

FINDINGS OF FACT AND RECOMMENDATION  
OF THE McLEAN COUNTY ZONING BOARD OF APPEALS

This is the findings of fact and the recommendation of the McLean County Zoning Board of Appeals in case ZA-16-01 concerning an application of the McLean County Farm Bureau in Case ZA-16-01. This is a text amendment of regulations for wind power generation facilities in the McLean County Zoning Ordinance which is in Chapter 350 of the Code of McLean County. Sections of the County Code which will be amended include, but are not limited to: Section 350-26 – Definitions; and Section 350-43.00 – Use Standard for a Major Utility.

After due notice, as required by law, the Zoning Board of Appeals held a public hearing in this case on June 7, 2016 in Room 400, Government Center, 115 East Washington Street, Bloomington, Illinois and reported their findings of fact and their recommendation to the County Board. The County Board at their meeting on July 19, 2016 sent this case back to the Zoning Board of Appeals to allow additional testimony to be presented. The text reviewed is that which was sent back from the McLean County Board on July 19, 2016. After due notice as required by law, and with additional notices sent as requested by the McLean County Board, the Zoning Board of Appeals held a public hearing in this case on October 4, 2016 and November 1, 2016 and hereby report their findings and recommendation as follows:

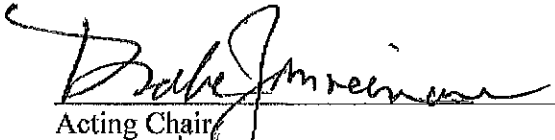
Testimony was presented to increase the setback requirements for turbines and substations from residences and from property lines. Testimony was also presented in support of the setback requirements based on noise and health concerns. Testimony was presented that illustrated how setback increases would make it difficult to economically site wind turbines. Testimony was presented that the setbacks as proposed are significant, and that further increases may impede or even preclude wind power development in McLean County. Testimony was presented to require pre-siting and post-siting wildlife studies. Testimony was presented that the text as proposed would help farmers keep ownership of existing McLean County farm land in their families. Testimony was presented in support of the proposal to raise the maximum height of turbines from 499 feet to 550 feet. Testimony was presented that the special use requirements that were used for the three existing windfarms built in McLean County do not need to be changed.

The Zoning Board of Appeals recommends that the language for requiring pre-siting and post-siting wildlife studies be added to the text as earlier proposed to the County Board.

Therefore, the Zoning Board of Appeals hereby recommends that Chapter 350 of the Code of McLean County be amended as proposed for wind power generation facilities in Exhibit A of the accompanying text amendment ordinance.

**ROLL CALL VOTE** - The roll call vote was six members for the motion to recommend granting, none opposed and members Rudolph, Turner and Judd were absent.

Respectfully submitted by the McLean County Zoning Board of Appeals

  
\_\_\_\_\_  
Acting Chair

7 Nov 2016  
Date

Drake Zimmerman, Acting Chair  
James Finnigan  
Brian Bangert  
Michael Kuritz  
Chris Carlton, Alternate Member  
Rick Dean, Alternate Member

AMENDATORY ORDINANCE  
AMENDING CHAPTER 350 OF THE McLEAN COUNTY CODE

WHEREAS, the McLean County Farm Bureau in case ZA-16-01 has proposed that certain portions of the text of the McLean County Code regarding wind power generation facilities be amended; and

WHEREAS, notice was published on May 21, 2016, informing the public of a scheduled public hearing to consider changes to the McLean County Code in case number ZA-16-01 in accordance with all applicable provisions of the laws of the State of Illinois and County of McLean; and,

WHEREAS, the McLean County Zoning Board of Appeals, after due notice as required by law, held a public hearing on said proposal identified as Case ZA-16-01 on June 7, 2016 and recommended that the said County Code be amended; and

WHEREAS, the County Board of McLean County, Illinois at their meeting on July 19, 2016 sent this case back to the Zoning Board of Appeals to allow additional testimony to be presented; and

