the community should be protected and fully informed when industrial energy projects are under consideration. We strongly support the principal of HOME RULE in our New York State Constitution, and insist upon our right to control the future of our towns and counties. We hope you will join us to educate, communicate, and advocate to keep our homes livable, our towns friendly, and our future rural.

Visit us on the web: [www.nnywind.com](http://www.nnywind.com)

Email: [nycconcernedcitizens@gmail.com](mailto:nycconcernedcitizens@gmail.com)

Or find us on facebook: <https://www.facebook.com/CitizensForRuralPreservation/>



## Consider these important details about an industrial energy project:

### Noise, Vibration (Infrasound), and Shadow Flicker

Over the past decade there has been an emerging track record of negative impacts to local peoples and wildlife in and surrounding industrial energy projects. [Noise](#), shadow [flicker](#), and [infrasound](#) (vibration) are just some of the problems associated with large spinning turbines; and yes, solar project noise is also real, emanating from [inverters](#) and HVAC systems. The new ORES setback and noise limits are frightening and will negatively impact your citizens.

### Safety

You should understand that water resources can be adversely affected by construction practices. There are fire, blade, and structural [failures](#) that occur to industrial wind turbines, [chemical fires](#) related to Battery Energy Storage Systems (BESS), and contamination from leaching solar panels. All projects are designed to include [access roads](#) to the turbines and solar arrays, along with electric collection lines, a substation, and other facility structures. Decommissioning involves disposal of components like huge turbine blades and solar panels containing hazardous materials. This [disposal](#) is currently problematic.

### Wildlife

Thousands of [birds and bats](#) are killed each year by spinning industrial wind turbine blades while large solar arrays create [ecological traps](#) for birds and insects. Developers will be granted "take" permits to kill species such as the American Bald Eagle. Funds in exchange for the destruction of wildlife in your community will be paid to organizations chosen by the state.

### Generating inefficient electricity

Wind and solar energy are not reliable despite what the state and the industry promotes. To prevent a power outage, there must be a stable back up power plant available to pick up the generation that is lost when wind fluctuates and the sun doesn't shine. For example, the back up power must be regulated -- rewed up or down -- in sync with the wind, causing inefficiency and adding to operating costs. Battery technology provides no more than four hours of utility-scale power at great expense. Most of the backup for intermittent renewables will be provided by polluting fast-start gas-fired power plants.

On average, [industrial wind energy facilities in NY operate at just 25%](#) of their capacity and [solar](#) is even less, averaging under 15% (capacity factor). Both must be backed up by more reliable forms of energy such as fossil fuel, natural gas, and even hydro ([displacing](#) an already reliable source of green energy).

### Subsidies - Your Wages, Paid as Taxes

The Climate Leadership and Community Protection Act has set New York's target of obtaining 70% of its energy from green sources by 2030 and 100% renewables by 2040. Yet, in 2019 a significant amount of [NY sited wind](#) flowed out of New York to meet New England RPS mandates.

This means an increase in electricity prices because of [mandated payments](#) from you to fund the projects. New York's SBC and federal PTC and ITC subsidies are your wages, paid as taxes. Developers have a history of partnering with NY State agencies to win funding for their projects, with the State purchasing up to 95% of the renewable electricity so the developer does not have to compete with other producers.

### PILOTS (Payment In Lieu Of Taxes)

Large scale wind and solar are invasive industries unwilling to pay taxes. [PILOT](#) agreements provide significant property tax relief to developers of large scale projects versus them paying full property taxes on their [assessment](#) like [others](#) do.

Negotiating a PILOT is a whole different animal.

For example on solar, a NYSERDA document states: "NYSERDA's research indicates that PILOT rates should be negotiable between 1% and 3% of the compensation solar developers receive for the electricity their projects generate." But solar projects in New York are [only expected to produce 13.39%](#) of their promised "nameplate capacity".

Translation: If you negotiate a portion of production/energy generation as payment, you will receive 1-3% of 13.39% as noted above (capacity factor) not 1-3% of 100% which is promised (nameplate capacity).

**There are many other topic details you should be aware of, so we urge you to become familiar with the new renewable energy regulations and what impacts they will soon have on your town.**

## What You Must Do to Protect Your Town.

**1)** Adopt renewable energy laws as soon as possible BEFORE the state regulations take effect. These new regulations will not go into effect until the 60-day formal comment periods have ended (currently slated for December 7).

