

C. Other Jurisdictions

1. Findings of Facts- 3-mile Setback, Buffalo County, Nebraska
2. Setbacks for Turbines from Structure owned by Non-Participants
3. Buffalo County, Nebraska- Resolution 2023-09
4. Julie Clarkson email June 18th material- Other Jurisdictions
5. Wind Energy Facilities - Carteret County, NC
6. Umatilla County Ordinance No. 2012-04
7. Town of Sumner Industrial Wind Energy Facility Ordinance
8. Julie Clarkson email Sept.10th Material- Other Jurisdictions
9. September 10th, 2025 Letter from Julie Clarkson
10. Bavaria 10H Rule

Protects Home

Occupied Structures

Findings of Facts – 3-Mile Setback, Buffalo County, Nebraska 2023 – Carol Black

The 3-mile buffer applies to **non-participating properties** (not the house), certain sensitive uses, and AGR-zoned lands. The 3-mile setback was justified as a protective zoning measure, designed to: 1) protect the health, safety, and welfare of non-participating landowners; 2) maintain the rural and agricultural residential character of AGR-zoned lands; 3) respect property rights; 4) minimize conflict, liability, and nuisance; 5) reflect community preferences; and 6) exercise legitimate local zoning authority under Nebraska law.

1. Protecting Health, Safety, and Well-Being of Non-Participants

- During the public hearings, one of the justifications raised was concern for “health effects of the wind turbines,” including noise and light (from aviation obstruction lights).
- According to the board packet, regulators viewed their role as protecting “the health and well-being of individuals,” meaning nonparticipating landowners should not be forced to accept potential wind-farm externalities.
- By setting a 3-mile buffer, the county ensures a significant distance between turbine installations and the properties of residents who have not opted in, reducing noise, flicker, and other potential nuisances.

2. Preserving Rural / Agricultural Residential (AGR) Character

- The 3-mile restriction applies specifically to AGR-zoned property to protect areas meant to remain low-density, residential or small-scale agricultural, rather than industrial, ensuring that wind farms don’t encroach on or transform those rural living areas.
- Locating wind energy facilities away from AGR zones helps protect the rural landscape, lifestyle, property uses, and the character of those areas.

3. Respecting Property Rights of Non-Participants / Non-Applicants

- The ordinance treats landowners who did not agree to a wind farm differently: any parcel owned (in whole or in part) by a non-applicant is given a 3-mile buffer zone from the proposed wind farm.
- That recognizes that non-participating landowners should not have turbines imposed near them without their consent. It is a strong protection of property rights and equity in who bears the burdens (noise, visual, environmental) of utility-scale wind development.

4. Minimizing Conflict & Liability

- By requiring a large separation distance, the county can reduce potential conflicts among neighbors — for example, those who lease to a wind developer and those who don’t. It reduces risk of disputes, complaints, and even litigation over noise, light, shadow-flicker, safety (e.g., blade throw, ice shed), or environmental concerns.
- It also helps insulate the county from potential liability or responsibility if turbines cause harm or nuisance to non-consenting residents.

**BUFFALO COUNTY BOARD OF COMMISSIONERS and BUFFALO COUNTY BOARD OF EQUALIZATION
TUESDAY, JUNE 13, 2023**

RESOLUTION 2023-34 - Amend Section 6.6, Wind Farms’ Location and Distancing Requirements:

1. LOCATION AND DISTANCE REQUIREMENTS-WIND FARMS:

A. A Wind Farm, as herein defined within the Buffalo County Zoning Regulations:

Shall not be located or expanded within:

- a. Three-miles of Agricultural Residential (AGR) zoned property.
- b. Three miles of any owned in whole or in part by a non-applicant of the wind farm, unless the applicant secures consent of all property owners of parcels within three miles of the parcel

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- boundaries containing the proposed wind farm. This can be waived, with an agreement in writing filed with the Register of Deeds, executed and filed prior to submittal of the application.
- c. Three-miles of any church, synagogue or temple, hospital, public school or public park, or any licensed day care center or day care home.
 - d. Five-miles of any incorporated village or city.
 - e. Two Miles of a private or public burial site.
 - f. The south river bank of the Platte River to three miles from the north right of way for Highway 30 and three miles from the centerline of Highway 2.
 - g. Three miles from the thread of the stream of the South Loup River.
 - h. Five miles from any Federal or State wildlife preservation or management area.
 - i. One-quarter mile from any and all inventoried Wetlands, as set out in the U.S. Fish and Wildlife's mapping and inventory of Wetlands, namely the mapping contained at (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>).
- B. Measurements pursuant to the foregoing section shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises of a Wind Farm to the following distances, whichever applies:
- a. The nearest property line of any real estate situated in the Agricultural Residential (AGR) use district by the Zoning Map of Buffalo County; and
 - b. The nearest portion of the building or structure used as a part of a Wind Farm;
 - c. The nearest property line of the premises of a windfarm non-applicant property line, church, synagogue, temple, hospital, public school, public park, licensed day care center, and day care home, and
 - d. The nearest grave marker at a burial site.
 - e. The nearest property line of a Federal or State wildlife preservation or management area.
 - f. The nearest municipal corporate limit line, exclusive of areas annexed for economic development.
 - g. The nearest edge of inventoried Wetlands as set out in the U.S. Fish and Wildlife's mapping and inventory of Wetlands, namely the mapping contained at: (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>).

Minutes from the Board meeting:

[https://buffalocounty.ne.gov/files/Agendas%20and%20Board/2023/Minutes/2023-06-13%20Minutes Amended.pdf?utm_source=chatgpt.com](https://buffalocounty.ne.gov/files/Agendas%20and%20Board/2023/Minutes/2023-06-13%20Minutes%20Amended.pdf?utm_source=chatgpt.com)

Setbacks from Turbines from Structures owned by Non-Participants
Wind codes that exceed the current 4x Tip Height restriction in Whitman County Code

Open Energy Data Initiative (OEDI)

- U.S. Wind Siting Regulation and Zoning Ordinances (2025)
- <https://data.openei.org/submissions/8519>
- Wind Ordinances 2025 Excel Spreadsheet

Years codes were changed:

unknown (37), 2002-2010 (5), 2011-2019 (19), 2021-2022 (21), 2024 (12), 2025 (10)

Distance from Turbine

4 or 5 miles (2)	Sully, SD Tooele, UT
3 miles (2)	Dawson, NE Jefferson Davis, LA
1.5 to 2 miles (8)	Baker, OR Burke, ND Cedar, NE Center, PA Stark, ND Umatilla, OR Vermillion, IN Walworth, SD
1 mile (16)	Brown, NE Carteret, NC Elko, NV Gage, NE Goshen, WY Jefferson, NE Kennebec, ME Kosciusko, IN Madison, ID Mason, KT Penobscot, ME Sioux, NE Trempealeau, WI Waldo, ME Washoe, NV Wells, ND
0.5-0.75 miles (11)	Cattaraugus, NY Crook, OR Kittitas, WA Mountrail, ND Noble, IN Penobscot, ME Rock, NE San Miguel, NM Schoolcraft, MI Wabash, IN Wasco, OR

Tip-Height Multiplier

10x 13x, 15x (3)	Addison, VT Erie, NY Marathon, WI Waldo, ME
6x 6.5x 7x (7)	Chautauqua, NY Franklin, NY Monona, IA Montgomery, IA Niagara, NY Warren, IL Whitley, IN
5x, 5.5x (22)	Baldwin, AL Berks, PA Bradford, PA Bucks, PA Centre, PA Clinton, PA Converse, WY Crook, WY Fremont, WY Gibson, IN Grundy, IA Jefferson, NY Lackawanna, PA Leelanau, MI Lincoln, NE Luzerne, PA Lycoming, PA Schuylkill, PA Sheridan, WY St. Lawrence, NY Sweetwater, WY Uinta, WY

Rotor-Diameter Multiplier

10x (4)	Brown, WI Chemung, NY Genesee, NY Goodhue, MN
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Hub Height Multiplier

8X (2)	Madison, NY Oneida, NY
5x (22)	Beaver, PA Berks, PA Chester, PA Clearfield, PA Cumberland, PA Erie, PA Hendricks, IN Huntingdon, PA Hyde, SD Lackawanna, PA Luzerne, PA Lycoming, PA Montgomery, NY

	Montgomery, PA Pennington, SD Schoharie, NY Schuylkill, PA Susquehanna, PA Washington, PA Wayne, PA Wyoming, PA York, PA
4.9x	Hyde SD
3 x	Essex. MA

Setbacks for Turbines from Property Lines of Non-Participants (not addressed in Code 19.61)

Open Energy Data Initiative (OEDI)

- U.S. Wind Siting Regulation and Zoning Ordinances (2025)
- <https://data.openei.org/submissions/8519>
- Wind Ordinances 2025 Excel Spreadsheet

Revised 12/11

Distance from Turbine

4 miles	Sully, SD
3 miles (3)	Buffalo, NE Dawson, NE Loup, NE
2 miles (3)	Baker, OR Cedar, NE Oxford, ME
1 mile (6)	Brown, NE Carteret, NC Lewis, NY Mason, KY Oswego, NY Thayer, NE
0.5-0.75 miles (7)	Crook, OR Jefferson, NE Mountrail, ND Noble, IN Ringgold, IA Wasco, OR Woodbury, IA
0.38-0.47 miles (12)	Bedford, PA Cherokee, AL DeKalb, AL Etowah, AL Grafton, NH Hillsborough, NH Kearny, KS Miami, IN Mifflin, PA Penobscot, ME Washington, ME Windham, VT

Tip-Height Multiplier

10x 12x, 13x (4)	Cumberland, TN Marathon, WI Waldo, ME Worcester, MA
6x, 6.5, 7x, 8.52x (8)	Somerset, ME Union, IA Kosciusko, IN Whitley, IN Montgomery, IA Lafayette, KS

	Niagara, NY Sully, SD
5x, 5.5x (13)	Cambria, PA Converse, WY Crook, WY Erie, PA Fountain, IN Fremont, WY Gibson, IN Jefferson, NY Meade, SD Oswego, NY Sheridan, WY St. Lawrence, NY Uinta, WY

Rotor-Diameter Multiplier

10x, 14.6, 15x (4)	Barnstable, MA Chemung, NY Elko, NV Faribault, MN Genesee, NY Herikimer, NY Leelanau, MI Ontario, NY Traverse, MN
5x, 6x (20)	Addison, VT Dodge, MN Goodhue, MN Jackson, MN Lac qui Parle, MN Lincoln, MN Mower, MN Nicollet, MN Otter Trail, MN Renville, MN Rock, MN Stearns, MN Saunders, NE Dickey, ND Divide, ND Foster, ND Griggs, ND Union, TN Riverside, CA Steele, MN

Buffalo County Nebraska 2023
RESOLUTION 2023-09

WHEREAS, on December 13, 2022, this Board referred to the Buffalo County Planning and Zoning Commission, hereinafter simply referred to as "Planning Commission" or "Commission", requests for review of potential amendments to Wind Farms provisions in the Buffalo County Zoning Resolution., and

WHEREAS, on February 16, 2023, the Commission at public hearing considered amendments to Buffalo County's Zoning Resolution regarding Wind Farms, and

WHEREAS, on February 16, 2023, following public hearing and comment, and a review of evidence submitted to the Commission, the Commission made changes in suggested amendments of this Board with no person present at the Commission hearing speaking in opposition to the following provisions, and forwarded to the Buffalo County Board of Commissioner a favorable recommendation of adoption of the following amendments to the Buffalo County Zoning Resolution:

"1. LOCATION AND DISTANCE REQUIREMENTS-WIND FARMS:

A. A Wind Farm, as herein defined within the Buffalo County Zoning Regulations:

i. Shall not be located or expanded within:

- a. Three-miles of Agricultural Residential (AGR) zoned property.
- b. Three miles of any owned in whole or in part by a non-applicant of the wind farm, unless the applicant secures consent of all property owners of parcels within three miles of the parcel boundaries containing the proposed wind farm. This can be waived, with an agreement in writing filed with the Register of Deeds, executed and filed prior to submittal of the application.
- c. Three-miles of any church, synagogue or temple, hospital, public school or public park, or any licensed day care center or day care home.
- d. Five-miles of any incorporated village or city.
- e. Two Miles of a private or public burial site.
- f. The south river bank of the Platte River to three miles from the north right of way for Highway 30 and three miles from the centerline of Highway 2.
- g. Three miles from the thread of the stream of the South Loup River.
- h. Five miles from any Federal or State wildlife preservation or management area.

B. Measurements pursuant to the foregoing section shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises of a Wind Farm to the following distances, whichever applies:

i. The nearest property line of any real estate situated in the Agricultural Residential (AGR) use district by the Zoning Map of Buffalo County; and

ii. The nearest portion of the building or structure used as a part of a Wind Farm; and

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iii. The nearest property line of the premises of a windfarm non-applicant property line, church, synagogue, temple, hospital, public school, public park, licensed day care center, and day care home, and

iv. The nearest grave marker at a burial site.

v. The nearest property line of a Federal or State wildlife preservation or management area.

vi. The nearest municipal corporate limit line, exclusive of areas annexed for economic development.

C. Distance certifications: An application for a Wind Farm shall be accompanied by a current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures within two miles of the property to be certified; that shall minimally include the property lines of any church, synagogue or temple, hospital, public school or public park, or any day care center or day care home within two-miles of the property to be certified; and the property lines of any property zoned Agricultural Residential (AGR) by the Zoning Map of Buffalo County within two miles of the property to be certified.

D. For purposes of this sub-section, a use shall be considered existing if it is in existence at the time an application is submitted.

WHEREAS, after providing notices as required by law, this Board held public hearing for the consideration and potential adoption of the foregoing language at meeting held March 14, 2023.

WHEREAS, no one spoke in opposition to the above recommendations at the public hearings before the Planning Commission and this Board.

WHEREAS, this Board has reviewed and considered the:

1. Minutes of the Planning Commission for meeting held February 16, 2023.
2. Exhibits 1-10 and 12 were received by the Planning Commission at the February 16, 2023 hearing, Exhibit 11 was discussed at that meeting then added after the public hearing, with the record before the Commission being left open for submittal of additional Exhibits 13 through 18.
3. Additional Exhibits 19 -21 were received at the public hearing before this Board.
4. Currently existing and adopted Comprehensive Plan of Buffalo County together with the revised Comprehensive Plan submitted to this Board for consideration and adoption at the February 16, 2023, meeting of the Planning Commission.
5. Testimony given by the public at the Planning Commission's public hearing held on this issue where no one present voiced opposition to the distancing recommendations of the Planning Commission.
6. Testimony and evidence given at the public hearing held before this Board.
7. Existing zoning regulations of this county.

WHEREAS, based upon the foregoing, and in the best judgment of this Board for the public good and wellbeing, this Board finds the adoption of the foregoing language should occur. However, certain items of evidence are irrefutable. These irrefutable items are:

1. The maps published and produced by several sources, including but not limited to American Bird Conservatory, U.S. Game and Wildlife and Nebraska Game and Parks, indicate that most of Buffalo County is in the migration route of Whooping Cranes, an endangered species.
2. Also based upon a map and information published within Smithsonian magazine, Kearney, Buffalo County, Nebraska, is the center of an 80-mile east to west conduit for 200 Million migrating birds belonging to 300 or so species. Kearney roughly sits centered east to west in Buffalo County, with Buffalo County being Six (6) townships wide, east to west, or thirty-six (36) miles.
3. Within the suggested setback distance areas from the Platte and South Loup Rivers there exist wetlands as inventoried by U.S. Fish and Wildlife all as set out on this map: (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>) The density of the inventoried wetlands is notable. The minimum distancing requirements of the proposed amendment are consistent with a need to protect the wetlands located along the named rivers from encroachment of wind farms.
4. Highway #2 has been designated a scenic byway by the State of Nebraska and preservation of the scenery of that route should be protected. It has been popularly referred to as "Nebraska's Sandhill's Journey Scenic Byway". According to an article posted in The Fencepost on June 10, 2010: "The late Charles Kuralt called Nebraska's Highway 2 "one of America's 10 most beautiful highways" exclaiming, "This road will take you to one of the last unexplored frontiers where vast treasures can be discovered." Additionally, since 1984, the Nebraska Sandhills has been designated a National Natural Landmark. See: Wikipedia.

WHEREAS, based upon the foregoing findings, the Board believes the areas around the Platte and Loup Rivers, together with Nebraska Scenic By-Law (Highway #2), and Federal State wildlife preservation or management area should be afforded distancing protection from wind farms. Further, that the distances recommended by the Planning Commission for these situations, as outlined above in (A) (i.) subsections f, g, and h, are reasonable and are based upon scientific reasoning. Also, there is a need for public policy stated in the form of zoning regulation to protect these areas.

WHEREAS, this Board believes that the Planning Commission's recommendations regarding required minimum distancing do have sufficient factual and scientific information to merit adoption by this Board. In this regard the Board notes that many of the noise study distancing studies studied wind turbine towers that were smaller height than the height of towers that more prevalent in high the previous wind towers. This Board believes that the increased height of the more modern, more power generation potential towers, would in turn increase the distancing requirements for sound derived complaints. Additionally, a taller

tower would correspondingly cause more people be exposed to flicker, shadow flash of the blades, and similar unpopular, unaesthetic aspects of wind towers for residences and uses that are in the vicinity of Wind Farms.

WHEREAS, it is in the public interest that proper respect be given to burial sites within Buffalo County and the need to keep these areas away from disturbing sounds that could be generated by Wind Farms that are within two (2) miles of these places of remembrance and respect.

WHEREAS, according to a 2017 review of cemeteries in this county for purposes of determining the tax- exempt status of some of the cemeteries within Buffalo County, the following cemeteries were listed together with section, township, and range, as being ruled tax-exempt status due to cemetery use, with the cemeteries marked with a * being within municipal zoning jurisdiction:

Armada (Miller) 9-11-18
Black Hills Creek 6-11-18
Burgess 28-11-14
Dove Hill 30-9-16
Dow (Pleasant Ridge) 30-11-14
Elm Creek Catholic 28-9-18*
Elm Creek 28-9-18*
Fairmont 34-11-16
Fairview 32-10-18
Gibbon-Riverside 15-9-14*
Immanuel 20-11-17
Kearney 25-9-16*
Majors 15-11-15
Old Stanley (Amherst) 22-10-17
Old Zion 22-11-13
Peak (Grace) Lutheran 30-11-16
Pleasant Valley 18-12-16
Pleasanton 26-12-16*
Prairie Center 18-10-15
Ravenna 6-12-14*
Ravenna Protestant 7-12-14*
Riverdale 5-9-16*
St. John's (Grace) Lutheran 33-11-15
St. Joseph 21-11-14
St Mary's Catholic of Prairie Center 7-10-15
St. Mary's Catholic Pleasanton 26-12-16*
St. Wenceslaus (Bohemian National Catholic) 23-11-14
Sod Town 32-12-17
Sweetwater 5-12-15
Zion Evangelical Lutheran 22-11-13
Watertown 12-11-18

Also, private burial sites were noted in 2017 by the Board in the following sections within townships, all as disclosed in a rootsweb.ancestry website based type listing, which said document was used for County Board review of exemptions in 2017, listed as follows:

Beaver, Section 4
Cedar, Section 8
Collins, City of Kearney
Gardner, Section 8
Odessa, Sections 8 and 21
Rusco, Sections 18, 20 and 31
Sartoria Section 5
Schneider, Section 2
Scott, Section 34

WHEREAS, provisions relating specifically to distancing Windfarms from inventoried wetlands was not included in the Planning Commission's recommended amendments. The Board believes that many of these inventoried wetlands are probably contained in the provisions relating to setbacks from the South Loup and Platte Rivers. However, inventoried wetlands located within the Wood River Valley might need further study and review by the Planning Commission to determine whether all inventoried wetlands within Buffalo County should be added to setback/distancing provisions and the appropriate distancing measurement.