WHEREAS, notice was published in the Pantagraph on September 17, 2016, in the eight McLean County newspapers of the Normalite Group on September 15, 2016 and was mailed to all McLean County township supervisors and mayors/presidents of incorporated municipalities in McLean County in accordance with all applicable provisions of the laws of the State of Illinois, County of McLean and as requested by the McLean County Board; and

WHEREAS, the McLean County Zoning Board of Appeals, after due notice as required by law, held a public hearing on said proposal identified as Case ZA-16-01 on October 4, 2016 and November 1, 2016 and recommended that the said County Code be amended according to the attached Exhibit A; and

WHEREAS, the County Board of McLean County, Illinois deems it necessary and proper and in the public interest to so amend said McLean County Code; now, therefore,

BE IT ORDAINED that the McLean County Code be and hereby is amended according to the attached Exhibit A.

Adopted by the County Board of McLean County, Illinois this 15<sup>th</sup> day of November 2016

ATTEST:

APPROVED:

\_\_\_\_\_  
Kathy Michael, County Clerk  
McLean County, Illinois

\_\_\_\_\_  
John D. McIntyre, Chair  
McLean County Board

EXHIBIT A

Chapter 350 of the McLean County Code  
The McLean County Zoning Ordinance

(Additions are indicated by text and stricken material by ~~text~~)

Wind Power Generation Facilities – Text Amendment

**Section 350-26. Definitions.**

FINANCIAL ASSURANCE - Reasonable assurance from a credit worthy party, examples of which include cash, escrow, or irrevocable letter of credit.

PROFESSIONAL ENGINEER – An engineer licensed to practice Engineering in the State of Illinois who has been found to be qualified to perform the work described herein by the County and the Commercial Wind Energy Facility.

UTILITY, MAJOR - Generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; and radio, television and microwave transmission towers; and similar facilities of agencies that are under public franchise or ownership to provide the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service, wind energy conversion systems (WECS), wind and solar power generating facilities, including wholesale generators and/or qualifying facilities. The term "utility" shall not be construed to include corporate or general offices; gas or oil processing; manufacturing facilities; postal facilities; or other uses defined herein. In addition, utilities that are exempt as specified in Article ~~I~~ of these regulations shall not be considered to be major utilities as defined herein. [Amended ~~6-16-2015~~ 11-15-2016]

WIND ENERGY CONVERSION SYSTEM (WECS) - All necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS tower to the substations.

- WECS tower - the support structure to which the nacelle and rotor are attached.
- WECS tower Height – the distance from the tip of the rotor blade at its highest point to the top surface of the WECS foundation.

**350-43. Use standards.**

- OO. Utility, major (if not a regional pollution control facility or otherwise exempted in Article I of these regulations).
- (1) Major utilities that are not regional pollution control facilities or otherwise exempted in Article I of these regulations shall not be located within 200 feet of a boundary line of an R-1 or R-2 District.
  - (2) However, ~~wind power generation facilities~~ WECS shall also conform to the following requirements:

- (a) No building or tower that is part of a ~~wind power generation facility~~ WECS shall encroach onto any recorded easement prohibiting the ~~encroachment~~ use of said easement unless the grantees of the easement have given their approval.
- (b) Any ~~wind power generation facility~~ WECS located in a special flood hazard area or wetland shall comply with the requirements of the FP Floodplain Overlay District and Illinois Department of Natural Resources.
- (c) A tower that is part of a ~~wind power generation facility~~ WECS shall require engineering certified by a registered professional engineer.
- (d) Documentation, approved by the Director of Building and Zoning, shall be provided which verifies that the site and design are acceptable to the FAA.
- (e) A ~~wind power generation facility~~ WECS may be located on the same lot as one or more structures or uses.
- (f) WECS development plan and site area shall include the information required by the Director of Building and Zoning which may include, but need not be limited to:
  - 1. A general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturers, types of WECS, number of WECSs, and name plate generating capacity of each WECS; and the maximum height of the WECS towers;
  - 2. The location of the project;
  - 3. A description of the Applicant, WECS Owner and wind project operator, including their respective business structures;
  - 4. The names and addresses of the Applicants, WECS Owner, operator of the project, and a list of all property owners that have entered into easement, leases, or any other agreements with the Applicant related to the WECS;
  - 5. A site plan for the installation of WECS showing the planned location of each WECS tower, guy lines and anchor bases, property lines (including identification of adjoining properties), public roads, substations, and the location of any construction staging areas;
  - 6. All required studies, reports, certification, and approvals demonstrating compliance with the provisions of this article; and
  - 7. A copy of any agreements between the Owner or operator of the project and any state or federal agency governing any construction mitigation activities or requirements.
- (g) Design and installation
  - 1. Design safety certification.
    - A. WECS shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd

Wind Energic (GL), TUV Nord, or an equivalent third party, Collection lines connecting the towers, substations, etc., shall be placed underground where practical.

B. Following the granting of special use permit approval under this chapter, a professional engineer shall certify, as part of the building permit application, that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

2. Controls and brakes. Braking system shall conform to applicable local, state, and national codes, and relevant national and international standards.

3. Color. Towers and blades shall be painted a non-reflective, unobtrusive color that mitigates the visual impact of the structure. No advertisement shall be visible on the blades or tower.

4. Compliance with the Federal Aviation Administration. The Applicant for the WECS shall comply with all applicable Federal Aviation Administration (FAA) requirements.

5. Warnings.

A. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

B. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.

6. Crop Dusting. WECS towers should be located to minimize interference with crop dusting landing strips in the area.

7. Climb prevention. All WECS towers must be externally unclimbable by design or protected by anti-climbing devices.

(h) Setbacks.

1. Wind power-generation facilities WECS towers and substations shall not be located within 2,000 feet of a boundary line of an R-1 or R-2 district.

2. All WECS towers shall be set back three times the height of the tower or 1,500 feet, whichever is greater, from any occupied residence. The distance for the above setback shall be measured from the point of the occupied residence foundation closest to the WECS tower to the center of the WECS tower foundation. The Owner of the occupied residence may waive this setback requirement; but in no case shall a WECS tower be located closer to an occupied residence than 1.10 times the WECS tower height.

3. All WECS towers shall be set back a distance of at least 1.10 times the WECS tower height from public roads, third party transmission lines, and communication towers.

4. All WECS towers shall be set back a distance of at least 1.10 times the WECS tower height from adjacent property lines, as measured from the center of the tower foundation. The affected adjacent property owner may waive this setback requirement.
  5. An incorporated village or municipality must approve of the location of any WECS tower to be located within 1.5 miles of the corporate limits of such incorporated village or municipality.
  6. No facility part of a WECS tower or foundation shall encroach on a public or private sewage disposal (septic) system, shall encroach on an existing septic field.
- (i) Use of public roads.
1. An Applicant, WECS Owner, or wind project operator proposing to use any county, township or municipal road, for the purpose of transporting and installation of WECS or substation parts and/or equipment for construction, operation, or maintenance of the WECS or substations, shall:
    - A. Identify all such public roads; and
    - B. Obtain applicable over weight and over size permits from relevant government agencies prior to such use.
  2. To the extent an Applicant, WECS Owner, or wind project operator must obtain an over weight or over size permit from the county, municipality or township, the Applicant, WECS Owner, or operator shall enter into a road use agreement with agencies having jurisdiction of the roads to be used for the construction, operation, and maintenance of the WECS, which shall include at a minimum the following:
    - A. Conduct a preconstruction baseline survey to determine existing road conditions for assessing potential future damage;
    - B. Secure financial assurance, in a reasonable amount agreed to by the relevant parties, for the purpose of repairing any damage to public roads caused by constructing, operating or maintaining the WECS; and
    - C. Provide the Director of Building and Zoning with signed copy of any agreements pertaining to the use of public roads.
- (j) Height. The permitted maximum height of a WECS tower shall not exceed 499 550 feet, except if the facility is located within one and one-half miles of the corporate limits of a municipality with a population of 25,000 or more, the height of the facility shall not exceed 200 feet.
- (k) Lighting. Lighting shall be installed for security and safety purposes only. Except with respect to lighting required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of a facility.
- (l) Agricultural impact mitigation. All impacted agricultural land must be remediated pursuant to the terms of any applicable agreements. Furthermore,

