

**A residential property owner proposes to install a small-scale wind turbine. What authority does the town have to regulate this facility?**

The attraction of sustainable renewable energy generation is fueling interest in siting small-scale wind turbines in Vermont. Vermont law places substantial limits on municipal authority to regulate wind power generation facilities.

If the facility is “net-metered” (connected to the statewide power grid), the Vermont Public Service Board (PSB) regulates the facility, then municipal regulatory authority is preempted. 24 V.S.A. § 4413 (b), 30 V.S.A. § 248(a)(2). However, towns do have some say in this process. The local planning commission and the selectboard may participate in the PSB’s regulatory proceeding on whether to issue a certificate of public good. 30 V.S.A. § 248 (b) (1).

A town also has an opportunity to articulate its values about development of such facilities within its town plan. During the certificate of public good review, the PSB will consider the goals and objectives for development of renewable energy resources found in the energy policy of the town plan. Different opinions on wind power should not prevent a town from exploring the issues and adopting clear policies concerning wind generation facilities in the energy element of its municipal plan.

A town retains the authority to regulate wind turbines that are not connected to the statewide grid within its zoning bylaws. “The height of wind turbines with blades less than 20 feet in diameter ... which are mounted on complying structures, shall not be regulated unless the bylaws provide specific standards for regulation.” 24 V.S.A. § 4412 (6). Specific standards could include addressing visual impacts, location of transmission lines and specific setback requirements. If the town does not provide specific standards, then these structures are permitted according to the law. Larger non-net-metered wind turbines must comply with all aspects of a municipal bylaw such as height, setback, noise, or other development standard.

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