WHEREAS, some of the areas of protection from incursion from Wind Farms by use of proposed setback distancing provisions overlap each other. This overlapping indicates the multiple needs of areas that need zoning protection in order to preserve property valuations, preserve natural habitat and beauty of the areas, and the standard of living within those areas.

WHEREAS, this Board believes that the Planning Commission's recommendations are well taken and should be adopted in its' entirety. In approving the Planning Commission's recommendations, this Board will pass the amendments in two portions. The first portion will relate to zoning protection of migratory bird areas and scenic by way zoning setback provisions and the other portion will relate to all other item that need setbacks.

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF COMMISSIONERS THAT THE Buffalo County Zoning Resolution shall be amended to add the following language regarding Wind Farms, to read as follows with underlined wording indicating the added language:

"1. LOCATION AND DISTANCE REQUIREMENTS-WIND FARMS:

A. A Wind Farm, as herein defined within the Buffalo County Zoning Regulations:

Shall not be located or expanded within:

- a. The south river bank of the Platte River to three miles from the north right of way for Highway 30 and three miles from the centerline of Highway 2.
- b. Three miles from the thread of the stream of the South Loup River.

- c. Five miles from any Federal or State wildlife preservation or management area.

B. Measurements pursuant to the foregoing section shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises of a Wind Farm to the following distances, whichever applies:

- a. The nearest portion of the building or structure used as a part of a Wind Farm;
- b. The nearest property line of a Federal or State wildlife preservation or management area.

C. Distance certifications: An application for a Wind Farm shall be accompanied by a current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures within two miles of the property to be certified; that shall minimally include the property lines of any church, synagogue or temple, hospital, public school or public park, or any day care center or day care home within two-miles of the property to be certified; and the property lines of any property zoned Agricultural Residential (AGR) by the Zoning Map of Buffalo County within two miles of the property to be certified.

D. For purposes of this sub-section, a use shall be considered existing if it is in existence at the time an application is submitted.”

With renumbering and indentation to be done to integrate the language of this Resolution into the existing Zoning Resolution as necessary.

IT IS FURTHER RESOLVED that the following amendments are also additionally added to Buffalo County’s Zoning Resolution, based upon the public testimony provided, with these regulations being found to be in the best interests of public for the preservation of property values and maintenance of a standard of rural living. In adopting the following language this Board finds and notes that Buffalo County spatially has a considerable Agricultural Residential (AGR) Zoning District, existing in several areas of this County. The AGR Zoning District does not allow Wind Farms uses. Also, the now-existing and current planned Comprehensive Plan indicate planned growth of the AGR Zoning District. That would mean that this county’s future growth is expected to grow for residential uses. Further, as a future use, Agricultural Residential, or simply more residences in rural areas, will increase in various areas of rural Buffalo County. Wind Farms are incompatible use as compared to the uses outlined in the AGR District and/or increased rural residential use. Accordingly, due to foregoing reasons, among others, the following amending language, with underlining reflecting added language, all as recommended by the Planning Commission are adopted:

“1. LOCATION AND DISTANCE REQUIREMENTS-WIND FARMS:

A. A Wind Farm, as herein defined within the Buffalo County Zoning Regulations:

a. Shall not be located or expanded within:

- c. Three-miles of Agricultural Residential (AGR) zoned property.

- d. Three-miles of any owned in whole or in part by a non-applicant of the wind farm, unless the applicant secures consent of all property owners of parcels within three miles of the parcel boundaries containing the proposed wind farm. This can be waived, with an agreement in writing filed with the Register of Deeds, executed and filed prior to submittal of the application.
- e. Three-miles of any church, synagogue or temple, hospital, public school or public park, or any licensed day care center or day care home.
- f. Five-miles of any incorporated village or city.
- g. Two-miles of a private or public burial site.
- h. The south river bank of the Platte River to three miles from the north right of way for Highway 30 and three miles from the centerline of Highway 2.
- i. Three miles from the thread of the stream of the South Loup River.
- j. Five miles from any Federal or State wildlife preservation or management area.”

With renumbering and indentation to be done to integrate the language of this Resolution into the existing Zoning Resolution as necessary.

IT IS FURTHER RESOLVED that the following items and issues are referred back to the Planning Commission for further study, review, recommendation, and report, all as seen best by that Commission, with this Board not committing itself to enactment or non-enactment of the following items:

- 1. That based upon the maps and other matters, relating to flyways and other environmental and economic issues, whether the entire county should simply not consider Wind Farms as an acceptable land use within Buffalo County.
- 2. Based upon the review of U.S. Fish and Wildlife’s mapping and inventory of Wetlands, namely the mapping contained at: (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>), whether a fact-based minimum distancing requirement should or should not be implemented for each of, or some of, the inventoried wetlands that exist in the named inventory.
- 3. Whether Buffalo County should or should not enact a perimeter county bordering minimum distance requirement. A similar provision is being discussed in Dawson County.
- 4. Whether an overall height limitation should be enacted.

PASSED AND APPROVED THIS 14TH DAY OF MARCH 2023

ATTEST:


 Ivan Klein, Chairperson
 Buffalo County Board of Commissioners




 Heather A. Christensen
 Buffalo County Clerk

RESOLUTION 2023-34

WHEREAS, on May 18, 2023, the Buffalo County Planning and Zoning Commission held a public hearing for an amendment to Buffalo County Zoning Regulations, Section 6.6, Wind Farms' Location and Distancing Requirements, to add language, requiring setbacks from inventoried wetlands.

That Commission voted unanimously, with two absences, to recommend that this Board adopt the proposed amendment, and

WHEREAS, no protests have been filed with the Buffalo County Clerk against such proposed amendments, and

WHEREAS, on June 13, 2023, this Board conducted a public hearing concerning proposed amendments to Buffalo County's Zoning Regulations and no parties appeared to oppose such proposed amendment,

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF COMMISSIONERS in regular session with a quorum present, that the following amendment is adopted with amending language generally shown by underlining as additions and strikethrough as deletion, as reflected below, and renumbering as necessary:

Amend Section 6.6, Wind Farms' Location and Distancing Requirements:

“1. LOCATION AND DISTANCE REQUIREMENTS-WIND FARMS:

A. A Wind Farm, as herein defined within the Buffalo County Zoning Regulations:

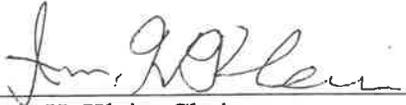
Shall not be located or expanded within:

- a. Three-miles of Agricultural Residential (AGR) zoned property.
- b. Three miles of any owned in whole or in part by a non-applicant of the wind farm, unless the applicant secures consent of all property owners of parcels within three miles of the parcel boundaries containing the proposed wind farm. This can be waived, with an agreement in writing filed with the Register of Deeds, executed and filed prior to submittal of the application.
- c. Three-miles of any church, synagogue or temple, hospital, public school or public park, or any licensed day care center or day care home.
- d. Five-miles of any incorporated village or city.
- e. Two Miles of a private or public burial site.
- f. The south river bank of the Platte River to three miles from the north right of way for Highway 30 and three miles from the centerline of Highway 2.
- g. Three miles from the thread of the stream of the South Loup River.
- h. Five miles from any Federal or State wildlife preservation or management area.
- i. One-quarter mile from any and all inventoried Wetlands, as set out in the U.S. Fish and Wildlife's mapping and inventory of Wetlands, namely the mapping contained at: (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>).

B. Measurements pursuant to the foregoing section shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises of a Wind Farm to the following distances, whichever applies:

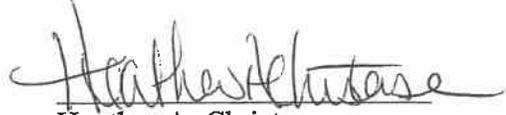
- a. The nearest property line of any real estate situated in the Agricultural Residential (AGR) use district by the Zoning Map of Buffalo County; and
- b. The nearest portion of the building or structure used as a part of a Wind Farm;
- c. The nearest property line of the premises of a windfarm non-applicant property line, church, synagogue, temple, hospital, public school, public park, licensed day care center, and day care home, and
- d. The nearest grave marker at a burial site.
- e. The nearest property line of a Federal or State wildlife preservation or management area.
- f. The nearest municipal corporate limit line, exclusive of areas annexed for economic development.
- g. The nearest edge of inventoried Wetlands as set out in the U.S. Fish and Wildlife's mapping and inventory of Wetlands, namely the mapping contained at: (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>)."

PASSED AND APPROVED THIS 13TH DAY OF JUNE 2023.



Ivan H. Klein, Chairperson
Buffalo County Board of Commissioners

ATTEST:



Heather A. Christensen
Buffalo County Clerk

(SEAL)



Wind Farm Code Amendments: June 13, 2023

Code amendments, under Buffalo County Zoning Regulations, generally shown by underlining as additions and strikethrough as deletion, as reflected below with renumbering as necessary, to the following sections:

“1. LOCATION AND DISTANCE REQUIREMENTS-WIND FARMS:

A. A Wind Farm, as herein defined within the Buffalo County Zoning Regulations:

Shall not be located or expanded within:

- a. Three-miles of Agricultural Residential (AGR) zoned property.
- b. Three miles of any owned in whole or in part by a non-applicant of the wind farm, unless the applicant secures consent of all property owners of parcels within three miles of the parcel boundaries containing the proposed wind farm. This can be waived, with an agreement in writing filed with the Register of Deeds, executed and filed prior to submittal of the application.
- c. Three-miles of any church, synagogue or temple, hospital, public school or public park, or any licensed day care center or day care home.
- d. Five-miles of any incorporated village or city.
- e. Two Miles of a private or public burial site.
- f. The south river bank of the Platte River to three miles from the north right of way for Highway 30 and three miles from the centerline of Highway 2.
- g. Three miles from the thread of the stream of the South Loup River.
- h. Five miles from any Federal or State wildlife preservation or management area.
- i. One-quarter mile from any and all inventoried Wetlands, as set out in the U.S. Fish and Wildlife’s mapping and inventory of Wetlands, namely the mapping contained at: (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>).

B. Measurements pursuant to the foregoing section shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises of a Wind Farm to the following distances, whichever applies:

- a. The nearest property line of any real estate situated in the Agricultural Residential (AGR) use district by the Zoning Map of Buffalo County; and
- b. The nearest portion of the building or structure used as a part of a Wind Farm;
- c. The nearest property line of the premises of a windfarm non-applicant property line, church, synagogue, temple, hospital, public school, public park, licensed day care center, and day care home, and
- d. The nearest grave marker at a burial site.
- e. The nearest property line of a Federal or State wildlife preservation or management area.
- f. The nearest municipal corporate limit line, exclusive of areas annexed for economic development.

- g. The nearest edge of inventoried Wetlands as set out in the U.S. Fish and Wildlife's mapping and inventory of Wetlands, namely the mapping contained at: (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>).

C. Distance certifications: An application for a Wind Farm shall be accompanied by a current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures within two miles of the property to be certified; that shall minimally include the property lines of any church, synagogue or temple, hospital, public school or public park, or any day care center or day care home within two-miles of the property to be certified; and the property lines of any property zoned Agricultural Residential (AGR) by the Zoning Map of Buffalo County within two miles of the property to be certified.

Megan Zumbuhl

Other Jurisdictions

From: Denis Tracy
Sent: Tuesday, December 16, 2025 10:22 AM
To: Megan Zumbuhl
Subject: FW: For the Public Record for the Public Hearing
Attachments: Carteret County North Carolina Wind Energy Facility Ordinance.pdf; Sumner Main Wind Turbine Ordinance.pdf; Umatilla County Oregon Ordinance 2012-04.pdf

From: Julie Clarkson <jclark766@hotmail.com>
Sent: Tuesday, December 16, 2025 9:58 AM
To: Denis Tracy <DenisT@whitmancounty.gov>
Subject: Fw: For the Public Record for the Public Hearing

Caution! This message was sent from outside your organization.

[Allow sender](#) | [Block sender](#) | [Report](#)

Hello Mr. Tracy.

I am forwarding 5 e-mails of resubmitted material for the record. I apologize for the delay in getting these to you as I had an incorrect e-mail address for you when I submitted these for documentation.

Julie Clarkson

Sent from [Outlook](#)

From: Julie Clarkson <jclark766@hotmail.com>
Sent: Sunday, December 14, 2025 10:21 PM
To: alan.thomson@whitmancounty.gov <alan.thomson@whitmancounty.gov>; grace.dibiase@whitmancounty.gov <grace.dibiase@whitmancounty.gov>; commissioners@whitmancounty.gov <commissioners@whitmancounty.gov>; denist@whitmancounty.org <denist@whitmancounty.org>
Subject: For the Public Record for the Public Hearing

From: Julie Clarkson <jclark766@hotmail.com>
Sent: Wednesday, June 18, 2025 11:57 AM
To: alan.thomson@whitmancounty.gov <alan.thomson@whitmancounty.gov>; grace.dibiase@whitmancounty.gov <grace.dibiase@whitmancounty.gov>
Subject: June 18 Planning Commission meeting material

June 18, 2025

Whitman County Commissioners

C-4

Dear Commissioners, Planning Commission members and County Planner:

While setbacks vary widely across the country, and many are simply outdated to apply to the new, massive turbines being planned, there is precedent for wind turbine setbacks to exceed 4 times the height of the turbine. Below are some examples as well as examples of height limits, sound, flicker and other limitations and requirements. Links are included in this letter. Due to file size restraints, select PDF copies are attached to this e-mail.

Caratunk, Maine <https://caratunkmaine.gov/wp-content/uploads/2024/11/Caratunk-Energy-Systems-Ordinance-8.14.20.pdf>

Setback: Regardless of calculated setbacks no Type 2 or Type 3 WEFT shall be less than **1.5 miles** from any property line as determined by the town's official property maps.

Noise Limit: Sound levels due to the operation of any project shall not exceed 50 dBA at project property lines or 30 dBA as measured at any occupied structures in the Town of Caratunk.

Trempealeau County, Wisconsin https://trempealeaucountywi.documents-on-demand.com/Document/14b64896-1d49-ea11-a2e6-000c29a59557/CHAPTER_21.pdf

Setback: Each Wind Turbine shall be set back from the nearest structure used as a residence, school, hospital, church, place of employment or public library, a distance no less than **one (1) mile**.

Noise Limit: Audible Noise due to Wind Energy Facility or Wind Turbine operations shall not exceed the lesser of five (5) decibels (dBA) increase over the existing background noise level (L90) or exceed forty (40) decibels (dBA) for any period of time, when measured at any structure used as a residence, school, hospital, church, place of employment, or public library existing on the date of approval of any Wind Energy Facility or Wind Turbine permit.

Shadow Flicker: Unless owned by the applicant, no parcel of real estate shall be subject to shadow flicker from a Wind Turbine unless mitigation has taken place and agreed by the owner/operator and affected property owners involved and recorded.

Carteret County, North Carolina
https://library.municode.com/nc/carteret_county/codes/code_of_ordinances?nodeId=COOR_APXFTAST

Height Limit: Utility scale – 1,000 KW or more – **maximum height 275 feet**.

Setback: **A 1-mile setback from any property line, vacant or occupied dwelling unit, public or private R-O-W and/or Access Easement.**

Noise Limit: Maximum noise impact of 35 decibels for more than 5 consecutive minutes as measured at any property line.

Shadow Flicker: Applicant shall provide a shadow flicker and blade glint report for each proposed facility...identify problem zones within a 1-mile radius where shadow flicker will interfere with existing or future residences and roadways...shadow flicker or blade glint that falls on a portion of an occupied property is acceptable only if the flicker or glint does not exceed 120 seconds per day for 7 consecutive days with a five-hour maximum per year and flicker or glint falls more than 100 feet from an existing residence or business property.

Sumner, Maine – https://4b22f5d0-48a5-410a-ad6c-9f8cf1ce5e26.usrfiles.com/ugd/4b22f5_dcd450d1705a451890214288bea9f431.pdf

Height Limit: Total height of any IWT **shall not exceed 450 feet** measured to the blade tips at the maximum distance above grade.

Setback: Minimal fixed distance of **1-mile** (5,280 feet) is required from the outer edge of the base of each IWT to the closest point of any property line of any non-participating property.

Noise Limit: No IWEF shall be allowed to operate if it exceeds 35 dBA day or night and a pre-construction background noise study must be conducted for all properties any part of whose property lines are located within 2 miles of any IWT.

Shadow Flicker: May not cause unreasonable adverse shadow flicker effect – 3 days or more in any 1 month, if annualized would total more than 12 hours of flicker per year.

Union County, Iowa <https://unioncountyiowa.gov/wp-content/uploads/2024/05/Ordinance-73-Wind-Farm-Amendment-for-Future-Projects.pdf>

Setback: Wind tower ordinances requires a setback of no less than .62 miles, 3273.6 feet, **or 7 times the total height of the tower, whichever is greater, from an adjoining property line**, unless a waiver is signed by the neighbor.

Other: An archaeological survey must be completed in a one-mile radius of a new tower's proposed site and recorded with the state archaeologist; the survey will be paid by the applicant for the turbine permit.

Aircraft Detection Lighting System: A sensor-based system designed to detect aircraft as they approach a wind energy conversion facility; this system automatically activates obstruction lights until they are no longer needed

Taxes: Landowners will be responsible for any taxes on a tower that is no longer operating and haven't been paid.