such remediation shall include measures which repair field tile damaged in farm fields and under public roads during construction of the WECS. Applicants, WECS Owners and operators must take steps toward erosion and sediment control as required by the Director of Building and Zoning and provide remediation when notified to do so by the Director of Building and Zoning.

(m) Operation.

1. Interference.

A. The Applicant shall provide a microwave beam path analysis, telecommunications analysis and a land use planning report. To the extent that the providers in this subsection demonstrate a likelihood of interference with its communications resulting from the WECSs, the Applicant shall take measures to mitigate such anticipated interference. The WECS Owner or wind project operator must rectify any complaint related to the above-mentioned interference. The wind project owner or operator is not required to rectify complaints that are not likely caused by the wind project as supported by studies or other professional evidence as determined by the Director of Building and Zoning.

B. The applicant shall rectify any television and internet connection problems in the project area and return them to at least the level of service that occurred before the turbines WECS towers were installed. The wind project owner or operator is not required to rectify complaints that are not likely caused by the wind project as supported by studies or other professional evidence as determined by the Director of Building and Zoning.

2. Coordination with local fire department.

A. The Applicant, Owner or wind project operator shall submit to the local fire department a copy of the site plan. Upon request by the local fire department, the Owner or wind project operator shall cooperate with the local fire department to develop the fire department's emergency response plan.

B. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

(n) Noise levels: Noise levels from each WECS shall be in compliance with applicable state pollution control board (PCB) regulations. The Applicant, through the use of a qualified professional as part of the siting approval application process, shall appropriately demonstrate compliance with the noise requirements of this section.

(o) Wildlife requirements:

1. Pre-siting study, addressing all relevant species, submitted to the Illinois Department of Natural Resources (IDNR) and U.S. Fish and Wildlife Service (USFWS);
  2. Required implementation of IDNR/USFWS recommendations based on pre-siting study results, unless credible evidence is presented against the recommendation;
  3. Post-siting study, addressing all relevant species, submitted to IDNR/USFWS; and
  4. Required implementation of IDNR/USFWS recommendations based on post-siting study results, unless credible evidence is presented against the recommendation.
- (p) Decommissioning plan.
1. Prior to receiving special use permit approval under this article, the Applicant, Owner, and/or wind project operator must formulate a decommissioning plan to ensure that the WECS Project is properly decommissioned. In addition to complying with all other state and federal decommissioning laws and/or agreements with any state or federal agency, the decommissioning plan shall include:
    - A. Provisions describing the triggering events for decommissioning the WECS project;
    - B. Provisions for the removal of structures and debris;
    - C. Provisions for the restoration of the soil and vegetation;
    - D. An estimate of the decommissioning costs certified by a professional engineer;
    - E. Financial assurance, secured by the WECS Owner or wind project operator, for the purpose of adequately performing decommissioning. The applicant shall set up an escrow account as a decommissioning fund in the amount of at least \$35,000 per WECS tower beginning twelve years after the start of commercial operations, shall remove the project infrastructure, restore the leased premises to its original condition, and remove the foundation pedestal to 40 inches below grade following the project's useful life according to the decommissioning plan as submitted with this application; and
    - F. A provision that the terms of the decommissioning plan shall be binding upon the Owner or wind project operator and any of his successors, assigns, or heirs.