**2)** Submit formal comments on the draft regulations using an ORES [on-line forms](#) or submit in writing to:

ATTN: Houtan Moaveni  
Office of Renewable Energy Siting  
99 Washington Avenue  
Albany, New York 12231

by the following dates: [Chapter XVIII Title 19 \(Subparts 900-1 - 900-5; 900-7 - 900-14\)](#) until December 7, 2020: and the draft uniform standards and conditions [Chapter XVIII Title 19 \(Subpart 900-6\)](#) until December 7, 2020.

**3)** Attend one of the [public or virtual hearings](#) that are scheduled across the state. Take note of registration dates for participation.

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## Office of Renewable Energy Siting (ORES)

### Some History...

Governor Cuomo's updated green energy goals will fast track the state's energy production coming from renewable sources by 2040. The Climate Leadership and Community Protection Act (CLCPA), which was passed by the legislature and signed by Governor Cuomo in 2019, has set New York's target of obtaining 70% of its energy from renewable energy sources by 2030 and seeks to be 100% emission free by 2040.

The governor believes these goals will not be met without speeding up the process of installing industrial scale wind projects like Hopkinton's North Ridge Wind, Malone's 950 acre Franklin Solar project, and industrial-sized battery energy storage facilities like the one slated for Chateaugay, NY. The previous process known as Article 10 took towns, citizens, property rights, and the environment into consideration when siting potential industrial energy facilities, respecting Home Rule.

### However...

Governor Andrew Cuomo included the Accelerated Renewable Energy Growth and Community Benefit Act (AREGCBA) as part of a 30-day budget amendment (known as Article 23) which was passed into law on April 3rd of this year. Now, called Section 94c, this creates a new, separate environmental review and permitting regime for renewable energy projects. A new Office of Renewable Energy Siting (ORES) has been established to set the uniform standards for siting, design, construction, and operation of renewable energy facilities by consolidating the environmental review and permitting of major renewable energy facilities in New York State.

The Public Service Commission (PSC) is essentially removed from siting authority, bypassing the current Article 10 regulations for industrial wind and solar projects.

Within one year of the Act's passage, the Office of Renewable Energy Siting (ORES) is required to promulgate regulations to implement the Accelerated Renewable Energy Growth and Community Benefit Act (AREGCBA), and that time has come.

**On September 16, 2020, the Office issued draft regulations and uniform standards and conditions for public comment.**

The draft regulations and draft uniform standards and conditions are available online at the Office of Renewable Energy Siting "Regulations" page, and are downloadable PDF documents:

<https://ores.ny.gov/regulations>

They are:

Draft Regulations Chapter XVIII Title 19 (Subparts 900-1 - 900-5; 900-7 - 900-14): <https://ores.ny.gov/system/files/documents/2020/09/draft-regulations-chapter-xviii-title-19-subparts-900-1-900-5-900-7-900-14.pdf>

Draft Regulations Chapter XVIII Title 19 (Subpart 900-6): <https://ores.ny.gov/system/files/documents/2020/09/subpart-900-6.pdf>



*June 2017 industrial wind turbine blade failures, March 2018 turbine fire (neither reported in the media), and substation photos from Churubusco / Ellenburg, NY area (40 miles east of the proposed Hopkinton/Parishville North Ridge Wind Project)*



# Why the new proposed noise levels are not appropriate for our towns.

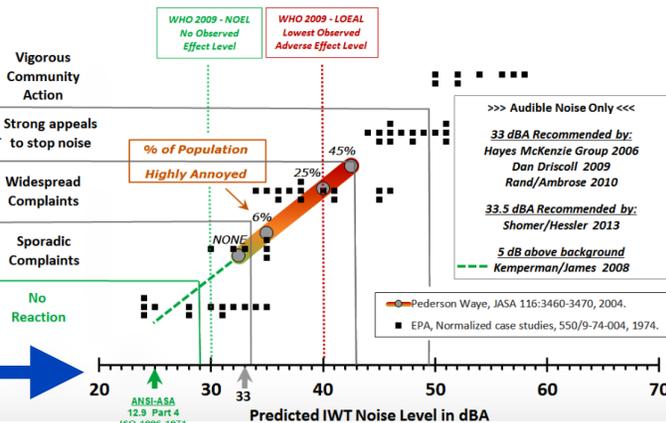
- Solar project noise is real, emanating from inverters and HVAC systems. (inverter noise [video 1](#) and [video 2](#))
- Wind projects produce [infrasound](#) as well as audible noise