Newport, North Carolina https://codelibrary.amlegal.com/codes/newportnc/latest/newport_nc/0-0-0-28550

Setback: WEF shall be setback from non-participating property lines, federal highway, state highway and/or public road for **at least 5,000 feet and have a maximum height above highest adjacent grade of 275 feet.**

Noise: No WEF or its generators, equipment or apparatus shall produce noise above 35 decibels (dba) for more than five times within seven consecutive days as measured at any property line of non-participating landowners, the applicant and/or owner shall shut down the WEF within one business day of being informed to do so by the Town Planning Director or designee. The facility shall remain shut down until it can be

demonstrated to the satisfaction of the Planning Director or designee that the facility can be operated so as to not exceed 35 decibels (dba) as measured at any non- participating property line.

Property Value: The WEF owner (applicant) or his, her or its successor shall assure the Town of Newport that there will be no loss in real property value due to the WEF.

Umatilla County, Oregon

https://umatillacounty.gov/fileadmin/user_upload/Planning/Ordinances/Ordinance_2012-04.pdf

Setback: From a turbine tower to a rural residence shall be **2 miles**. From a turbine tower to land zoned Unincorporated Community, shall be 1-mile.

These are not the only ordinances that with setbacks exceeding 4 times the height of the turbine, but some examples of ordinances I found online. Unfortunately, there is no easy way to search this information, and many ordinances are not readily available online. However, I will continue to search.

Julie Clarkson-Gulick

Pullman

ARTICLE 3 - WIND ENERGY FACILITIES^[4] Carteret County, NC

⋮

➡ Municode Codification

Footnotes:

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Editor's note— An ordinance adopted Nov. 18, 2013, amended App. F, Art. 3 in its entirety to read as herein set out. Former Art. 3, §§ 3-1—3-13, pertained to similar subject matter, and derived from an ordinance adopted Nov. 17, 2008; an ordinance adopted Jan. 12, 2011; an ordinance adopted April 18, 2011.

Sec. 3-1. - General.

⋮

3-1.1. *Small System Wind Energy Facilities:* A Small System Wind Energy Facility is considered to be an accessory use and does not require approval of a Wind Energy Permit Application. However, such a Small System shall comply with the dimensional requirements of this Article plus any other applicable ordinances.

3-1.2. *Anemometers or Other Meteorological Towers:* A temporary pole or tower may be erected to use an anemometer or other meteorological measuring devices to test the wind conditions at that site and does not require approval of a Wind Energy Permit Application. However, each such temporary pole or tower shall comply with the dimensional requirements of this Article plus any other applicable ordinances. A copy of a FAA determination report as a result of filing the FAA Form 7460-1, Notice of Proposed Construction or Alteration of an Object that may Affect the Navigable Airspace, shall be submitted prior to submission of any building permits for such a temporary pole or tower.

The temporary pole or tower may be any height but it must be setback from all property lines, vacant or occupied dwelling unit, rights-of-way, and access easements by a distance that is equal to or greater than its height. The temporary pole or tower may not have any signs; may not be illuminated, except as required by the FAA or Department of Defense; and must be removed within 2 (two) years of the date that it is erected, unless the Planning Commission grants a 1-year (one-year) extension. In no case shall the original 2 years plus any extensions total more than 5 (five) years.

3-1.3. *Wind Energy Permit Application:* Before a building permit may be submitted for a Large System Wind Energy Facility or a Utility-scale Wind Energy Facility, a Wind Energy Permit Application must first be approved by the Planning Commission.

(Ord. of 11-18-13)

Sec. 3-2. - Permit application information.

⋮

Changes to the pending application that do not materially alter the initial site plan may be adopted administratively. The application for a Large System or Utility-scale Wind Energy Facility shall contain at least the following information:

C-5

3-2.1. *Summary:* A narrative overview of the project, including the generating capacity of the

Wind Energy Facility.

3-2.2. *Inventory:* A tabulation describing the:

- A. Specific number, types, and height of each wind turbine to be constructed, including their generating capacity.
- B. Dimensions and respective manufacturers.
- C. Appurtenant structures and/or facilities.

3-2.3. *Vicinity Map:* Identification of the property on which the proposed Wind Energy Facility will be located.

3-2.4. *Site Plan:* A plan showing the:

- A. Planned location of each wind turbine.
- B. All property lines within one mile of the property lines of the proposed site.
- C. Setback lines.
- D. Access road and turnout locations.
- E. Substation(s).
- F. Electrical cabling from the Wind Energy Facility to the substation(s) and from the substation(s) to where the electricity will leave the site.
- G. Ancillary equipment, buildings, and structures, including permanent meteorological towers.
- H. Associated transmission lines.
- I. Conservation Areas, including natural areas protected by law, such as wetlands that meet the definition in the Clean Water Act; shore land areas; water bodies; riparian buffers; populations of endangered or threatened species, or habitat for such species; archaeological sites, cemeteries, and burial grounds; important local historic sites; existing healthy, native forests consisting of at least one acre of contiguous area; individual existing healthy trees that are at least 100 years old; other significant natural features and scenic viewsheds; existing trails or corridors that connect the tract to neighboring areas.
- J. Location of all structures and properties within the geographical boundaries of any applicable setback.
- K. A landscaping plan that shows proposed screening and buffering of all buildings and other non-tower structures on the site or sites.

3-2.5. *Environmental Impact Study:* For Utility-scale Wind Energy Facilities, an Environmental Impact Study (EIS) shall be submitted that includes review comments from all applicable state and federal agencies, including at least the:



- A. N.C. Department of Environment and Natural Resources,
- B. N.C. Department of Health and Human Services,

- C. N.C. Department of Transportation,
- D. N.C. Wildlife Resources Commission,
- E. U.S. Fish and Wildlife Service, and
- F. U.S. Army Corps of Engineers.

The EIS shall cover, at a minimum, the potential impacts on the human population (such as audible and inaudible sound, shadow flicker and blade glint, viewsheds, blade throw, hurricane resistance, etc.), as well as the animal populations, migratory areas used by waterfowl, the location of any and all air routes recognized by the FAA and/or established by any agency of the Department of Defense, land, and water (including impacts on groundwater resources due to foundations, pilings, etc.), and air. The study area shall include at least the two miles surrounding the proposed wind turbines.

The Applicant shall provide the County with an Escrow Account (as referenced in Section 3-4) to cover all costs and expenses incurred related to the Environmental Tests for the Wind Energy Facility (WEF). The County shall use Escrow Account funds to hire independent qualified experts, as needed, to conduct the tests specified below:

1. The location of any of the following found within the confines of, or within one mile from the perimeter of, any proposed WEF shall be identified: open drainage courses, streams, vernal pools, wetlands, and other important natural areas and site features, including, but not limited to, floodplains, deer wintering areas, Essential Wildlife Habitats, Significant Wildlife Habitats, Scenic or Special Resources, habitat of rare and endangered plants and animals, unique natural areas, sand and gravel aquifers, wells, and historic and/or archaeological resources, together with a description of such features.
2. Pre-construction and post-construction field studies shall be conducted using the most advanced techniques available. Independent experts shall be chosen by the County and funded through the WEF Escrow Account. If the pre-construction field studies demonstrate significant adverse effect to birds, bats, game animals, water resources, or habitat fragmentation, the County and the WEF Applicant (includes Owner or Operator) shall develop an appropriate mitigation plan. It is acknowledged and accepted by the Applicant that some environmental impacts cannot be satisfactorily mitigated and that some of those projects will not be approved.
- 3.

In determining the nature and effectiveness of such mitigation plans, the County will be guided by its own consultants, the appropriate state and federal agencies, and applicable state and federal laws and regulations. The WEF Applicant will be responsible for the full cost of implementing the mitigation plan under the supervision of the County and its designated agents.

4. After implementation of any mitigation plan, the County will review the plan to determine its effectiveness. Should the County find the mitigation efforts inadequate, the WEF Applicant will be given 60 days from that finding, to resolve the deficiencies. In the absence of a successful resolution, the County (at its discretion) shall have the right to: deny the WEF Permit.
 5. The Applicant must provide a written memorandum from the appropriate state and federal agencies detailing their assessment of the proposed WEF.
 6. The Applicant must demonstrate, to the satisfaction of the County, that the proposed WEF will not have an undue adverse effect on the proposed sites geological stability, surface or subterranean water resources, rare, threatened, or endangered wildlife, Significant Wildlife Habitat, Essential Wildlife Habitat, Raptor Habitat, threatened or endangered plants and rare and exemplary natural plant communities and ecosystems, and will not substantially increase storm water runoff.
 7. The Applicant must provide a cumulative-impact assessment of the proposal in the context of other WEFs in the region, including migratory bird, bat and large mammal corridors, and demonstrate that the WEF is not located in an area that will result in degradation of important wildlife corridors.
- 3-2.6. *Ancillary Materials:* Other relevant studies, reports, certifications, and approvals as may be reasonably requested by Carteret County to ensure compliance with this Ordinance.
- 3-2.7. *Decommissioning Plan:* A description of how the structural and turbine materials will be disposed of and how the site will be restored, as well as:
- A. Anticipated life of the wind energy facility.
 - B. Estimated decommissioning costs (in current dollars), as provided by an appropriate licensed engineer, including contingency costs of at least ten percent.
 - C. Method for ensuring that funds will be available for decommissioning and restoration as set forth in Section 3-8.
 - D. A verifiable means of determining if the decommissioning plan needs to be activated due to abandonment, such as a letter from the electric utility stating that it will notify the Planning Department within 10 (ten) business days if electricity is not received from the Wind Energy Facility for any 30 (thirty) consecutive days.
- 3-2.8. *[Signature(s):]* The signature(s) of the property owner(s) and the facility owner/operator.
- 3-2.9.

Stand-down Plan: The applicant shall certify that the proposal is for an International Electrical Congress (IEC) Class S wind turbine that is designed or will be designed to meet the NC Building Code. A Stand-down Plan for High Wind Conditions shall be included, along with any other materials needed for the certification.

3-2.10 *Potential Impacts on Property Values:* Applicant shall provide with their application competent evidence that the proposed project will not degrade or diminish values of surrounding real properties within one mile of the property lines of the property on which the project is located.

3-2.11. *[Scenic Route or By-way:]* If any portion of a proposed Large System or Utility-scale wind energy facility is to be located within 2,000 feet of the right-of-way of any Federally-designated or State-designated Scenic Route or By-way, the applicant shall describe the proposed measures to be taken to minimize the visual impact of the proposed facility (including shadow flicker and blade glint) upon a Scenic Route or By-way.

3-2.12. *Air Space Impacts:*

- A. If any portion of a proposal will be more than 200 feet tall, the applicant shall provide a copy of a FAA determination as a result of filing the FAA Form 7460-1, Notice of Proposed Construction or Alteration of an Object that may Affect the Navigable Airspace.
- B. If any portion of a proposal will be located within 20,000 feet of the runway surface of the Michael J. Smith Airport, Bogue Airfield, and/or Atlantic Field, the applicant shall provide a copy of a FAA determination as a result of filing the FAA Form 7460-1 plus demonstrate compliance with the County's Airport Height Ordinance.
- C. The applicant shall establish to the satisfaction of the Planning Commission that the proposal will not adversely impact the restricted air space in Carteret County, particularly as it relates to the flight paths to and from MCAS Cherry Point, Bogue Field, Atlantic Field, Bombing Ranges PT 9 and BT 11, Seymour Johnson AFB, Camp Lejeune, and/or New River Air Station.
- D. Any application submitted hereunder shall be forwarded to the Commanding Officer, Marine Corps Air Station Cherry Point, in order to provide for review and comment concerning any possible impacts on the operations and mission of Marine Corps Air Station Cherry Point, and no application submitted hereunder shall be deemed completed until such time as said review is completed and such comments are received.
- E. The applicant shall provide a narrative description of all risks to:
 - 1. Civil air navigation and
 - 2.

Military air navigation routes, military air traffic control areas, military training routes, military special-use air space, military radar or other potentially affected military operations, and shall further include documentation that addresses any potential adverse impact on military operations and readiness as identified by the Department of Defense clearinghouse and any mitigation action agreed to the by the applicant.

F. That the applicant provides evidence that the radar coverage for Michael J. Smith Airport is not degraded or diminished.

3-2.13. *Maintenance Plan:* The Applicant shall detail the triennial, storm follow-up, and non-scheduled maintenance actions that will be taken to keep the Wind Energy Facility operating quietly, efficiently, and non-polluting of the land, water, and air, including (but not limited to) the minimization of loud or high-pitched sound, low frequency sound or vibration, blade glint, and fluid leaks.

The Applicant shall conduct preventive maintenance inspections at least once every 5 (five) years and after any wind event defined as a tropical storm or Category 1-5 Hurricane. Each inspection shall look for such things as metal fatigue, nut loosening, and other potential failures that might impact the public health and safety, as well as the items detailed in the Maintenance Plan. Such inspection reports shall be provided to the Planning Director or designee within 30 (thirty) days of the inspection.

3-2.14. *Noise Impacts:* No Large System or Utility-scale wind energy facility or any generators, equipment, or apparatus shall produce noise above 35 decibels for more than 5 (five) consecutive minutes, as measured at any property line. Each such occurrence shall be a separate violation of this Ordinance and the penalties shall be cumulative.

If noise levels exceed 35 decibels for more than 48 (forty-eight) consecutive hours, as measured at any property line, the applicant and/or owner shall shut down the wind energy facility within 1 (one) business day of being informed to do so by the Planning Director or designee. The facility shall remain shutdown until it can be demonstrated to the satisfaction of the Planning Director or designee that the facility can be operated so as to not exceed 35 decibels for more than 5 (five) consecutive minutes, as measured at any property line.

If noise levels exceed 80 (eighty) decibels for more than 24 (twenty-four) consecutive hours, as measured at any property line, the applicant and/or owner shall shut down the wind energy facility within 1 (one) business day of being informed to do so by the Planning Director or designee. The facility shall remain shutdown until it can be demonstrated to the satisfaction of the Planning Director or designee that the facility can be operated so as to not exceed 80 (eighty) decibels for more than 24 (twenty-four) consecutive hours, as measured at any property line.

- A. A computer-generated "zone of visibility map" covering at least a one-mile radius from the proposed facility shall be provided to illustrate locations from which the proposed installation may be seen, with and without foliage
- B. Pictorial representations of "before and after" views from key viewpoints inside of the county as may be appropriate and required, including, but not limited to, state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers, or residents. Guidance will be provided concerning the appropriate key sites. The applicant shall provide a map showing the locations of where the pictures were taken and the distance of each location from the proposed facility.
- C. The Applicant shall not install any lighting that exceeds the minimum required by the FAA. Where alternatives to strobe lighting are available from the FAA, strobe lighting shall be the last resort and only if required by the FAA.

3-2.16. *Impacts on surrounding Communities:* If the proposed wind energy facility is within three miles of a municipality or county, written notification of the application shall be provided by the Applicant to the legislative body of each, with copies of each to the Planning Department.

3-2.17. *Standards for Planning Commission Decision:* The Planning Commission will normally approve an application but it may disapprove an application for any of the following reasons:

- A. Conflict with safety and safety-related codes and requirements.
- B. The use or construction of a wind energy facility that is contrary to an already-stated purpose of a specific zoning or land use designation.
- C. The placement and location of a wind energy facility that would create an unacceptable risk to residents, the public, employees, and agents of the county, or employees of the service provider or other service providers, including Noise Impacts; Visual Impacts; Impacts on surrounding Communities; and/or adverse impacts identified in an Environmental Impact Statement.
- D. The placement and location of a wind energy facility would result in a conflict with, or compromise or change in, the nature or character of the surrounding area.
- E. Conflicts with the provisions of this Ordinance.

- F. Failure to submit a complete application as required under this Ordinance, including an incomplete or inadequate (as determined by the Planning Commission) Decommissioning Plan, Stand-down Plan, Maintenance Plan, and/or Road Analysis.
- G. Conflicts, as determined by the Planning Commission, with the Military's unrestricted ability to use the Restricted Air Space above Carteret County, including no flight hazards and/or use limitations.

In addition, the Planning Commission will consider whether construction or operation of the proposed wind energy facility would encroach upon or would otherwise have a significant adverse impact on the mission, training, or operations of any major military installation or branch of military in North Carolina and result in a detriment to continued military presence in the State. In its evaluation, the Planning Commission will consider whether the proposed wind energy facility would cause interference with air navigation routes, air traffic control areas, and military training routes.

3-2.18. *Planning Commission Decision:* The approval by the Planning Commission shall be valid for a period of 2 (two) years. Prior to the expiration of such approval, the Owner or Agent of the Wind Energy Facility may submit an approval extension application for up to an additional 2 (two) years.

Such approval extension application shall be accompanied by the appropriate fees and a letter explaining the reasons that would justify an approval extension, rather than allowing the approval to lapse. The Planning Commission may not approve more than 2 (two) extensions.

(Ord. of 11-18-13; Ord. of 2-10-14)

Sec. 3-3. - Dimensional requirements.

:

To provide for at least minimal operational safety for persons and property located outside of a wind farm, all wind energy facilities shall comply with the minimums and maximums contained in the following tabulation:



Carteret County, NJ Energy Facility Code Codification	Minimum Wind Turbine Setback From Any Property Line, Vacant or Occupied Dwelling Unit, Public or Private R-O-W, and/or Access Easement	Maximum Wind Turbine Height*
Small System (up to 25 kW) Attached to a house	None	60 feet
Small System (up to 25 kW) Not attached to a house	1 foot for each foot of height from any property line and 1 foot for each foot of height from any vacant or occupied dwelling unit on the same property but If the Planning Director or designee determines there will be no significant impact on abutting properties or those across a stream, lake, or other body of water, no such setback is required from the waterward property line for a turbine placed in a body of water or on a dock or pier.	75 feet
Large System (more than 25 kW and less than 1,000 kW)	1,300 feet	199 feet
Utility-scale (1,000 kW or more)	One mile	275 feet
*Height is measured from the lowest adjacent grade to the highest point of the structure, including any attachments, such as a lightening [lightning] protection device or a turbine rotor or tip of the turbine blade when it reaches its highest elevation.		

Such minimum setbacks for a wind energy facility shall be measured from its outermost extension (whether blade tip, nacelle/turbine housing, or tower/pole edge) that is nearest the subject property line, vacant or occupied dwelling unit, public or private R-O-W, and access easement. To measure maximum height, see the Definitions.

No portion of any wind turbine blade shall be closer than 25 feet to any portion of the ground that surrounds any wind energy facility.

Carteret County, NC

Municode Codification

(Ord. of 11-18-13; Ord. of 2-10-14)

Sec. 3-4 - Escrow account.

The Applicant shall pay to the County a fee as set forth in the County's Fee Schedule. The Planning Director and/or Planning Commission reserve the right to obtain engineering, economic impact, aviation impact, or other professional services to aid it in the review of any submitted application. The applicant shall reimburse Carteret County for the cost thereof prior to receiving the decision of the Planning Commission on the application.

- 3.4.1 The Applicant shall reimburse the County for all oversight expenses incurred related to the Wind Energy Facility (WEF), from application through decommissioning. This reimbursement will be from an Escrow Account.
- 3.4.2 These WEF-related oversight expenses include (but are not limited to) amounts required for Building Permits, Licensing, Re-Licensing, and Decommissioning — e.g. administration, engineering, expert health and wildlife evaluations, handling complaints, legal, etc. "Legal" includes reasonable attorney fees for the County if the County has to sue the Applicant.
- 3.4.3 Any interest accruing to the Escrow Account shall stay with the account and be considered new principle.
- 3.4.4 This Escrow Account will be setup by the Applicant at the time of the WEF permit Application. This Escrow Account will be at a financial institution approved by the County, solely in the name of the County, to be managed by the County Finance Director. The Applicant will make an initial deposit of \$50,000.00. A WEF Application will not be processed until consent to these terms and proof of deposit has been provided by the Applicant.
- 3.4.5 If the WEF Application is denied, all Escrow Account funds will be returned to the Applicant, less related expenses incurred by the County. The money will be returned, along with a statement as to these costs, within 30 days of the Application being formally denied or receipt of a Letter of Withdrawal.
- 3.4.6 This Escrow Account will be maintained during the life of the WEF by the Applicant/Owner/Operator. The Applicant/Owner/Operator will replenish any Escrow funds used by the County within 14 days of being sent written notification (and explanation) of said withdrawals. Failure to maintain the Escrow Account at \$50,000.00 shall be cause for revocation (or denial of renewal) of the WEF Permit.

3.4.7

Carteret County, NC
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If the WEF is decommissioned to the satisfaction of the County, all Escrow Account funds will be returned to the Applicant/Owner/Operator, less related expenses incurred by the County. The money will be returned, along with a statement as to these costs, within 30 days of the decommissioning process being completed.

(Ord. of 11-18-13; Ord. of 2-10-14)

Editor's note— Ord. of 2-10-14 amended § 3-4 and in so doing changed the title of said section from "Fees" to "Escrow account," as set out herein.

Sec. 3-5. - Installation and design.

3-5.1. Power Collection: The electrical connection system from the wind turbines to a collection point or substation shall, to the maximum extent possible, be placed underground. The power from that collection point or substation may use overhead transmission lines, if approved by the Planning Director or designee.

3-5.2. Road Analysis: The applicant shall reimburse the NC DOT and/or County (as appropriate) for any and all repairs and reconstruction to roads that are necessary due to the construction or decommissioning of the Large System or Utility-scale Wind Energy Facility. A qualified independent third party or other qualified person, agreed to by the NC DOT and/or County (as appropriate) and the applicant, shall be hired to pre-inspect the roadways to be used during construction and/or decommissioning. This third party shall be hired to evaluate, document, and rate the roads condition prior to construction or decommissioning of the Large System or Utility-scale Wind Energy Facility, and again 30 days after the Wind Energy Facility is completed or removed.

A. Any road damage during construction that is done by the applicant and/or one or more of its contractors or subcontractors that is identified by this third party shall be repaired or reconstructed to the satisfaction of the NC DOT and/or County (as appropriate) at the applicant's expense prior to the final inspection. In addition, the applicant shall pay for all costs related to work of this third party pre-inspection prior to receipt of the final inspection.

B. The surety for removal of a decommissioned wind energy facility shall not be released until the Planning Director or designee is satisfied that any road damage that is identified by this third party during and after decommissioning that is done by the applicant and/or one or more of its contractors or subcontractors has been repaired or reconstructed to the satisfaction of the NC DOT and/or County (as appropriate) at the applicant's expense. In addition, the applicant shall pay for all costs related to work of this third party's inspection prior to receipt of the release of the surety.

3-5.3. The Large System or Utility-scale Wind Energy Facility shall:



- A. Be a non-obtrusive color (such as light blue, off-white, or light gray) that blends with the sky, as determined by the Planning Director or designee.
- B. Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
- C. Not contain any signs or other advertising (including flags, streamers or decorative items or any identification of the turbine manufacturer, facility owner and operator). This does not include any identification plaques that might be required by the electric utility or governmental agency.
- D. Be sited and operated so as to not interfere with television, internet service, telephone (including cellular and digital), microwave, satellite (dish), navigational, or radio reception in neighboring areas. The applicant and/or operator of the facility shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or correct any problems; including relocation or removal of the facility caused or exacerbated by the operation of such equipment and any and all related transmission lines, transformers, and other components related thereto.
- E. Have a leak containment system for oil, hydraulic fluids, and other non-solids that is certified by an expert (such as an engineer, turbine manufacturer, etc.) acceptable to the Planning Director or designee that all such fluids will be captured before they reach the ground. The applicant shall pay the cost of the expert.

(Ord. of 11-18-13)

Sec. 3-6. - Minimization of shadow flicker and blade glint impacts by a large system or utility-scale wind energy facility.

3-6.1. The applicant shall provide a shadow flicker and blade glint report for each proposed wind energy facility. The report shall:

- A. Evaluate the worst case scenarios of wind constancy, sunshine constancy, and wind directions and speeds.
- B. Map and describe the zones where shadow flicker and blade glint will likely be present within the project boundary and a one-mile radius beyond the project boundary.
- C. Identify existing residences and the locations of their windows, locations of other structures, wind speeds and directions, and existing vegetation and roadways.
- D. Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations, including outdoor viewsheds.
- E. Calculate the total number of hours per year of flicker at all locations, including the outdoor viewshed.
- F.

Identify problem zones within a 1-mile radius where shadow flicker will interfere with existing or future residences and roadways and describe proposed measures to mitigate these problems.

- 3-6.2. Based upon the findings of the report, the wind energy facility shall be designed so that shadow flicker or blade glint will not fall on or in any roadway or occupied property, unless approved by the Planning Commission.
- A. Shadow flicker or blade glint that falls on a portion of an occupied property is acceptable only under the following circumstances:
1. The flicker or glint does not exceed 120 seconds per day for 7 consecutive days, with a five-hour maximum per year and
 2. The flicker or glint falls more than 100 feet from an existing residence or business property.
- B. Shadow flicker or blade glint that falls on a roadway is acceptable only under the following circumstances:
1. The traffic volumes are less than 500 vehicles per day on the roadway and
 2. The flicker or glint shall not fall onto an intersection of public roads.

If shadow flicker or blade glint exceeds any of the conditions listed in this Section, the source wind energy facility shall be shut down until the flicker or glint problem is remedied. Each such occurrence shall be a separate violation of this Ordinance and the penalties shall be cumulative.

(Ord. of 11-18-13; Ord. of 2-10-14)

Sec. 3-7. - Decommissioning or abandonment.

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If the chief building official condemns any portion of a Large System or Utility-scale Wind Energy Facility or if no electricity is generated for 3 consecutive months, the Wind Energy Facility owner and/or property owner shall have 3 months to remedy the safety issues or complete the decommissioning of the Wind Energy Facility, according to the approved plan.

- 3-7.1. The Planning Commission may grant extensions of time for repair and/or maintenance, for good cause, such as the need to back-order parts that are not currently available from the manufacturer or supplier or the need to repair a Large System or Utility-scale Wind Energy Facility damaged by a hurricane.
- 3-7.2. Decommissioning shall include the complete removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities and/or structures, including below-ground items such as foundations and power lines.
- 3-7.3. Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(Ord. of 11-18-13)

Carteret County, NC

Sec. 3-8 - Surety for removal of large system or utility-scale wind energy facilities, if decommissioned or abandoned.

The applicant shall place with the county an acceptable letter-of-credit, bond, or other form of security that is sufficient to cover the cost of removal at the end of the facility's useful life, as detailed in the decommissioning plan. Such surety shall be at least \$200,000.00 for each wind turbine. The Planning Director or designee may approve a reduced surety amount that is not less than 150 percent of a cost estimate that is certified by an Engineer, salvage company, or other expert suitable to the Planning Director or designee.

The surety shall be used by the county to assure the faithful performance of the terms and conditions of this law and conditions of this Ordinance, as well as to serve as a removal security to prevent the taxpayers from bearing the cost of removal in the event of the abandonment or cessation of use for more than 90 consecutive days. The full amount of the bond or security shall remain in full force and effect until any and all necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the facility, as determined by the Planning Director or designee.

(Ord. of 2-10-14)

Sec. 3-9. - Security of large system or utility-scale wind energy facilities.

All wind energy facilities shall be:

- 3-9.1. Located, fenced, or otherwise secured so as to prevent unauthorized access.
- 3-9.2. Made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with.
- 3-9.3. Installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

(Ord. of 11-18-13)

Sec. 3-10. - Reservation of authority to inspect large system or utility-scale wind energy facilities.

In order to verify that the holder of a permit for a wind energy facility and any and all lessees, renters, and/or licensees of it, have placed and constructed such facilities in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the county may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification, and maintenance of such facilities, including all towers, buildings, and other structures constructed or located on the site.

(Ord. of 11-18-13)

Carteret County, NC

Sec. 3-11. - Liability insurance.

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- 3-11.1. The holder of a permit for a Large System or Utility-scale wind energy facility shall secure and maintain for the duration of the permit public liability insurance, as follows:
 - A. *Commercial general liability covering personal injuries, death and property damage.* \$1,000,000.00 per occurrence — \$2,000,000.00 aggregate, which shall specifically include the county and its officers, councils, employees, committee members, attorneys, agents and consultants as additional named insured.
 - B. *Umbrella coverage.* \$3,000,000.00.
- 3-11.2. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with at least a Best's rating of "A".
- 3-11.3. The insurance policies shall contain an endorsement obligating the insurance company to furnish the county with at least 30 days prior written notice in advance of a cancellation.
- 3-11.4. Renewal or replacement policies or certificates shall be delivered to the county at least 15 days before the expiration of the insurance that such policies are to renew or replace.
- 3-11.5. No more than 15 days after the grant of the permit and before construction is initiated, the permit holder shall deliver to the county a copy of each of the policies or certificates representing the insurance in the required amounts.
- 3-11.6. A certificate of insurance that states that it is for informational purposes only and does not confer rights upon the county shall not be deemed to comply with this Ordinance.

(Ord. of 2-10-14)

Sec. 3-12. - Indemnification.

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Any application for a large system or utility-scale wind energy facility on county property shall contain an indemnification provision. The provision shall require the applicant to at all times defend, indemnify, protect, save, hold harmless, and exempt the county, and its officers, councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the county, or its

servants or agents. With respect to the penalties, damages, or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the county.

An indemnification provision will not be required in those instances where the county itself applies for and secures a permit for a Large System or Utility-scale wind energy facility.

(Ord. of 2-10-14)

Sec. 3-13. - Real property value protection plan.

The WEF Owner(s) ("Applicant") shall assure the County that there will be no loss in real property value within two miles of each wind turbine within their WEF. To legally support this claim, the Applicant shall consent in writing to a Real Property Value Protection Agreement ("Agreement") as a condition of approval for the WEF. This Agreement shall provide assurance to non-participating real property owners (i.e. those with no turbines on their property) near the WEF, that they have some protection from WEF-related real property values losses.

The Applicant shall agree to guarantee the property values of all real property partially or fully within two miles of the WEF. Any real property owner(s) included in that area who believe that their property may have been devalued due to the WEF, may elect to exercise the following option:

3-13.1. All appraiser costs are paid by the Applicant, from the Escrow Account. Applicant and the property owner shall each select a licensed appraiser. Each appraiser shall provide a detailed written explanation of the reduction, if any, in value to the real property ("Diminution Value"), caused by the proximity to the WEF. This shall be determined by calculating the difference between the current Fair Market Value (FMV) of the real property and what the FMV would have been at the time of exercising this option, assuming no WEF was proposed or constructed.

- A. If the higher of the Diminution Valuations submitted is equal to or less than 25 percent more than the other, the two values shall be averaged ("Average Diminution Value": ADV).
- B. If the higher of the Diminution Valuations submitted is more than 25 percent higher than the other, then the two appraisers will select a third licensed appraiser, who shall present to Applicant and property owner a written appraisal report as to the Diminution Value for the real property. The parties agree that the resulting average of the two highest Diminution Valuations shall constitute the ADV.
- C. In either case, the property owner may elect to receive payment from Applicant of the ADV. Applicant is required to make this payment within 60 days of receiving said written election from property owner, to have such payment made.

3-13.2. Other Agreement Conditions:
Carteret County, NC

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- A. If a property owner wants to exercise this option, they must do so within ten years of the WEF receiving final approval from the County.
- B. A property owner may elect to exercise this option only once.
- C. The Applicant and the property owner may accept mutually agreeable modifications of this Agreement, although the Applicant is not allowed to put other conditions on a financial settlement (e.g. confidentiality). If the property owner accepts some payment for property value loss, based on an alternative method that is considered an exercise of this option.
- D. This Agreement applies to the property owner of record as of the date of the WEF application, and is not transferrable to subsequent owners.
- E. The property owner of record as of the date of the WEF application must reasonably maintain the property from that time, until they choose to elect this option.
- F. The property owner must permit full access to the property by the appraisers, as needed to perform the appraisals.
- G. The property owner must inform the appraisers of all known defects of the property as may be required by law, as well as all consequential modifications or changes to the property subsequent to the date of the WEF application.
- H. This Agreement will be guaranteed by the Applicant (and all its successors and assigns), for ten years following the WEF receiving final approval from the County, by providing a bond (or other surety), in an amount determined to be acceptable by the County.
- I. Payment by the Applicant not made within 60 days will accrue an interest penalty. This will be 12 percent annually, from the date of the written election from property owner.
- J. For any litigation regarding this matter, all reasonable legal fees and court costs will be paid by the Applicant.
- K. Upon application, Applicant shall provide a performance bond (or equivalent) in an amount determined by the County and held by the County. This surety account will ensure execution of all aspects of this Agreement (including compensation of eligible property owners in the case of default by Applicant). Failure to maintain this surety account shall be cause for revocation (or denial of renewal) of the WEF Permit.

(Ord. of 2-10-16)

ARTICLE 4. - COMMUNICATION TOWERS^[5]

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Footnotes:

RECEIVED

FEB 28 2012 THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

UMATILLA COUNTY RECORDS

STATE OF OREGON

In the Matter of Amending)
 Development Code for Wind) ORDINANCE NO. 2012-04
 Power Generation Facility)
 for Deletion of Setback)
 Waiver Provisions as Required)
 by LUBA Decision)

WHEREAS on May 20, 2003, the Board of Commissioners adopted Ordinance No. 2002-02, establishing requirements for the siting of wind power generation facilities, codified at Section 152.616 (HHH) of the Umatilla County Code of Ordinances;

WHEREAS the Planning Commission and Planning Department staff have drafted updates to the siting standards for wind power generation facilities;

WHEREAS the Umatilla County Planning Commission held work sessions and discussions on the matter a number of times, including December 17, 2009, and January 13, 2011, and held a public hearing regarding the proposed amendments on November 18, 2010 and February 24, 2011, and forwarded the proposed amendment to the Board of Commissioners with a recommendation for adoption;

WHEREAS the Board of Commissioners held a public hearing on March 17, 2011, continued to May 12, 2011, June 14, 2011 and June 28, 2011, to consider the proposed amendments, and voted 3-0 to adopt Ordinance No. 2011-05, and 2 in favor and 1 against to adopt Ordinance No. 2011-06;

WHEREAS Ordinance Nos. 2011-05 and 2011-06 were appealed to the Land Use Board of Appeals, under LUBA Nos. 2011-070, 2011-071, and 2011-072;

WHEREAS the Land Use Board of Appeals issued a decision on January 12, 2012, finding, *inter alia*, that the waiver of the setback requirements impermissibly delegated authority, and that the waiver provisions in Ordinance Nos. 2011-05 and 2011-06 were unconstitutional;

C-6

WHEREAS the Board of Commissioners held a public hearing on February 28, 2012, to consider the issues remanded to Umatilla County by the Land Use Board of Appeals, and to implement the decision.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the adoption of the following amendment to the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances, to comply with the decision of the Land Use Board of Appeals (Strikethrough text is deleted; Underlined/Italicized text is added):

**§152.616 STANDARDS FOR REVIEW OF
CONDITIONAL USES AND LAND USE
DECISIONS.**

(HHH) Commercial Wind Power Generation Facility.

(6) Standards/Criteria of Approval The following requirements and restrictions apply to the siting of a Wind Power Generation Facility:

Setbacks. The minimum setback shall be a distance of not less than the following:

(1) From a turbine tower to a city urban growth boundary (UGB) shall be two miles; ~~unless a city council action authorizes a lesser setback.~~ The measurement of the setback is from the centerline of a turbine tower to the edge of the UGB that was adopted by the city as of the date the application was deemed complete.

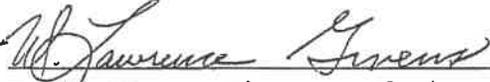
(2) From turbine tower to land zoned Unincorporated Community (UC) shall be 1 mile; ~~unless the landowner of the land zoned UC authorizes by written waiver a lesser setback and the waiver is recorded with the county deed records.~~

(3) From a turbine tower to a rural residence shall be 2 miles; ~~unless the landowner of the rural residence authorizes by written waiver of a lesser setback and the waiver is recorded with the county deed records.~~ For purposes of this section, a "rural residence" is defined as a legal, conforming dwelling existing on the parcel at the time an application is deemed complete. The measurement of the setback is from the centerline of the turbine tower to the centerpoint of the residence.

FURTHER by unanimous vote of those present, the Board of Commissioners deems this Ordinance necessary for the immediate preservation of public peace, health, and safety; therefore, it is adjudged and decreed that an emergency does exist in the case of this Ordinance and it shall be in full force and effect from and after its adoption.

DATED this 28th day of February, 2012.

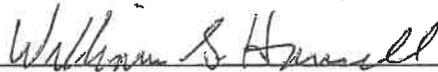
UMATILLA COUNTY BOARD OF COMMISSIONERS



W. Lawrence Givens, Chair

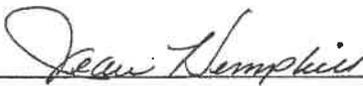


Dennis D. Doherty, Commissioner



William S. Hansell, Commissioner

ATTEST:
OFFICE OF COUNTY RECORDS



Records Officer





TOWN OF SUMNER

INDUSTRIAL WIND ENERGY FACILITY ORDINANCE

C-7

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Town of Sumner Industrial Wind Energy Facility Ordinance

Section I - Title

This ordinance shall be known as the Town of Sumner Industrial Wind Energy Facility Ordinance.

Section II – Principle and Purpose

The purpose of this ordinance is to protect the health, safety, and general welfare of the Citizens of Sumner by establishing reasonable and uniform regulations for the development of Industrial Wind Energy Facilities (IWEFs). This ordinance is to be liberally construed.