## Wind Turbine Noise Complaint Predictions Made Easy - Part 1

Acousticians have known for decades how to predict the community reaction to a new noise source. Wind turbine consultants have chosen not to predict the community reaction as they have previously done for other community noise sources. If they had, there would be far fewer wind turbine sites with neighbors complaining loudly about excessive noise and adverse health impacts.

In 1974, the USEPA published a methodology that can predict the community reaction to a new noise. A simple chart can be used that shows the community reactions (y-axis) versus noise level (x-axis). This chart was developed from 55 community noise case studies (black squares). The baseline noise levels include adjustments for the existing ambient, prior noise experience, and sound character. The predicted wind turbine noise level is plotted on the 'x-axis' and the predicted community reaction is determined by the highest reaction, indicated by the black squares. Here are some examples: 32 dBA *no reaction* and sporadic complaints, 37 dBA *widespread complaints*, 45 dBA *strong appeals to stop noise* and 54 dBA *vigorous community action*, the highest.

### Predicted Community Reaction For Wind Turbines in a Quiet Area



The International Standards Organization (ISO) determined that 25 dBA represents a rural nighttime environment. The World Health Organization (WHO) found that noise below 30 dBA had *no observed effect level* (NOEL) and 40 dBA represented the *lowest observed adverse effect level* (NOAEL) for noise sources that excluded wind turbines. Wind turbines produce strong low frequency energy that may reduce the WHO cautionary levels by 5 dB, thereby showing closer agreement with the 33 dBA recommendations.

Pederson & Wayne (2004) research found that when wind turbine noise levels reached 35 dBA, 6% of the population was *highly annoyed*, and this rapidly increased to 25% at 40 dBA. Independent researchers recommend that noise levels should not exceed 33 dBA, which is near the upper limit for *sporadic complaints*, or a maximum increase of 5 dB, whichever is more stringent.

[click here to download full report document](#)

# Wind facilities - new draft ORES siting regulations

(excerpt from page 23 and 30)

Table 1: Setback Requirements for Wind Turbine Towers

Structure type	Wind Turbine Towers setback*
Substation	1.5 times
Any Above-ground Bulk Electric System**	1.5 times
Gas Wells (unless waived by landowner and gas well operator)	1.1 times
Public Roads	1.1 times
Property Lines	1.1 times
Non-participating, non-residential Structures	1.5 times
Non-participating Residences	2 times

\*1.0 times Wind Turbine Towers setback is equal to the Total Height of the Wind Facility (at the maximum blade tip height).  
 \*\*Operated at 100 kV or higher, and as defined by North American Electric Reliability Corporation Bulk Electric System Definition Reference Document Version 3, August 2018 (see section 900-15.1(e)(1)(i) of this Part)

## Wind facilities set back

Wind facilities shall meet the setback requirements in Table 1 or manufacturer setbacks, whichever are more stringent. The setback distances shall be measured as a straight line from the centerline or mid-point of the wind turbine tower to the nearest point on the building foundation, property line or feature, as applicable.

(from page 23 of draft regulations)

## Wind facilities noise and vibration

(1) For wind facilities:

- A maximum noise limit of forty-five (45) dBA Leq (8-hour), at the outside of any existing non-participating residence, and fifty-five (55) dBA Leq (8-hour) at the outside of any existing participating residence;
- A prohibition on producing any audible prominent tones, as defined by using the constant level differences listed under ANSI S12.9-2005/Part 4 Annex C (sounds with tonal content) (see section 900-15.1(a)(1)(iii) of this Part), at the outside of any existing non-participating residence. Should a prominent tone occur, the broadband overall (dBA) noise level at the evaluated non-participating position shall be increased by 5 dBA for evaluation of compliance with subparagraph (i) and (v) of this paragraph;
- A maximum noise limit of sixty-five (65) dB Leq (1-hour) at the full octave frequency bands of sixteen (16), thirty-one and a half (31.5), and sixty-three (63) Hertz (Hz) outside of any existing non-participating residence in accordance with Annex D of ANSI standard S12.9-2005/Part 4 Section D.2.(1) (Analysis of sounds with strong low-frequency content) (see section 900-15.1(a)(1)(iii) of this Part);
- Not producing human perceptible vibrations inside any existing non-participating residence that exceed the limits for residential use recommended in ANSI/ASA Standard S2.71-1983 (R August 6, 2012) "Guide to the evaluation of human exposure to vibration in buildings" (see section 900-15.1(a)(1)(i) of this Part);
- A maximum noise limit of forty (40) dBA Leq (1-hour) at the outside of any existing non-participating residence from the collector substation equipment; and
- A maximum noise limit of fifty-five (55) dBA Leq (8-hour), short-term equivalent continuous average nighttime sound level from the facility across any portion of a non-participating property except for portions delineated as NYS-regulated wetlands pursuant to section 900-1.3(e) of this Part and utility ROW. The applicant shall demonstrate compliance with this design goal through the filing of noise contour drawings and sound levels evaluated at the worst-case discrete locations. No penalties for prominent tones will be added in this assessment.

(from page 30 of draft regulations)

## CHART FOR COMPARISON

new draft State Regulations noise	Your current laws	
	setbacks	noise
40 dBA at residence	? times	? dBA
55 dBA at night (property line)	? times	? dBA
55 dBA (if at property line)	? times	? dBA
45 to 65 dBA	? times	? dBA

example:

proposed towers in Burke - 724 ft tall  
 proposed towers in Hopkinton - 600 ft tall  
 tallest existing tower in Belmont - 500 ft tall

note: The fact is, there are some municipalities with existing projects whose officials now courageously express regrets about generous setback and noise limits they allowed (**and are now recommending 30 dBA**), yet the new ORES regulations are even more lenient.

# Solar facilities - new draft ORES siting regulations

(excerpt from page 24 and 31)

**Table 2: Setback Requirements for Solar Facility Components**

Setback Type	Solar Facility Setback
Non-participating residential property lines	100 feet
Centerline of Public Roads	50 feet
Non-participating property lines (non-residential)	50 feet
Non-participating occupied residences	250 feet

new draft State Regulations noise	Your current laws	
	setbacks	noise
55 dBA property line	? feet	? dBA
55 dBA (if at property line) (can it ever be developed?)	? feet	? dBA
40 substn, 45 to 55 dBA res.	? feet	? dBA

### Solar facilities setbacks

Solar facilities shall meet the setback requirements set forth in Table 2 (from page 24 of draft regulations)

### Solar facilities noise and vibration

(2) For solar facilities:

- (i) A maximum noise limit of forty-five (45) dBA Leq (8-hour), at the outside of any existing non-participating residence, and fifty-five (55) dBA Leq (8-hour) at the outside of any existing participating residence;
- (ii) A maximum noise limit of forty (40) dBA Leq (1-hour) at the outside of any existing non-participating residence from the collector substation equipment;
- (iii) A prohibition on producing any audible prominent tones, as defined by using the constant level differences listed under ANSI S12.9-2005/Part 4 Annex C (sounds with tonal content) (see section 900-15.1(a)(1)(iii) of this Part), at the outside of any existing non-participating residence. Should a prominent tone occur, the broadband overall (dBA) noise level at the evaluated non-participating position shall be increased by 5 dBA for evaluation of compliance with subparagraph (i) and (ii) of this paragraph; and
- (iv) A maximum noise limit of fifty-five (55) dBA Leq (8-hour), short-term equivalent continuous average sound level from the facility across any portion of a non-participating property except for portions delineated as NYS-regulated wetlands pursuant to section 900-1.3(e) of this Part and utility ROW to be demonstrated with modeled sound contours drawings and discrete sound levels at worst-case locations. No penalties for prominent tones will be added in this assessment.

(from page 31 of draft regulations)

## Another Argument For Full Taxes, Farmers and solar development

Solar energy "farms" are not agriculture.