Licensing Authority

The Planning Board shall be the licensing authority for IWEFs in the Town of Sumner, responsible for all IWEF related construction permits, temporary operational license and/or operational licenses.

Expert Consultants and Specialists

The Planning Board may, with notice to the Applicant, hire expert Consultants or Specialists as deemed necessary to carry out the provisions of this ordinance including but not limited to: legal counsel, qualified independent acoustical experts, licensed Maine surveyors, licensed Maine engineers, biologists, zoologists, etc. All regulatory fees, costs, and expenses incurred by any such experts or specialists shall be paid by the applicant.

Extensions of Time Limits

The Planning Board and the applicant may, by mutual written agreement, extend any time limits required in this ordinance, except where otherwise noted.

Documentation

Applicant shall provide at least ten (10) hardcopies of all written and other materials required for submission to the Board, including any maps, photographs or drawings, with one electronic copy of all such materials in a digital format acceptable to the Board. Each hardcopy shall be bound.

Section III – Authority

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution (Municipal Home Rule), the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312, et. seq. (Comprehensive Planning and Land Use Regulation, or "Growth Management Act"), as these laws may be amended from time to time, and consistent with the Town of Sumner's Comprehensive Plan of 2006.

Whenever a provision of this ordinance conflicts with, or is inconsistent with, another provision of this ordinance or any other Town of Sumner ordinance, State of Maine or Federal statute or regulation, the more restrictive provision shall control.

Section IV – Applicability: Construction Permit and Operational License

This ordinance applies to all IWEFs proposed to be constructed or operated on or after the effective date of the ordinance.

This ordinance includes Sections I through XV, together with the Appendix.

It shall be unlawful and a violation of this ordinance to begin construction, modification and/or operation of an IWEF in Sumner without appropriate permits and licenses required under local, state and federal law and regulations.

The burden of proof of compliance with all aspects of this ordinance is on the Applicant and/or the Owner/Operator of an IWEF.

Section V – Definitions

Acoustical Hazard – annoyance, nuisance and/or potential threat of harm to the health of humans and animals living near IWEFs, with a resulting threat of a decline in nearby property values, all owing to noise, both audible and inaudible, produced by an IWEF.

Ambient Sound – includes all sound present in a given environment. It includes intermittent sounds, such as aircraft, barking dogs, wind gusts, mobile farm or construction machinery, and vehicles traveling along a nearby road. It also includes insect and other nearby sounds from birds, animals or people. Ambient sound is not considered part of the long-term background sound.

Amplitude Modulation – unpredictable fluctuations in noise, both audible and inaudible, which often characterize sound emitted from IWTs and which may cause an acoustical hazard.

ANSI-American National Standards Institute.

Applicant – See definition of Owner/Operator.

Application/Reports (A/R) – a written request, which conforms to all of the requirements of this ordinance, by an Applicant or Owner/Operator, for a Construction Permit or to expand an IWEF or for an initial or renewed Operational License regarding an IWEF, or for any other matter for which the Applicant or Owner /Operator is seeking any kind of approval from the Town Planning Board.

A-Weighted Sound Level (dBA) – is one measure of the overall sound level. This measure is designed to reflect the response of the human ear, which does not respond equally to all frequencies. Lower frequency sounds are given less weight than those in the mid-range of human perception. The resulting measure is said to be A-weighted and the units are dBA.

Background Sound (L90) – refers to the sound level present at least 90% of the time. Background sounds are those heard during lulls in the ambient sound environment. That is, when transient sounds from flora, fauna, and wind are not present. Background sound levels vary during different times of the day and night. Because IWEFs are intended to operate continuously over a period of decades, the background sound levels of interest are those during the quieter periods which are often the evening and night. Sounds from the IWEF of interest, near-by birds and animals or people must be excluded from the background sound test data. Nearby electrical noise from streetlights, transformers and cycling air conditioning units and pumps etc. must also be excluded from the background sound test data.

Background sound level [dBA and dBC (as L90)] is the sound level present 90% of the time during a period of observation that is representative of the quiet time for the soundscape under evaluation and with duration of ten (10) continuous minutes. Several contiguous ten (10) minute tests may be performed in one hour to determine the statistical stability of the sound environment.

Blade Passage Frequency (BPF) – the frequency at which the blades of a turbine pass a particular point during each revolution (e.g. lowest point or highest point in rotation) in terms of events per second. A three bladed turbine rotating at 28 rpm would have a BPF of 1.4 Hz. [e.g. (3 blades times 28rpm)/60 seconds per minute= 1.4 Hz BPF]

Blade Reflection – the intermittent reflection of the sun off the surface of the blades of an IWT.

CEO – means Town of Sumner Code Enforcement Officer for matters relating to Industrial Wind Energy Facilities.

Construction Permit – final written permission to construct an IWEF.

C-Weighted Sound Level (dBC) – is similar to the A-weighted sound level (dBA), but it does not de-emphasize low frequencies to the extent that A-weighting does. For sounds with a significant low-frequency component, dBC is a more accurate measure of the energy of the sound waves than dBA.

Days- Refers to Calendar days.

Debris Hazard – Hazard owing to the possibility that the parts of an IWEF, or material (ice or other debris) accumulated on its rotating elements, could be dislodged and fall or be thrown some distance onto surrounding property.

Decibel (dB) – refers to a dimensionless quantity, which is proportional to the logarithm (base 10) of a ratio of two quantities that are proportional to the power, energy or intensity of sound. One of these quantities is a reference level relative to which all other levels are measured.

DEP Certification – a certification issued by the Department of Environmental Protection pursuant to Title 35-A M.R.S.A. §3456, as may be amended from time to time, for an IWT that is subject to this ordinance.

Emission – Sound energy transmitted by an IWT to a receiver.

Essential Wildlife Habitat – means areas identified by the Commissioner, Maine Department of Inland Fisheries and Wildlife, in accordance with the provisions of 12 M.R.S.A., Chapter 925, Subchapter 3, and any Department of Inland Fisheries and Wildlife rules implementing those provisions.

Extraordinary Events – includes, but is not limited to, tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the tower base, thrown blade or hub, any injury to an IWEF worker or other person that requires emergency medical treatment, or other event that impacts the health and safety of the Town or its residents.

Frequency – The number of oscillations or cycles per unit of time. Acoustical frequency is usually expressed in units of Hertz (Hz) where one Hz is equal to one cycle per second.

Height -means the total distance measured from the grade of the property as it existed prior to the construction of an IWEF, tower, turbine, or related facility at the base to its highest point. In the case of an IWT, this includes the length of the blade at its highest possible point.

IEC –International Electrotechnical Commission.

Immission– Noise received at a defined point after being transmitted from an IWT.

Immission Spectra Imbalance– The spectra are not in balance when the C-weighted sound level is more than 20 dB greater than the A-weighted sound level. For the purposes of this requirement, the A-weighted sound level is defined as the long-term background sound level (LA90) + 5 dBA.

Industrial Wind Energy Facility (IWEF) – means all of the following—any wind energy installation:

1. consisting of one or more IWTs with a combined tower and blade height of more than 150 feet (from ground to blade tip at its highest point); and
2. with a nameplate capacity of more than 100 kilowatts per IWT; and
3. requiring a Site Location or Development permit from the Maine Department of Environmental Protection pursuant to Title 35-A M.R.S.A §3456, as may be amended from time to time; and
4. the purpose of which facility is to generate electricity using ambient wind as a source of motive power in order to primarily supply electricity to off-site customers; and
5. includes, but is not limited to, any associated installations structures and facilities such as meteorological towers, substations and any other accessory structures, cables/wires, generator leads lines, fences, lighting systems, access roads, parking lots, turnout locations, temporary staging areas, together with maintenance and all power collection and transmission systems, and any areas in which the soil is in any way disturbed.

Industrial Wind Turbine (IWT) - an energy system that converts wind energy into electricity and which meets the height, nameplate capacity and other criteria cited in the definition of an IWEF above.

Infrasound – sound like waves having a frequency below the audible range, that is, below 20 hertz.

Land Survey – the practice of determining the boundaries, area, location and elevation of land, features and structures on the earth's surface by means of measuring angles and distances, using the techniques of geometry and trigonometry, by a Maine Professional Land Surveyor (MPLS).

LAeq – means the energy-equivalent sound pressure level measured in decibels with a sound level meter set for A-weighting, "Fast" response over a measurement period; expressed as LAeq or Leq in dBA.

LCeq – means the energy-equivalent sound pressure level measured in decibels with a sound level meter set for C-weighting, "Fast" response over a measurement period; expressed as LCeq or Leq in dBC.

Low Frequency Noise (LFN) – refers to sounds with energy in the lower frequency range of 20 to 200 Hz.

LS- margin of error shall be one (1) dBA unless otherwise authorized by the Town Planning Board, to account for variations in meter total instrument response.

Lw – manufacturer's Guaranteed Maximum Sound Power level, in dBA re 1pW, under any operating conditions, including high winds, yawing, furling and power outages, whether electrically loaded or unloaded.

L10– the level of sound exceeded for no more than 10% of the monitoring period.

Measurement Point – refers to a location where sound and/or vibration are measured.

Meteorological Tower (MET Tower) – structure used for the measurement of wind force and speed and constructed as a tower to mount instruments at one or more heights above grade for the purpose of collecting wind or other meteorological data.

Mitigation Waiver – means a legally enforceable, written agreement between the Applicant and a Non- participating Landowner in the Town of Sumner for which the landowner waives certain protections afforded in this ordinance.

Nameplate Capacity – the electrical power rating of an individual IWT as certified by the manufacturer and the National Renewable Energy Laboratory and normally expressed in watts, kilowatts (kW), or megawatts (MW).

Non-Participating Parcel – a parcel of real estate that is neither a Project Parcel nor a Participating Parcel.

Notice – a written communication sent by certified mail "return receipt requested", or a major messenger service such as FedEx or UPS.

Occupied Building – any structure that is, or could, reasonably be occupied by persons or livestock. This includes, but is not limited to dwellings, places of business, places of worship, schools, and barns.

Operational License (OL) – License or renewal of a license issued by the Planning Board to operate an IWEF in accordance with this ordinance.

Owner/Operator - the person(s) or entity(s) with legal ownership or control of the property on which the IWEF is located or proposed to be located, including successors and assigns, that either had, has or is attempting to obtain, permission from the town of Sumner to build, operate on a daily basis, expand, decrease, change the use of, or decommission an IWEF. An Owner/Operator is the entity which has full legal authority to represent and bind itself to fulfill all of the provisions of this ordinance. This term is interchangeable with the "Applicant."

Parcel -A contiguous quantity of land in the possession of an owner.

Participating Parcel - means a parcel of real estate that is not a Project Parcel, but is subject to a Mitigation Waiver.

Planning Board - For the purpose of this document, the Town of Sumner Planning Board shall herein after be

referred to as "Board".

Professional Land Surveyor - Professional Land Surveyor means a person licensed by the Department of Professional and Financial Regulation to perform any service or work involving the application of special knowledge for the purpose of determining property boundaries, determining area and volume, platting of land and subdivisions and other services as defined by law (reference 32 M.R.S.A. Section 13901 "Definitions").

Project Parcel – any property in which the developer has an ownership interest either whole or in part, including leases, easements or Rights-of-Way.

Project Boundary - means the boundaries of the IWEF as shown on the construction plan.

Property Line - means the legally recognized and mapped property boundary line.

Public Way - means any road capable of accommodating motor vehicles, including, but not limited to, any state highway, municipal road, county road, or other road dedicated to the public.

Qualified Independent Acoustical Consultant – refers to a person with qualifications under this ordinance for conducting baseline and other sound measurements, reviews and studies. Those qualifications include, at a minimum, demonstration of competence in the specialty of community sound testing and full and current Board Certified Membership in the Institute of Noise Control Engineers (INCE). (Certifications such as Professional Engineer (P.E.) do not test for competence in acoustical principles and measurement and are thus not, without further qualification, appropriate for work under this ordinance.)

Scenic or Special Resource - means a scenic resource of state or national significance, as defined in Title 35-A M.R.S.A. Section 3451(9), as may be amended from time to time, any site registered in the National Registry of Historic Places, or a scenic or special resource of local significance identified as such in the Sumner Comprehensive Plan of 2006.

Setback- the minimal fixed distance required from the base of each IWT and the closest point on any property line of any non-participating property owner and/or public way as measured on a horizontal basis.

Shadow Flicker- alternating changes in light intensity caused by the movement of wind turbine blades casting shadows on the ground or a stationary object or occupied building.

Significant Wildlife Habitat - as defined under Maine's Natural Resources Protection Act (NRPA) and Administered by the Maine Department of Environmental Protection and Department of Inland Fisheries and Wildlife.

Structure - regarding IWEFs, the total constructed aspects and footprint of all of the physical attributes of the entire IWEF as defined in Title 38 M.R.S.A. § 482, as may be amended from time to time.

Town of Sumner - For the purpose of this document, the Town of Sumner shall herein after be referred to as "Town".

Section VI- Escrows

1. The Applicant shall reimburse the Town for all regulatory costs and expenses incurred due to, for example, the evaluation, processing of applications and complaints. There shall be separate escrow amounts required for Met Towers, Construction Permits, Licensing and re-Licensing, and for decommissioning. At the end of each of distinct period, as determined by the Board, the funds in the Escrow Account will be returned to the Owner/Operator. All interest accruing to the escrow account shall be paid to the Applicant on a yearly basis, with a deduction for any money needed to replenish. The Board may require one continuous escrow account funded at different levels for the periods described above, or it may require that a separate escrow account be opened and closed for each of such periods.
2. To fund the costs of reviewing the application for the Construction Permit and decommissioning plan, the Applicant or Owner/Operator will open an Escrow Account at a financial institution approved by the Board, in

the name of the Town, to be managed by the Town Treasurer, depositing one-half of one percent (1/2 of 1%) of the estimated project costs coincident with the submission of an application for a Construction Permit and approval of decommissioning plan. Failure to provide notice and proof of deposit to the Town Escrow Account shall cause the application to be deemed withdrawn.

3. If the Construction Permit/Decommissioning Escrow Account falls below fifty (50) percent of the original required deposit amount, full replenishment is required within thirty (30) days of notice by the Town to the Applicant regarding the account deficiency. Failure by the applicant to provide to the Town notice and proof of deposit to the Town Escrow Account for such replenishment shall cause the application to be deemed withdrawn.
4. The Escrow funding level for the MET Tower and entire period of licensing and renewals of licensing shall be \$10,000 and shall be replenished within thirty (30) days as used.

Section VII – The IWEF Application Process

Review Process

The Steps of the IWEF application Process are:

- ❖ Pre-Application Meeting
- ❖ Preliminary Plan
- ❖ Meteorological Tower (MET)
- ❖ Construction Permit/Initial Operational Permit
- ❖ Operational License-Renewal, New Owner/Operator, Amended

Pre-Application Meeting with the Board

1. Description and Purpose: This is an informal, informational, non-binding discussion with the Board so all parties fully understand what is being proposed and what is required by law.
2. Requirements: The applicant must attend the pre-application meeting and is expected to have read the Town's IWEF ordinance in advance. Any written materials the applicant wishes to provide to the Board shall conform to the A/R requirements of this ordinance.

Application Procedures and Requirements for Preliminary Plan

1. Preliminary Plan Fee of \$1,000 (Non Refundable)
 - a. The Applicant shall be billed for all Planning Board costs associated with the evaluation of the Preliminary Plan.
2. Preliminary Plan Procedures: After meeting informally with the Board an applicant will submit a Preliminary Plan as detailed in the Preliminary Plan requirements below to the town clerk to be placed on the Board agenda within forty-five (45) days of receipt.

A dated receipt will be issued to the applicant and the applicant will be notified no less than ten (10) days prior to the Board meeting which includes the IWEF preliminary Plan on its agenda. The Board will review all Preliminary Plans received on a first come, first served basis.

Within forty-five (45) days from the date that the Board began the review process of the Preliminary Plan the applicant will be notified whether the Plan is complete. If incomplete, the Board will specify additional information or material(s) needed to complete the plan.

3. Preliminary Plan Requirements:
 - a. The Applicant, Owner/Operator and Construction Company's name, address and phone number.

- b. A narrative describing the proposed IWEF, including an overview of the project, the project location, the size and number of turbines, and the maximum generating capacity and expected megawatt production of each proposed IWT.
- c. Evidence of the Applicant's technical and financial ability to implement the projects proposed, including a history of the Applicant/Owner/Operator's previous wind facility projects or associations with such projects.
- d. An overview map that includes the extent of the entire Town, showing all roads, together with the location of all IWTs, access roads, power transmission lines, and any other features of the IWEF deemed to be relevant by the Planning Board.
- e. The names, addresses and available phone numbers of all owners of parcel(s) within one (1) mile of the project parcel.
- f. The distance between each IWT.
- g. A phased project plan, if phasing is sought.
- h. Written list of specific Community Benefits where applicable.
- i. Applicant shall submit a standard boundary survey of the subject property stamped by a Professional Land Surveyor licensed in the State of Maine. Survey shall also include existing land features including, but not limited to, existing roads, water courses, structures and utilities.
- j. For any Project Parcel that is not owned by the Applicant, a copy of any Agreement(s) between the owner of the Project Parcel and the Applicant and/or Owner/Operator, excepting financial information.
- k. Once the Preliminary Plan is complete and accepted by the Board, all landowners identified in subsection (e) will be notified in writing. The Board shall be responsible for the notification of landowners. The public shall have access to the Preliminary Plan in the town office during regular office hours. The public will have forty- five (45) days from the date of notification to provide written comments to the Board concerning the proposed IWEF.

MET Tower Permit Submission Criteria

A continuous MET study of no less than one (1) year and no more than two (2) years is a requirement. The removal of the MET must be completed within three (3) months of the test completion and the land restored to its previous condition.

The application for a MET permit shall include the following information:

1. Application Fee of \$1,000 (Non Refundable)
2. Applicant and property owner name address and contact information.
3. Engineering drawings of
 - ❖ Proposed tower structure, instrument package, and guy system, if any
 - ❖ Proposed tower base
 - ❖ tower location showing property lines and setback requirements (as specified in this Ordinance)
4. A survey by a licensed Maine Professional Land Surveyor indicating tower location
5. Any building, use or construction permits required by other authorities

6. Period of data collection shall be at least one year but not more than two years. Decommissioning of the Met Tower shall be completed within 180 days of completion of data collection. Requirements for decommissioning of the entire IWEF shall also apply to MET Tower decommissioning.
7. Plans for mitigation of Environmental Hazards
8. Permit for the MET tower will expire eighteen (18) months after the date of issue. If the applicant has not commenced construction of the Met Tower within that period, the applicant must reapply.
9. A report of all data collected by the MET will be provided to the Board on a quarterly basis.
10. Decommissioning Plan
11. Failure to comply with the criteria of this ordinance relative to a MET application will result in the denial of the application.
12. Within 30 days of the Board's receiving a Meteorological Tower (MET) application the Board shall notify the Applicant in writing that the application is complete or, if the application is incomplete, shall inform the Applicant of the specific additional material needed to complete the application.
13. Within forty-five (45) days of the board having determined that the MET application is complete, the Board shall approve the application, approve the application with conditions or disapprove the application. The time limit for review may be extended by mutual agreement between the Board and the Applicant.
14. A post-construction inspection of the Met Tower shall be conducted by the Board's experts to ensure structural integrity and full compliance with this ordinance. If such inspection reveals issues of non-compliance, the CEO shall take appropriate enforcement measures.

Construction Permit Application Procedures and Requirements

1. Construction Permit Procedures:
 - a. Construction Permit Application Fee \$5,000 (Non Refundable)
 - b. Applications for an IWEF construction permit shall be submitted to the Board at least forty-five (45) days prior to a Planning Board meeting. This submission must occur within six (6) months of acceptance of the Preliminary Plan as complete. The application for an IWEF Construction Permit shall include all of the information, documents, plans, escrow deposits and other items required to be submitted with an application under Section VIII, and a preliminary cost agreement with fees referred to in Section VI, together with all other instances where this ordinance outline financial obligations of the Applicant, Permittee, Owner/Operator and Licensee. The original plan shall be suitable for permanent recording in the Oxford County Registry of Deeds.
 - c. Within ninety (90) days of the Board receiving an application, the Board shall, with assistance from such staff, consultants, committees as it deems appropriate, notify the Applicant in writing either that the application is a complete application or, if the application is incomplete, that specific additional material is needed to make a complete application.
 - d. The Board shall hold a public hearing within forty-five (45) days of the date of determination of a complete application. The Board shall publish the time, date, and place of the hearing at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing in a newspaper of area wide circulation. The Board shall send notice of the hearing to landowners

within the one (1) mile setback of the hearing. Public hearings by the Board shall be conducted according to the procedures outlined in 30-A M.R.S.A. Section 2691, Subsection 3 (A), (B), (C), (D), and (E), as may be amended from time to time.

- e. After the Board determines that an application is complete, the Board shall determine whether the application meets all requirements of this ordinance. In determining whether the application meets the requirements of this ordinance, the Board may obtain assistance from such staff and consultants, as it deems appropriate.
- f. Within ninety (90) days of the public hearing the Board shall approve the application, approve the application with conditions or disapprove the application. The time limit for review may be extended by mutual agreement between the Board and the Applicant.
- g. The Board shall make findings of fact and conclusions relative to the application's approval, approval with conditions or disapproval. The reasons for approval with conditions shall be clearly stated in the findings of fact conclusions. The findings of fact and conclusions shall be in the written record of the Board.
- h. An aggrieved party may appeal the decision of the Board on the application under this ordinance within thirty (30) days from the date of the decision to the Board of Appeals.
- i. Any significant modification of the approved IWEF such as, but not limited to, the number of IWTs, tower height, tower locations, turbine design and specifications shall require the Applicant to obtain an amended Construction Permit pursuant to this ordinance. The application procedures and permit requirements and standards for amending a Construction Permit are the same as for an initial application.

2. Construction Permit Requirements Including Engineering Drawings as Applicable:

- a. All requirements listed under the Preliminary Plan (Section VII)
- b. Proof of all liability insurance requirements (Section VIII)
- c. An overview map that includes the extent of the entire Town, showing all roads, together with the location of all IWTs, access roads, power transmission lines, and any other features of the IWEF deemed to be relevant by the Board.
- d. A tax map and lot number of all Project Parcels.
- e. For any Project Parcel that is not owned by the Applicant, a copy of any agreement(s) between the owner of the Project Parcel and the Applicant and/or the Owner/Operator.
- f. The boundaries of all Project Parcels, surveyed by a licensed Maine Professional Land Surveyor, with name, registration number and seal of the surveyor provided.
- g. The boundaries of all Participating Parcels.
- h. The boundaries of all Non-Participating Parcels located within one (1) mile of any proposed IWTs, together with the distance to, and bearing to, all boundary lines relative to each proposed IWT, as measured from the nearest point of the property line to the IWT. A licensed Maine Professional Land Surveyor shall provide this information.
- i. The names, addresses and available phone numbers of the owners of all Project Parcels, Participating Parcels, and Non-Participating Parcels located within one (1) mile of any proposed IWT, with each property owner's status indicated (Project Parcel, Participating Parcel or Non- Participating Parcel), including the book and page reference of the identified owner's interest as recorded in the Oxford County Registry of Deeds.
- j. Color photographs showing aerial perspectives of all project parcels, participating parcels, and all non-participating parcels within one (1) mile of any proposed IWT.

1. Color Photographs will also depict the preconstruction condition of the entire IWEF site.

2. Each color aerial photograph shall be accompanied by a duplicate onto which is superimposed an accurately scaled representation of the proposed IWEF to include any tree cover or vegetation to be removed.
- k. The location of all components of the IWEF, including but not limited to the IWTs, access roads, control facilities, meteorological towers, turnout locations, substation(s), ancillary equipment, buildings, structures, and temporary staging areas, together with maintenance and all power collection and transmission systems.
 - l. The location and description of all structures located on Project Parcels, and all occupied buildings located on Participating and Non- Participating Parcels located within one (1) mile of any proposed IWEF.
 - m. Dimensional representation and sizes of the structural components of each IWT tower construction including the base, footings, tower, and blades. Further, the total footprint of the proposed IWEF shall be expressed in acres.
 - n. The distance between each IWT tower and each of the following shall be shown on the construction plan: those structures listed in (M), above-ground utility lines, telephone lines, towers, and public ways located within one (1) mile of any proposed IWT.
 - o. Schematics of electrical systems associated with the proposed IWEF including all existing and proposed electrical connections.
 - p. Manufacturer's installation and operating instructions and remote control systems. Maximum generating capacity of each IWT, manufacturer's specifications to include design, make, model, sound power levels(Lw) for each 1/3 octave band from 6.3 Hz to 10,000 Hz, type of overspeed control, capabilities of automated brake systems and specifications of all other safety devices.
 - q. The direction of proposed surface water drainage across and from Project Parcels and Participating Parcels, with an assessment of impacts on downstream properties and water resources, including, but not limited to, streams and wetlands.
 - r. The location of any of the following found within one (1) mile of any proposed IWT: open drainage courses, wetlands, and other important natural areas and site features, including, but not limited to, floodplains, deer wintering areas, Essential Wildlife Habitats, Significant Wildlife Habitats, Scenic or Special Resources, habitat of rare and endangered plants and animals, unique natural areas, sand and gravel aquifers and historic and/or archaeological resources, together with a description of such features.
 - s. Pre-construction and post-construction field studies shall be conducted using the most advanced techniques available. If the pre-construction field studies demonstrate significant adverse effect to birds, bats, game animals or habitat fragmentation, the Board, the Owner/Operator and the Maine Department of Inland Fisheries and Wildlife (MDIFW) shall develop an appropriate mitigation plan. In determining the nature and effectiveness of such mitigation plans, the Board will be guided by its own consultants, the MDIFW, and applicable state laws and regulations. The Owner/Operator will be responsible for the full cost of implementing the mitigation plan under the supervision of MDIFW and the Board. After implementation, the Board will review the mitigation plan to determine its effectiveness. Should the Board find the mitigation efforts inadequate the Applicant/Owner/Operator will be given an additional one-hundred and eighty (180) days to resolve the deficiencies. In the absence of a successful resolution the Town shall have the right to pursue license revocation thru court proceedings.
 - t. Provisions made for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.
 - u. The location, dimensions and materials to be used in the construction of proposed roads, driveways, parking areas and loading areas, together with an assessment of any changes to traffic flow.

- v. The size and scale of maps and diagrams shall be as determined by the Board, and shall include a north arrow, the date, the scale, and date and seal of a Maine Licensed Land Surveyor.
- w. The construction plan shall include such additional information as may be deemed required by the Board in light of the specific conditions of the property or surrounding areas, provided such information directly relates to the standards of approval for IWEFs set forth in this ordinance.
- x. A phased project plan that indicates how the IWEF will comply with the Construction Permit Standards and Requirements identified in Section VIII.
- y. The Board, CEO or other authorized representative of the Town shall be allowed access to the site during reasonable hours, after notice, for the purpose of evaluating the IWEF proposal. The CEO or other authorized representative shall be given access to the site during reasonable hours, after notice, to review the progress of work or to determine compliance with the conditions of any construction permit or other requirement of this ordinance.
- z. An Application for an IWEF Construction Permit shall include a road and property use and risk assessment plan containing the following information and meeting the following requirements.
 - 1. A description and map of all public ways, and other property in the Town to be used or affected in connection with the construction of the IWEF, including a description of how and when such ways and property will be used or affected.
 - 2. A description of the type and length of vehicles and type, weight and length of loads to be conveyed on all public ways in the Town.
 - 3. A complete assessment of the proposed use of public ways in the Town in connection with the construction of the IWEF, including the adequacy of turning radii; the ability of the public ways to sustain loads without damage; the need to remove or modify (permanently or temporarily) signs, trees, utilities, or anything else; any reasonably foreseeable damage to public ways or other property, public or private; any reasonably foreseeable costs that the Town may incur in connection with the use of property in the Town, including but not limited to, costs relating to traffic control, public safety, or damage to public ways, or to other public or private property.
 - 4. A traffic control and safety plan relating to the use of public ways in the Town in connection with the construction of the IWEF
- aa. The applicant shall submit a design plan that meets the Design Standards set forth in Section VIII.
- bb. The application shall include a statement from the Federal Aviation Administration that the proposed IWEF will not pose a hazard to aircraft. The Applicant must also provide memoranda from the Maine Department of Inland Fisheries and Wildlife (MDIFW) Environmental Coordinator and from the Maine natural Areas Program (MNAP) outlining any concerns that these bodies may have with the proposed IWEF. In the absence of any such concerns, the Applicant must provide copies of correspondence with these bodies showing that no such concerns exist.
- cc. The application shall include a detailed shadow flicker assessment model and an estimate of the expected amount of flicker. The study shall include a paint sample that demonstrates the color, texture and gloss of the proposed surface coating and that the proposed surface coating will not create a reflective surface.
- dd. An application for an IWEF Construction Permit shall include a sign plan meeting the requirements set forth in Section VIII.
- ee. An application for an IWEF Construction Permit shall include reports of stray voltage analyses in accordance with this section. The Applicant shall conduct and include a report of a preconstruction stray voltage test on all buildings located within a one (1) mile radius of the Project Parcels. An investigator, approved by the Board, using a testing protocol which is approved by the Board, shall perform the tests. A report of the tests shall be provided with the IWEF Construction Permit application and shall be provided to the owners of all property included in the study area. The

applicant shall seek written permission from property owners prior to conducting testing on such owners' property. The applicant shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing.

- ff. The Application shall include a security plan that contains the information and meets the requirements of Section VIII.
- gg. The application shall include a fire prevention and emergency response plan containing the information and meeting the requirements of this section. The plan shall describe the potential fire and emergency scenarios related to an IWEF that may require a response from fire, emergency medical services, police or other emergency responders. The plan shall designate the specific agencies that would respond to potential fire or other emergencies, shall describe all IWEF related emergency response training and equipment needed to respond to a fire or other emergency, shall include an assessment of the training and equipment available to the designated agencies. The study shall be conducted at the Applicant's expense and shall be certified by both the Chief of the Sumner Volunteer Fire Department and the Town's Emergency Management Director.
- hh. An application shall include an emergency shutdown plan. The plan shall describe the circumstances under which an emergency shutdown may be required to protect public safety, and shall describe the procedures that the Town and the Owner/Operator and Licensee will follow in the event an emergency shutdown is required.
- ii. Any additional relevant information that the Board may request relating to the use of public ways or other effects on public and private property that may occur in connection with the construction and operation of the IWEF.
- jj. IWEF Construction Permit applications will be accepted by the Board on a first-come first-serve basis.
- kk. If at any time it appears necessary or desirable to modify the approved plans before or during construction of the IWEF, the CEO is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The CEO shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board of Selectpersons and Planning Board. Revised plans shall be filed with the Planning Board for the record.
- ll. All construction activities must conform to the approved construction permit, including any conditions of approval and minor changes approved by the Inspecting Official and/or Board to address field conditions.
- mm. Upon completion of the project, the Applicant/Owner/Operator must provide the Board with a set of construction plans showing the structures as actually constructed. These "as-built" plans must be submitted within thirty (30) days of completion of the IWEF, and before commencement of operation of the IWEF.

Section VIII – Construction Permit Standards and Requirements/Initial Operational Permit

Mitigation Waivers

1. Owners of any non-participating parcel in Sumner may waive any of the setbacks, sound or shadow flicker restrictions in this section, except the Setback to Public Ways. This can only be accomplished with a written Mitigation Waiver, legally enforceable as a contract between the owner of the Non-Participating parcel and the applicant, and conforming to the requirements of this ordinance. The property subject to the Mitigation Waiver thereby becomes a Participating Parcel. No other provisions of this ordinance may be so waived.
2. Such mitigation waivers shall specify which provision(s) of setback, noise or shadow flicker are waived by the property owner shall provide a legal description of the property subject to the waiver and shall be recorded with the Oxford County Registry of Deeds. Any subsequent deeds shall advise all later owners that the property is so burdened.
3. The property owner shall provide a notarized, complete copy of such filing and recording to the Board within thirty (30) days of signing the waiver. Until the Board receives such a copy, the mitigation waiver shall

have no legal force under this ordinance. The applicant shall include, as part of the IWEF application, a complete list of all parcels subject to a Mitigation Waiver including the names and mailing addresses of the landowners.

Setback Requirements

An IWEF shall comply with the following setback requirements, which shall apply in addition to the construction requirements found elsewhere in this ordinance. If more than one (1) setback requirement applies, the greater setback distance shall be met.

1. All parts of an IWEF shall comply with all applicable setback requirements in the Town's ordinances.
2. A Minimal Fixed Distance of one (1) mile (5,280 ft.) is required from the outer edge of the base of each IWT to the closest point on any property line of any non-participating property in Sumner.
3. This distance shall be measured horizontally between the outer edges of the base of each IWT within the IWEF and the closest point on any non- participating Property Line.
4. IWTs shall be spaced, within rows and between rows, a minimum of ten (10) rotor diameters apart, using the largest proposed or existing rotor diameter for the spacing calculation. This distance can be lengthened but not shortened, if deemed necessary by the Planning Board to prevent harmful turbulence, on the advice of an independent acoustical consultant of the Boards' choice.
5. Setback to Public Ways – All IWTs shall be set back from any public way in Sumner a distance of no less than one thousand seven hundred fifty feet (1,750 ft.), measured horizontally from the outer edge of the base of each IWT within the IWEF to any point on the center line of such public way, any above-ground electrical power lines or telephone lines that are not part of the proposed IWEF, except that a lesser setback from power or telephone lines shall be permitted if the utility agrees in writing and this agreement is approved by the Board.
6. Setback to Scenic or Special Resource Areas -- All IWTs shall be setback a minimum of three thousand feet (3,000 ft.) from any scenic or special resource, as indicated in the Town of Sumner's Comprehensive Plan of 2006.

Sound Restriction Requirements

All acoustical instrumentation and sound measurement protocol conducted under the ordinance shall meet all the requirements of the following ANSI and IEC Standards cited in the Appendix.

See Appendix (A)

See Appendix for details regarding scientific and technical terms concerning sound measurements

1. Audible Sound Restrictions
 - a. No IWEF shall be allowed to operate if, it exceeds (35) dBA day or night, anywhere in the Town, or the pre-construction L90A+5dB whichever is more restrictive. Background Sound Level L90 results are valid when L10 results are no more than 15 dBA above L90 for the same time period. Pre-construction background noise studies for audible noise shall be conducted by a qualified independent acoustical consultant selected by the Board for all properties any part of whose property lines are located within two (2) miles of an IWT. Such background noise studies shall also be conducted before a new Owner/operator's application is approved by the Board and every three years during the operational life of the IWEF, unless such a study has already been conducted during the previous twelve (12) months.
2. Low Frequency Sound Restrictions
 - a. Sumner baseline background noise levels (separate dBA numbers measured for day and night) plus fifteen (15) equals the maximum dBC levels allowed, but never exceeding 50 dBC anywhere in the Town. If the day or night dBC levels are lower than 50 dBC, the most restrictive of these noise levels shall control.

- b. No IWEF or individual IWT shall be approved if pre-construction sound modeling and studies indicate, by a preponderance of the evidence, that to do so would cause any of the above noise restrictions to be exceeded.
- c. Pre-construction background noise studies for infra and low frequency sound shall be conducted by a qualified independent acoustical consultant selected by the Board for all properties any part of whose property lines are located within two (2) miles of any IWT. Such background noise studies shall also be conducted before a new Owner/Operator's application for an operational license is approved by the Board and every three years during the operational life of the IWEF, unless such a study has already been conducted during the previous twelve (12) Months.

3. Post-Construction Sound Measurements/Testing

- a. The Owner/Operator shall continually collect sound level and MET data at several key locations on the turbines and around the perimeter of the IWEF as determined by the Board with consultation from an acoustical engineer of their choice. Such data collection, to continue throughout the full life time of the IWEF, will be transmitted in a form, frequency, format and distribution acceptable to the Board.
- b. Summary reports of any and all exceedances or complaints, with explanations as to what they were, why they happened and what action occurred to correct the problem(s) must be sent to the Board on a monthly basis. All sound/Met data, in a format acceptable to the Board, must be sent to the Board quarterly and when requested for complaint resolution(s).
- c. Sound measurement studies conducted by an independent acoustical consultant selected by the Board will determine sound levels immediately after construction of the IWEF, first with all IWTs operating and then with all IWTs shut down. Such tests will be repeated on multiple days and during different weather conditions until the consultant is satisfied that sufficient and representative data has been obtained. The results of these studies shall be compared with those conducted prior to construction of the IWEF and reported in writing to the Board for its consideration of noise compliance. These studies shall be conducted for each application for a Permit/Operational License.
- d. The IWEF Applicant and/or Owner/Operator shall provide all technical information required by the Board or acoustical consultant before, during, and/or after any acoustical studies required by this document.

Risk Assessment for Road and Property Use

- 1. If the Applicant requires the temporary closure of any public way, the Board may require the Applicant to enter into an agreement relating to the use of the public way.
- 2. The Applicant shall be responsible for paying for any damage to any public way. If the risk assessment anticipates damage to any public way, the Board shall require the Applicant to provide a surety in an amount that the Board determines appropriate to secure any obligations under the agreement including, but not limited to, any obligation relating to alterations, damages or modifications to public ways made in connection with the Applicant's activities.