- Once a solar lease is signed, that property owner is no longer a farmer, they are now a landlord and their new tenant is an electric generating plant.
- Farmers are hardworking people who produce our food and we have all supported them. The proof... We all make up the property tax deficiency made by area farmers in order for them to take advantage of their Ag property tax exemption.
- No one is objecting to any person's lucrative land lease deal, but the taxpayers of the town should not be asked to subsidize a commercial solar energy plant by allowing a PILOT or any other property tax discount for the landlords or their industrial tenant, the developer. They must be required to pay full property taxes on their assessment just like other businesses and property owners.
- Allowing a property owner to do what they want with their property is different than allowing a developer to do what they want with the leased property.

An industrial energy lease and so called "good neighbor" agreements gives the solar developer control of the property and excludes the property owners from any say in the developer's planned use. Grouped together, these leases allow a corporation, not individual property owners, to control a very large tract of land in our towns. Your new small town neighbor will now be a large corporate tenant operating an industrial power plant. If you have any problems with your new corporate neighbor you will now be required to telephone a 1-800 complaint hot line located elsewhere to speak to someone you do not know.

# Is New York State writing laws that will allow Trespass Zoning?

## How noise trespassing occurs on your property.

New Regulations will allow 55 decibels (dBA) of noise at your property line, being emitted from your neighbor's 600 ft. tall industrial wind turbine or solar project. New York State is writing laws allowing this noise trespass to occur on your property at the request of renewable energy developers, possibly making your property undevelopable in the future.

Essentially, New York State is requiring you to give up your property rights to an industrial energy developer.



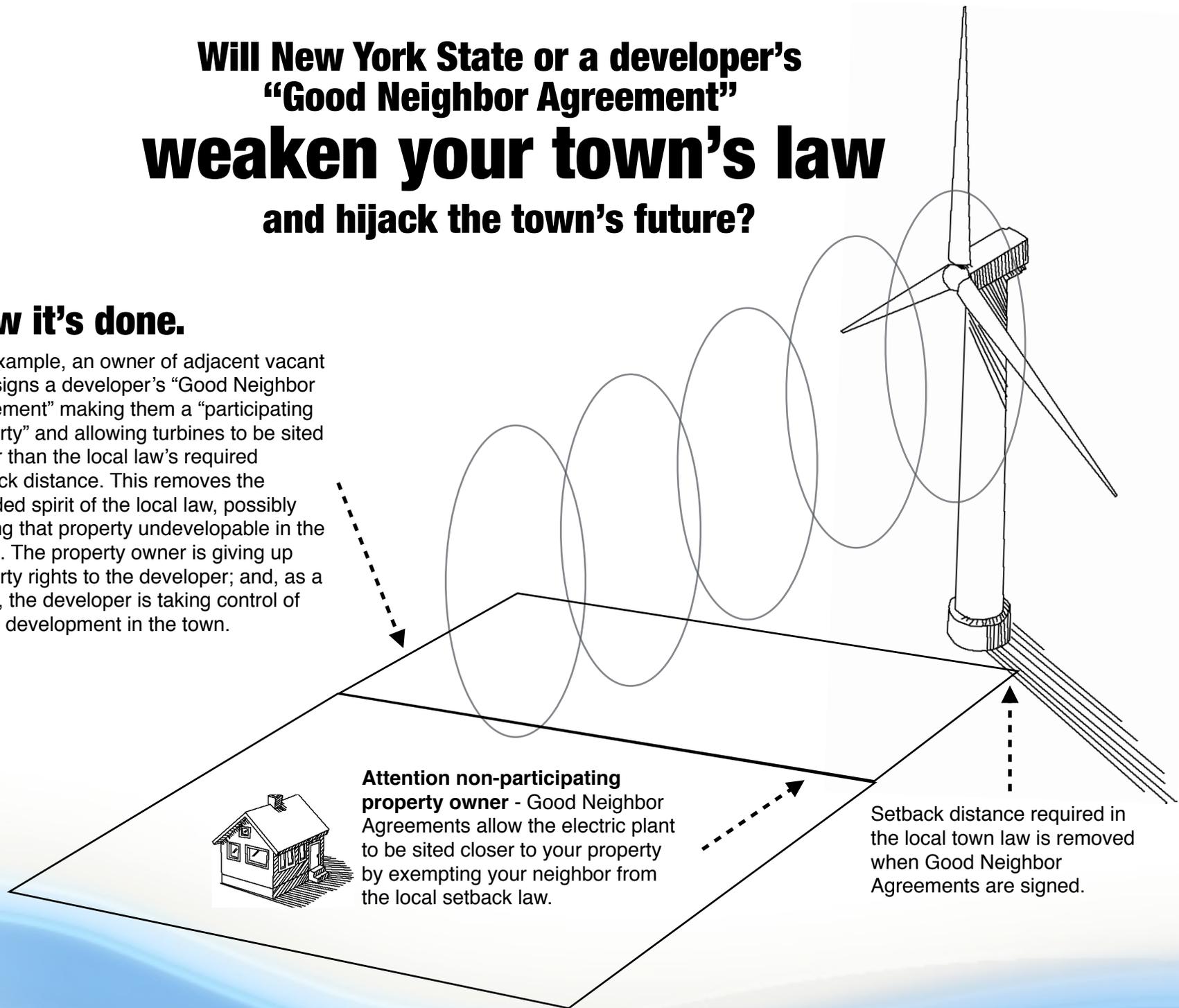
You now probably experience 25 decibels (dBA) of noise on your entire property, right up to the property line, without any noise from wind turbines, or industrial solar inverters or HVAC systems.