Design Safety Certification

The design of each IWT shall conform to applicable industry standards, including those of the American National Standards Institute, (ANSI) and shall comply with standards promulgated by Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies or other similar certifying organizations appropriate for the turbines' size and classification.

Design Requirements

The design plan shall meet the following requirements:

- 1. The total height of any IWT shall not exceed four hundred-fifty (450) feet above grade, as measured to the blade tips at their maximum distance above grade.
- 2. IWTs shall be painted a non-reflective, non-obtrusive color.
- 3. The design of the buildings shall, to the extent reasonably feasible, use materials; colors,

textures, screening and landscaping that will blend with and be compatible with the natural setting and the existing environment.

4. IWTs shall not be artificially lighted, except to the extent required by law, using only red lights. Strobe or other intermittent lights are prohibited unless required by law. The minimum number of IWTs will be illuminated, per FAA rules. Lighting shall be shielded from ground view to FAA maximum standards.
5. No advertising or display shall be permitted, other than identification of the manufacturer or operator of the IWTs or IWEF.
6. Electrical controls and control wiring and power-lines must be wireless or below ground, except where the IWEF's collector wiring is brought together for connection to the utility grid.
7. The clearance between the ground and the IWT blades shall be not less than twenty-five (25) feet.

Additional Protection Requirements

The Applicant must demonstrate that the proposed IWEF will not have an undue adverse effect on the proposed sites geological stability, rare, threatened, or endangered wildlife, Significant Wildlife Habitat, Essential Wildlife Habitat, Raptor Habitat, threatened or endangered plants and rare and exemplary natural plant communities and ecosystems.

Blasting Plan Requirements

Blasting shall be performed only after approval has been given to the Applicant for such operations and must comply with the following provisions set forth by Title 38, § 490-Z (14).

1. All equipment used in construction on the facility site shall comply with applicable federal noise regulations and shall include environmental noise control devices in proper working condition, as originally provided with the equipment by its manufacturer.
2. An IWEF Applicant shall not commence blasting without notifying the CEO and submitting a blasting plan that meets the latest Maine Department of Environmental Protection standards for quarry blasting, except as specifically modified by this section. The Applicant must execute this plan, and bears sole responsibility for all costs associated with its execution. The blasting plan shall be reviewed and approved by the CEO within ten (10) days of receipt before any blasting takes place.
3. A pre-blast survey is required and must extend a minimum radius of one (1) mile (measured horizontally) from the blast site. The information gathered by the survey must be satisfactory to the Board. Pre-blast surveys shall include both the interior and exterior of each structure. The pre-blast survey must document any pre-existing damage to structures and buildings and any other physical features within the survey radius that could reasonably be affected by blasting. Assessment of features such as pipes, cables, transmission lines and wells and other water supply systems may be limited to surface conditions and other readily available data, such as well yield and water quality. The pre-blast survey must be conducted prior to the initiation of blasting. The contractor or subcontractor shall retain a copy of all pre-blast surveys for at least one (1) year from the date of the last blast on the development site.
4. The Applicant shall notify that blasting will occur to all property owners of structures to be surveyed at least ten (10), but not more than thirty (30), days prior to commencement of blasting. The results of the pre-blast survey must be provided to the property owner no later than the date on which this notification is given.
5. The contractor or the subcontractor is not required to conduct a pre-blast survey on properties for which the Applicant or Owner/Operator documents the rejection of an offer by registered letter, return receipt requested, to conduct a pre-blast survey. Any person owning a building within a pre-blast survey radius may voluntarily waive the right to a survey.
6. Blasting timeframes shall be coordinated with the local emergency responders, or as otherwise

restricted by the local Fire Department. Blasting shall not occur between the hours of 7:00 p.m. and 7:00 a.m. No blasting shall be done on weekends or holidays.

Signal Interference Requirements

The IWEF shall not cause any disruption or loss of radio, telephone, television or similar signals. The Applicant shall provide a statement from the Federal Communications Commission (FCC) that the proposed IWEF will not cause any disruption of licensed radio, television, satellite, and cellular or similar signals.

Shadow Flicker

1. IWEFs may not cause an unreasonable adverse shadow flicker effect at any occupied structure on a Non-Participating Landowner's property. For the purpose of this section, "unreasonable adverse shadow flicker" means shadow flicker occurring for three (3) days or more in any one (1) month that, if annualized, would total more than twelve (12) hours of flicker per year. The application will not be approved if the study estimates that the duration of the flicker will be such that there are more than twelve (12) hours of flicker per year at any occupied structure located on a Non-Participating Parcel.
2. Property owners may waive the shadow flicker restrictions in this ordinance with a written mitigation waiver that conforms to the requirements of this ordinance. Such mitigation waivers must be recorded with the Oxford County Registry of Deeds. The property owner must provide a notarized copy of such recording to the Board within thirty (30) days of the of the recording date of the waiver. Until such a copy is provided the mitigation waiver shall have no legal force under this ordinance.

Sign Plan Requirements

1. The plan shall provide signage at the IWEF, identifying the Project Parcels as being part of the IWEF and providing appropriate safety notices and warnings.
2. No advertising material or signage other than warning, equipment information or indicia of ownership shall be allowed on the IWTs. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.
3. The address and phone number of the Owner/Operator and Licensee shall be posted on all access points from public roads.

Stray Voltage Assessment and Requirements

1. Following construction of the IWEF and within one (1) year after commencing operation, the Applicant shall conduct a post-construction stray voltage test on all buildings located within a one (1) mile radius of the Project Parcels. An investigator, approved by the Board, using a testing protocol which is approved by the Board, shall perform the tests. A report of the tests shall be provided to the Board and to the owners of all property included in the study area. The Applicant shall seek written permission from property owners prior to conducting testing on private property. The Applicant shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing.
2. The Owner/Operator shall provide neutral isolation devices to property owners where testing reveals neutral-to-earth voltages in excess of zero point five (0.5) volts caused by the IWEF.
3. The Owner/Operator shall be responsible for all costs incurred with the pre- and post-construction test.

Security Plan and Requirements

The Application shall include a security plan that contains the information and meets the requirements in this section:

1. A Wind Tower shall not be climbable up to fifteen (15) feet above-ground surface.
2. All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access.
3. Clearly visible warning signs concerning voltage must be placed and maintained at the base of all pad-mounted transformers and substations. A warning sign must also be placed at the base of each turbine.
4. All motor vehicle access points to the Industrial Wind Facility from public roads shall be locked and gated.

Fire Prevention and Emergency Response Requirements

Access to the IWEF and construction area(s) shall be constructed and maintained following a detailed erosion control plan in a manner designed to control erosion and to provide maneuverability for service and emergency response vehicles and must also meet all local safety and emergency requirements.

Emergency Shutdown Plan Requirements

1. An application for an IWEF Construction Permit shall include an emergency shutdown plan. The plan shall describe the circumstances under which an emergency shutdown may be required to protect public safety, and shall describe the procedures that the Town and the Owner/Operator and Licensee will follow in the event an emergency shutdown is required.
2. The IWEF Permittee, Owner/Operator and/or Licensee, as applicable, shall notify the Sumner Emergency Management Director and Sumner Fire Chief of any extraordinary event immediately and in no case more than twelve (12) hours after the event.

Re-commissioning & Decommissioning

1. The Owner/Operator shall at its own expense either re-commission or decommission the IWEF at the end of its useful life. The "end of useful life" is defined as: thirty (30) days after the Owner/Operator decides to cease generating electricity or one-hundred eighty (180) days after the IWEF has stopped generating electricity for any reason. The Board may consider alternative timelines based on a written request from the Owner/Operator.
2. Decommissioning shall include removal of IWTs and foundations to a depth of twenty-four (24) inches. All buildings, cabling, electrical components, roads, and any other associated facilities shall be removed unless, at the end of the IWT or IWEF's useful life, as determined in accordance within this ordinance, the Applicant provides written evidence of plans for continued beneficial use of these components of the IWEF, and this evidence is approved by the Planning Board.
3. Except as otherwise provided elsewhere within this ordinance, disturbed earth shall be graded and re-seeded, unless the Participating Landowner of the affected land requests otherwise in writing.

Failure to Perform

If the Owner/Operator fails to complete the re-commissioning or decommissioning within established timelines the Town may use the Performance Bond to complete the work.

Inspections

IWTs shall be inspected after construction is completed but before becoming operational, and at least every two (2) years thereafter, for structural and operational integrity by a Maine Licensed Professional Engineer, and the Owner/Operator and/or Licensee shall submit a copy of the inspection report to the Board. If such report recommends that repairs or maintenance be conducted, then the Owner/Operator and/or Licensee shall provide the Board with a written schedule for the repairs or maintenance. Failure to complete the repairs or maintenance in accordance with the schedule shall be

deemed a violation of this ordinance. Additional inspections by a Maine Licensed Professional Engineer will be required following an operational failure.

Liability Insurance

The Applicant or Owner /Operator will maintain a current general liability (GL) policy for the IWEF in an amount commensurate to the potential liability of the IWEF. It will cover, but not be limited to, bodily injury, property damage or loss, or business interruption. The Town shall be listed as an "ADDITIONAL INSURED" on said policy. The insurance company must be approved by the Board and must have an A.M. Best insurance Rating of at least A to A-.

The costs of said policy shall be borne entirely by the Applicant or Owner/Operator who shall provide a "Certificate of Insurance" to the Board at least sixty (60) days prior to all renewals of the policy.

Notice shall be given to the Town by the policy provider in the case of cancellation or policy change no less than sixty (60) days before such cancellation or change.

Performance Bond

1. The Applicant shall provide a Performance Bond for the life of the IWEF naming the Town as beneficiary prior to the issuance of the Construction Permit. The Performance Bond shall cover all costs associated with each stage of the IWEF lifecycle from evaluation to construction through commissioning, operations, re-commissioning and decommissioning. An independent licensed Professional Engineer, selected by the Board, will be retained to help the Board establish the amount of the Performance Bond for each stage of the IWEF's lifecycle, an amount to be established when the Construction Permit is issued and every other year thereafter.
2. The Board shall review the financial stability of the financial institution providing the Performance Bond initially and coincident with each valuation. The financial institution shall have a minimum AM Best rating of "A to A-"(excellent). Within thirty (30) days of receiving the valuation the Applicant or Owner/Operator must make any necessary adjustments to the Performance Bond. Failure to do so will cause the Construction Permit or Operating License to be rescinded.
3. In the event the Applicant or Owner/Operator is unable to secure a Performance Bond due to no underwriting entities existing, the Board may consider accepting a 100% funded Escrow Account as an alternative. The Escrow Account would be opened by the Applicant or Owner/Operator at a financial institution approved by the Board, in the name of the Town, to be managed by the Town Treasurer.

Construction Codes

1. All wiring shall be installed underground according to the State of Maine's applicable electrical requirements.
2. All construction shall be conducted in accordance with the Maine Uniform Building and Energy Code.

Project Phasing Plan

The IWEF shall be designed and developed according to the approved Project Phasing Plan. The Project Phasing Plan will include the following:

1. Construction plans and narrative that sets forth how the IWEF will be developed to comply with the individual standards.
 - a. The area to be cleared of vegetation, grubbed and excavated shall not exceed the land necessary for an IWEF that reasonably can be completed within twelve (12) months from the date of start of any clearing of vegetation, grubbing and/or excavation.
 - b. Each subsequent phase of the Project Phasing Plan may begin upon certification that the previous plan has been constructed as approved by the CEO.
2. The Board may, for good cause shown, grant a one (1) time extension of up to twelve (12) months for completion of construction of any phase provided such request is submitted

prior to the lapse or expiration of the Construction Permit.

Public Inquiries and Complaints

1. The Applicant or its designee shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the IWEF.
2. The Applicant or its designee shall within thirty (30) days respond to the public's inquiries and complaints and shall provide written copies of all complaints and the company's resolutions or response to the CEO upon request.

Community Benefits

The applicant shall enter into a community benefit agreement with the Town under the terms of 35-A M.R.S.A. § 3454, as may be amended from time to time, including the payment of real and personal property taxes if the property is not otherwise exempt from taxation.

Initial Construction/Operational Permit

1. Fee: \$5,000.00 (Non Refundable)
2. Performance Bond (Section VIII)
3. The initial Construction/Operational Permit allows for one (1) year of operation.
4. An inspection report certifying the structural and operational integrity of the IWEF is required. This report shall be signed by a Maine Licensed Professional Engineer chosen by the Board and the costs shall be borne by the Owner/Operator of the IWEF.

Section IX- Operational License(s)

1. Fee \$5,000.00 (Non Refundable)
2. A renewal of the initial operational license and a new owner operational license(s) are effective for three (3) years. If not renewed they shall automatically lapse.
3. Applications shall be submitted to the Board at least ninety (90) days prior to the expiration date and shall include the following in accordance with the requirements of this ordinance.
 - a. Updated evidence of the new Owner/Operator's technical and financial ability to operate the IWEF in accordance with the requirements of this ordinance or to update evidence of the current Owner/Operator's financial ability.
 - b. Copies of any new agreements or any agreements that a new Owner/Operator has entered into involving any project parcel, not owned by the applicant, or any participating parcel.
 - c. Updated Security Plan.
 - d. Updated Fire Prevention and Emergency Response Plan.
 - e. Updated Emergency Shutdown Plan.
 - f. Updated Decommissioning Plan.
 - g. Updated General Liability Insurance Policy.
 - h. Updated sound/test studies in accordance with this ordinance.
4. An amended license automatically terminates an existing Permit/License and reverts back to the Construction Permit/License requirements.

Section X - Expiration of Construction Permit

If an approved IWEF and/or phase of an IWEF are not substantially [at least fifty (50) percent or

more] completed within six months of the date of approval by the Board, then the Construction Permit shall expire, and the Applicant must reapply. The Planning Board may, for good cause shown, and proof of no harm to the Town, grant extensions of up to twelve (12) months for either start of construction or substantial completion of construction, provided such a written request is submitted prior to the lapse or expiration of the Construction Permit. The Board may grant more than one extension only if there is pending litigation challenging the approval of the IWEF.

Section XI – Complaints, Enforcement and Penalties

Complaint Process

All complaints shall be made in writing to the CEO, who shall provide copies to the Owner/Operator. Complaints involving IWEF sound, vibrations or other possible disturbances related to sound pressure require a written description of the event(s) to include date, time and subjective/objective intensity. Residents or landowners in Sumner may file such complaints.

1. After receipt of a complaint, the CEO shall, in an expeditious manner, and in the order complaints are received, contact the complainant and the Owner/Operator, visit the site of the alleged violation, conduct other investigation he deems appropriate, and, within a reasonable period of time, submit a written report to the Board of Selectmen. The CEO's report shall include his findings of fact and reasons for those findings with a recommendation to the Board of Selectmen as to the merits of the complaint.
2. If the Board of Selectmen and the CEO decide the complaint is without merit, it will be dismissed. If the Board of Selectmen and the CEO decide the complaint(s) has merit, involves sound, and has not been corrected within ten (10) days, the following will ensue:
 - a. Appropriate summary reports of all IWEF sound meter/MET data collected during the date(s) and time(s) of the complaint and for one (1) month prior and one (1) subsequent to the complaint will be requested from the IWEF.
 - b. Relevant monthly exceedance reports involving the IWEF will be reviewed.
 - c. All sound meter/MET data collected during the dates and times under inspection may be requested.
3. Findings of the summary reports and other data revealing evidence for a significant exceedance(s) related to sound pressure, as determined by the CEO, who may hire a qualified independent acoustical consultant of the Board's choice, will be:
 - a. Sent to the Owner/Operator with evidence of receipt sent to the Board of Selectmen
 - b. Sent to the complainant.
4. Significant sound pressure exceedances constitute a violation of this ordinance. The Owner/Operator shall submit a response with an explanation and a mitigation plan within fifteen (15) days of receipt of the CEO's findings.
5. Failure to respond to the CEO within one (1) month and to delineate and implement a correction acceptable to the CEO and the Board of Selectmen will initiate one of the following protective orders which shall remain in effect until the Board determines it would not disturb or harm the public health, safety or welfare to alter or terminate them:
 - a. Limitation of the time, speed, manner, and/or circumstances, in which the entire IWEF or one (1) or more IWTs may operate.
 - b. Shutdown of the entire IWEF or one (1) or more of the IWTs.
 - c. Imposition of other conditions the Board considers necessary.

6. If a complaint related to sound pressure should continue after appropriate corrections have been made by the Owner/Operator, and which have been agreed upon by the Board of Selectmen with expert advice, the CEO shall visit the site for further information. If the continuing complaint is found to have merit, the CEO will continue the investigation and a qualified independent acoustical consultant will be hired by the Board to begin appropriate sound level measurements as deemed reasonable and in accordance with the requirements of this ordinance.
7. If the complaint is deemed to have merit, but concerns issues other than sound, the CEO shall hire appropriate, independent, qualified experts to address the matter and conduct any needed tests or investigations. The general procedure for resolving sound issues will likewise apply.

Emergencies

1. The Owner/Operator shall shut down the IWEF in the event of any emergency or extraordinary event. This shutdown shall continue in effect until the CEO determines that it is safe to resume operations and the CEO approves the resumption of IWEF operations, either in part or in full.
2. The Owner/Operator shall immediately report to the Sumner Emergency Management (EMA) Director, Town Fire Chief and the Oxford County Regional EMA Director and the Maine State Police/Oxford County Sheriff, all extraordinary and/or emergency events. The Owner/Operator shall respond to any signal interference by the IWEF with Town, Oxford County or other Emergency Communications within twenty-four (24) hours, and eliminate such interference within forty-eight (48) hours.

Enforcement

1. It shall be the duty of the Code Enforcement Officer or other person (appointed by the Board of Selectmen) charged with enforcement of municipal laws to enforce the provisions of this ordinance.
2. In addition to the provisions set forth above, if the CEO finds that provisions of this ordinance are being violated, he or she shall notify personally or in writing, if necessary by certified mail return receipt requested, the person responsible for such violation indicating the nature of the violation, and ordering the action necessary to correct it. In addition to penalties provided herein, the Town may bring an action in the Superior Court or District Court to enjoin violators of this ordinance, for collection of penalties, for injunctive relief, and for such other relief as may be provided by law.

Penalties

Any person, including, but not limited to an Owner/Operator, an Owner/Operator's agent, or contractor who orders or conducts any activity in violation of this ordinance shall be penalized in accordance with 30-A M.R.S.A. § 4452, as may be amended from time to time. For the purposes of enforcement, a separate offense shall be deemed to be committed on each day during which a violation occurs or continues to occur. Such non-compliance shall include failure by the violator to eliminate, by the end of a reasonable period of time established by the CEO or the Board of Selectmen, the causes of any complaints found by the Board to have merit.