New York State is writing shorter setback laws. A 600 ft. turbine setback measured from the center of tower will place the tip of the turbine blades much closer to your property line.

# Will New York State or a developer's "Good Neighbor Agreement" weaken your town's law and hijack the town's future?

## How it's done.

For example, an owner of adjacent vacant land signs a developer's "Good Neighbor Agreement" making them a "participating property" and allowing turbines to be sited closer than the local law's required setback distance. This removes the intended spirit of the local law, possibly making that property undevelopable in the future. The property owner is giving up property rights to the developer; and, as a result, the developer is taking control of future development in the town.



**Attention non-participating property owner** - Good Neighbor Agreements allow the electric plant to be sited closer to your property by exempting your neighbor from the local setback law.

Setback distance required in the local town law is removed when Good Neighbor Agreements are signed.



## **Redlining practice that grants open season for developers to target certain economically challenged upstate areas – areas where the power generation is already clean and not needed**

When you take a close and careful look at the land mass of New York State it is clear to see that the potential for large scale wind development is very limited. We persist with aggressive efforts under state renewable energy goals to build out wind power in the State. But when you consider honestly where that is likely or even possible to happen, much less fair, it is realistically very constrained, and highly suspect from the standpoint of environmental justice.

For both commonsense and fairness we should start by looking at where in New York additional electric power generation is needed, and particularly where clean power is needed. The answer to that question is clearly downstate.

Should not then all open space in downstate areas be utilized first for new generation sites? If the State is reluctant to override what it knows will be intense local opposition in the New York City area, Long Island and the Hudson Valley, where the power is needed and where existing generation is primarily fossil fueled, then it is indisputably the case that the State has essentially accepted the reality of a redlining practice that grants open season for developers to target certain economically challenged upstate areas – areas where the power generation is already clean and not needed, and where the populace lacks the economic power to fight back convincingly against development of those projects.

This is de facto energy redlining of New York – marking off for unprecedentedly intrusive (big, loud and ugly) industrial development, areas of the State that have marginal political clout based on socio/economic factors more than anything else. [read more](#)

## **Typical language from wind lease:**

### **Waiver of Nuisance**

“Landowner has been informed by Lessee and understands that the presence and operations of the improvements on the Permitted Area and on adjacent property will potentially result in some nuisance to Landowner, such as: (i) higher noise levels than currently occur at the Permitted Area and the surrounding area; (ii) visual impact; (iii) “flickering” reflections and/or shadowing from the wind turbine rotors.

**Landowner hereby accepts such nuisance and waives any right that Landowner may have to object to such nuisance** (and Landowner releases Lessee from any claims Landowner may have with respect to any such nuisance). Lessee will exercise reasonable efforts to keep such nuisances, if any, to a minimum.”

- excerpt from North Ridge Wind Option and Wind Energy Lease Agreement (Hopkinton / Parishville)

**This document is best viewed electronically as a PDF available online at [www.nnywind.com](http://www.nnywind.com) for ease in navigating links to view videos, read supporting documents, and explore websites for more information.**