Records of Complaints

The Town shall maintain a permanent record of all complaints, CEO investigations, reports by consultants and outcomes. The Owner/Operator shall designate a representative and method to receive complaints by telephone call, email and other digital communications via the internet and to make an initial response to non-emergency complaints within a reasonable time throughout the Operational Life of the IWEF.

Section XII - Miscellaneous Requirements

Maintenance

An IWEF shall be constructed, operated, maintained, and repaired in accordance with the approved Construction Permit and other provisions of this ordinance. Where a standard or requirement is not provided by either this ordinance or the IWEF Construction Permit the IWEF and Owner/Operator shall comply with

manufacturer's recommended maintenance practices.

All components of an IWEF project shall conform to applicable local, state and national building codes.

Other Permits Required

Approval of an IWEF Permit under this ordinance does not exempt an Applicant from obtaining other applicable permits from the Town, such as building, electrical, plumbing and shore-land zoning permits, Site Plan Review as applicable or any applicable state or federal permit.

Section XIII – Effective Date and Amendment

This ordinance shall take effect immediately upon passage by a majority of those voting at a Town meeting.

Amendment Process- This ordinance may be amended by a majority vote of the annual or special town meeting. Amendments may be initiated by a majority vote of the Planning Board or by request of the Board of Selectmen to the Planning Board or on a written petition meeting the requirements of 30-A M.S.R.A §2522, as may be amended from time to time. The Board shall conduct a public hearing on any proposed amendment.

Section XIV – Appeals

The Board of Appeals shall have the power to hear and decide appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board. The governing law shall be the "Board of Appeals Bylaws for the Town of Sumner" adopted January 1st, 1990 including any subsequent amendments in effect at the time of the appeal.

Section XV – Incorporation of Appendix

The following Appendix is hereby incorporated by reference into the main body of this ordinance as binding requirements.

APPENDIX "A"

Sound and Noise Measurement Standards

1. The following technical requirements will ensure that critical sound measurements are conducted in an accurate and scientific manner. The American National Standards Institute (ANSI) and the International Electrotechnical Commission (IEC) cooperate in setting standards for many technical issues, including sound measurement protocols.
2. All sound and noise measurements and reporting of same, required by this ordinance, whether conducted by the applicant or by the Town, shall be carried out in strict compliance with the specific ANSI and IEC technical standards as listed, and in some cases, dated and modified, below. The following specific ANSI and IEC standards, with any noted modifications, are adopted by reference as part of this ordinance.
3. Specific options provided for in ANSI S12.9 Part 3 (1993, Revised 2008) shall be followed along with any additional requirements included below:
 - 5.2 Background Sound: Use definition (1): long term
 - 5.2 long term background sound: The L90 excludes short term background sounds
 - 5.3 basic measurement period: Ten (10) minutes L90
 - 5.6 Sound Measuring Instrument: Type 1 Precision meeting ANSI S1.43 or IEC 61672"1. The sound level meter shall cover the frequency range from 6.3 Hz to 20k Hz and simultaneously measure dBA LN and dBC LN. The instrument must also be capable of accurately measuring low level background sounds down to 20 dBA.
 - 6.5 Windscreen: Required
 - 6.6(a) an anemometer accurate to $\pm 10\%$ at 2m/s to full scale accuracy. The anemometer shall be located 1.5 to 2 meters (m.) above the ground and orientated to record maximum wind velocity. The maximum wind velocity, wind direction, temperature and humidity shall be recorded for each ten (10) minute sound measurement period observed within 5 m. of the measuring microphone.
 - 7.1 Long term background sound
 - 7.2 Data collection Methods: Second method with observed samples to avoid contamination by short term sounds (purpose: to avoid loss of statistical data)
 8. Source(s) Data Collection: All requirements in ANSI S12.18 Method #2, Precision to the extent possible while still permitting testing of the conditions that lead to complaints. The meteorological requirements in ANSI S12.18 may not be applicable for some complaint tests.
For sound measurements in response to a complaint, the compliance sound measurements should be made under conditions that replicate the conditions that caused the complaint without exceeding instrument and windscreen limits and tolerances.
 - 8.1(b) Measuring microphone with windscreen shall be located 1.2m to 1.8m (1.5 preferred) above the ground and greater than 8 m. from large sound reflecting surface.
 - 8.3(a) All meteorological observations required at both (not either) microphone and nearest 10 m. weather reporting station.
 - 8.3(b) for a ten (10) minute background sound measurement to be valid the wind velocity shall be less than 2m/s (4.5 mph) measured less than 5m/s. from the microphone. Compliance sound measurements shall be taken when winds are less than 4m/s at the microphone.
 - 8.3(c) In addition to the required acoustic calibration checks, the sound measuring instrument internal noise floor, including microphone, must also be checked at the end of each series of ten minute measurements and no less frequently than once per day. Insert the microphone into the acoustic calibrator with the calibrator signal off. Record the observed dBA and dBC reading on the sound level meter to determine an approximation of the instrument self- noise. Perform this test before leaving the background measurement location. The calibrator covered microphone must demonstrate that the results of this test are at least five (5) dB below the immediately previous ten (10) minute acoustic test results, for the acoustic background data to be valid. This test is necessary to detect undesired increase in the microphone and sound level meter internal self-noise. As a precaution sound measuring instrumentation should be removed from any air conditioned space at least one (1) hour before use. Nighttime measurements are often performed very near the meteorological dew point. Minor moisture

condensation inside a microphone or sound level meter can increase the instrument self-noise and void the measured background data.

8.4 The remaining sections, starting at 8.4 in ANSI S12.9 Part 3 Standard do not apply.

4. All procedures and standards shall be followed in ANSI S12.18 -- (1994 reaffirmed: 2009) Procedures for Outdoor Measurement of Sound Pressure Level.
5. All of the Standardized acoustical instrumentation and sound measurement protocols conducted under this ordinance shall meet all the requirements of the following ANSI Standards in their most recent, updated, official ANSI version:
 - a. ANSI S1.43 Integrating Averaging Sound Level Meters: Type-1 (or IEC 61672-1)
 - b. ANSI S1.11 Specification for Octave and One-third Octave-Band Filters (or IEC 61260)
 - c. ANSI S1.40 Verification Procedures for Sound Calibrators

Megan Zumbuhl

Other Jurisdictions

From: Denis Tracy
Sent: Tuesday, December 16, 2025 10:22 AM
To: Megan Zumbuhl
Subject: FW: For the Public Record for the Public Hearing
Attachments: Outlook-gh5a42uu; September 10 Letter.docx

From: Julie Clarkson <jclark766@hotmail.com>
Sent: Tuesday, December 16, 2025 10:01 AM
To: Denis Tracy <DenisT@whitmancounty.gov>
Subject: Fw: For the Public Record for the Public Hearing

Caution! This message was sent from outside your organization.

[Allow sender](#) | [Block sender](#) | [Report](#)

Sent from [Outlook](#)

From: Julie Clarkson <jclark766@hotmail.com>
Sent: Sunday, December 14, 2025 10:33 PM
To: alan.thomson@whitmancounty.gov <alan.thomson@whitmancounty.gov>; grace.dibiase@whitmancounty.gov <grace.dibiase@whitmancounty.gov>; commissioners@whitmancounty.gov <commissioners@whitmancounty.gov>; denist@whitmancounty.org <denist@whitmancounty.org>
Subject: For the Public Record for the Public Hearing

From: Julie Clarkson <jclark766@hotmail.com>
Sent: Wednesday, September 10, 2025 2:05 PM
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Cc: Tom.Handy@whitmancounty.gov <Tom.Handy@whitmancounty.gov>; Art.Swannack@whitmancounty.gov <Art.Swannack@whitmancounty.gov>; Chad.Whetzel@whitmancounty.gov <Chad.Whetzel@whitmancounty.gov>
Subject: September 10 Planning Commission Meeting

September 10, 2025

Whitman County Commissioners
Whitman County Planning Commission
Whitman County Planner

Dear Commissioners, Planning Commission members and County Planner:

I have previewed the PowerPoint material for tonight's presentation and I see that consultants have been commissioned to come in and tell the decision makers how all studies showing health impacts to residents living too close to wind turbines are wrong, and there is no problem as long as you are a mere 2.1x the height of the tower away.

Sadly, while it is common for counties to allow setbacks as little as 1.1-2.1 times the height of the towers, many towns and counties are choosing to protect their citizens to a greater degree. To add to the list I sent in my June 18 letter, below are some additional counties which have setbacks much greater than Mr. Ollson claims are adequate.

These wind towers WILL destroy some of the most beautiful views in the country. The big businesses getting tax credits don't care about that. Neither do the out of state property owners and investors. At least protect the citizens who live here and implement setbacks and noise limits which provide some shield against the sound of these monstrosities.

This is by no means a comprehensive list of counties with ordinances with greater setbacks but is evidence that there is absolutely precedent for the planning commission to provide greater protection to the citizens of Whitman County. There is one opportunity to do this correctly.

Thomas County, Nebraska https://thomascountyne.gov/pdfs/planning_zoning/zoning%20regulations.pdf

Setback (Commercial): Property lines **3 miles** (as measured from centerline of turbine)

Noise: No Commercial/Utility WECS shall exceed **35 Dba** at the nearest structure occupied by humans.

Dakota county, Nebraska https://dakotacounty.ne.gov/pdfs/planning_zoning/Wind%20Regs%20900.2.pdf

Setback (Commercial): Neighboring Dwelling Units – Non participating **2 miles**

Hamilton County, Nebraska <https://hamiltoncountyne.gov/wp-content/uploads/2021/07/hamilton-county-zoning-current.pdf>

Setback (Commercial): Property Line for non-participating landowner: **2 miles**

Noise - Audible sound (dB) thresholds: **40 dB** at the nearest non-participating property line from the hours of **8:00am to 8:00pm**. **37 dB** at the nearest non-participating property line during the hours of **8:00pm to 8:00am**. Testing for compliance shall be completed by an independent entity approved by the Hamilton County Board of Commissioners. The cost of this testing shall be paid for by the owner of the WECS. If not in compliance with the above listed dB levels, an immediate shutdown of the WECS shall be required until it can come into compliance. Such testing shall happen every 2 years. Results of testing shall be presented to the County Board at a regular board meeting.

Baker County, Oregon

[https://www.bakercountyor.gov/planning/zoning/Chapter 750 Wind Power Generation Facilities.pdf](https://www.bakercountyor.gov/planning/zoning/Chapter_750_Wind_Power_Generation_Facilities.pdf)

No portion of a Commercial or Small-Scale Wind Power Generation Facility shall be within **2 miles** of: 1. Properties designated on the Comprehensive Land Use Plan Map as residential [those zoned Rural Residential (RR-5) or Recreation Residential (RR-2) only], or 2. The city limits of an incorporated city, unless a resolution specifically supporting placement of a wind power generation facility within 2 miles of the city limits has been passed by the city council of that city. D. Furthermore, no portion of a wind turbine generator that is part of a Commercial Wind Power Generation Facility shall be located **within 2 miles of an existing dwelling** unless an Affidavit of Consent has been signed by all property owners with an existing dwelling within 2 miles of the wind turbine generator. This Affidavit of Consent shall be recorded with the deed records in the Baker County Clerk's Office.

Umatilla County, Oregon

https://umatillacounty.gov/fileadmin/user_upload/Planning/Ordinances/Ordinance_2012-04.pdf

Setback: From a turbine tower to a rural residence shall be **2 miles**. From a turbine tower to land zoned Unincorporated Community, shall be **1-mile**.

Walworth County, South Dakota <https://walworthco.org/county-ordinances/>

Wind turbines shall meet the following minimum spacing requirements.

Distance from existing off-site residences, business and churches shall be **at least ten thousand five hundred and sixty (10,560) feet or 2 miles**. Distance from other existing buildings or structures shall be at least one thousand (1,000) feet. Distance from on-site or lessor's residence shall be at least five hundred (500) feet. Distance to be measured from the wall line of the neighboring principal building to the base of the WES turbine.

Caratunk, Maine <https://caratunkmaine.gov/wp-content/uploads/2024/11/Caratunk-Energy-Systems-Ordinance-8.14.20.pdf>

Setback: Regardless of calculated setbacks no Type 2 or Type 3 WEFT shall be less than **1.5 miles** from any property line as determined by the town's official property maps.

Noise Limit: Sound levels due to the operation of any project shall not exceed 50 dBA at project property lines or **30 dBA** as measured at any occupied structures in the Town of Caratunk.

Trempealeau County, Wisconsin

https://trempealeaucountywi.documents-on-demand.com/Document/14b64896-1d49-ea11-a2e6-000c29a59557/CHAPTER_21.pdf

Setback: Each Wind Turbine shall be set back from the nearest structure used as a residence, school, hospital, church, place of employment or public library, a distance no less than **one (1) mile**.

Noise Limit: Audible Noise due to Wind Energy Facility or Wind Turbine operations shall not exceed the lesser of five (5) decibels (dBA) increase over the existing background noise level (L90) or exceed forty (**40**) decibels (**dBA**) for any period of time, when measured at any structure used as a residence, school, hospital, church,

place of employment, or public library existing on the date of approval of any Wind Energy Facility or Wind Turbine permit.

Shadow Flicker: Unless owned by the applicant, no parcel of real estate shall be subject to shadow flicker from a Wind Turbine unless mitigation has taken place and agreed by the owner/operator and affected property owners involved and recorded.

Brown County, Nebraska

<https://browncountyne.gov/wp-content/uploads/2024/09/Zoning-Regulations.pdf>

Setback: **Property lines 1 mile**

Noise: No commercial/utility WECS shall exceed **45 dBA** at the nearest structure occupied by humans.

Washoe County, Nevada

https://www.washoecounty.gov/csd/planning_and_development/code_enforcement/files_forms_reports_manuals/dev_code/washoe_county_development_code.pdf

Setback (Commercial): **Three (3) times the overall machine height, including the uppermost extension of any blades, from the property line of any nonparticipating Washoe County Development Code One (1) mile from any existing off-site dwelling(s) or other occupied buildings within Washoe County.**

Height Restrictions – Commercial Wind Machines. The overall height of Commercial wind machines, including the uppermost extension of any blades, **shall not exceed six-hundred (600) feet.**

Washington County, Colorado

<https://washingtoncounty.colorado.gov/sites/washingtoncounty/files/documents/wind%20energy%20application.pdf>

Setback: No wind turbine generator shall be located such that the distance between the center of the base of the tower and the nearest point of any existing building designed or used for human occupancy or assembly (including but not limited to a dwelling, school, foster care facility, church and the like) is less than **one mile.**

Noise Standards. The noise level generated by a WECS **shall not exceed 45 Aweighted decibels ("dBA")** for more than six minutes out of any one-hour time period, or exceed 50 dBA for any time period, as measured at the property line of any property neighboring the property upon which the WECS is located. If the ambient sound pressure level exceeds 45 dB(A); the standards set forth in the preceding sentence shall be the ambient sound pressure level plus 5 dB(A).

Clark County, Idaho <https://www.clark-co.id.gov/media/171>

Setbacks From Property Line: Towers or other structures associated with the wind farm project shall be set back from the external boundaries of the project property a distance of not less than one and one-half (1 1/2) times the total overall height of the tallest structure.

Towers shall be set back **at least one (1) mile from any inhabited structure** including schools, libraries, churches, hospitals, and places of business or industry. A siting permit shall be obtained from the county planning and zoning administrator ensuring compliance with this setback requirement.

Noise: Wind turbine tower facilities shall be located with relation to property lines so that the level of noise produced during any wind turbine operation **shall not exceed forty (40) dBA, measured at the boundaries of all adjacent parcels** that are owned by non-site owner or at any point past the property line of the lot on which the turbine is to be erected.

Carteret County, North Carolina

https://library.municode.com/nc/carteret_county/codes/code_of_ordinances?nodeId=COOR_APXFTAST

Height Limit: Utility scale – 1,000 KW or more – **maximum height 275 feet.**

Setback: **A 1-mile setback from any property line, vacant or occupied dwelling unit,** public or private R-O-W and/or Access Easement.

Noise Limit: Maximum noise impact of **35 decibels** for more than 5 consecutive minutes as measured at any property line.

Shadow Flicker: Applicant shall provide a shadow flicker and blade glint report for each proposed facility...identify problem zones within a 1-mile radius where shadow flicker will interfere with existing or future residences and roadways...shadow flicker or blade glint that falls on a portion of an occupied property is acceptable only if the flicker or glint does not exceed 120 seconds per day for 7 consecutive days with a five-hour maximum per year and flicker or glint falls more than 100 feet from an existing residence or business property.

Sumner, Maine – https://4b22f5d0-48a5-410a-ad6c-9f8cf1ce5e26.usrfiles.com/ugd/4b22f5_dcd450d1705a451890214288bea9f431.pdf

Height Limit: Total height of any IWT **shall not exceed 450 feet** measured to the blade tips at the maximum distance above grade.

Setback: Minimal fixed distance of **1-mile** (5,280 feet) is required from the outer edge of the base of each IWT to the closest point of any property line of any non-participating property.

Noise Limit: No IWEF shall be allowed to operate if it exceeds **35 dBA** day or night and a pre-construction background noise study must be conducted for all properties any part of whose **property lines are located within 2 miles of any IWT.**

Shadow Flicker: May not cause unreasonable adverse shadow flicker effect – 3 days or more in any **1 month**, if annualized would total more than **12 hours of flicker per year.**

Union County, Iowa <https://unioncountyiowa.gov/wp-content/uploads/2024/05/Ordinance-73-Wind-Farm-Amendment-for-Future-Projects.pdf>

Setback: Wind tower ordinances requires a setback of no less than .62 miles, 3273.6 feet, **or 7 times the total height of the tower, whichever is greater, from an adjoining property line,** unless a waiver is signed by the neighbor.

Other: An archaeological survey must be completed in a one-mile radius of a new tower's proposed site and recorded with the state archaeologist; the survey will be paid by the applicant for the turbine permit.

Aircraft Detection Lighting System: A sensor-based system designed to detect aircraft as they approach a wind energy conversion facility; this system automatically activates obstruction lights until they are no longer needed.

Taxes: Landowners will be responsible for any taxes on a tower that is no longer operating and haven't been paid.

Newport, North Carolina https://codelibrary.amlegal.com/codes/newportnc/latest/newport_nc/0-0-0-28550

Setback: WEF shall be setback from non-participating property lines, federal highway, state highway and/or public road for **at least 5,000 feet and have a maximum height above highest adjacent grade of 275 feet.**

Noise: No WEF or its generators, equipment or apparatus shall produce noise above **35 decibels (dba)** for more than five times within seven consecutive days as measured at any property line of non-participating landowners, the applicant and/or owner shall shut down the WEF within one business day of being informed to do so by the Town Planning Director or designee. The facility shall remain shut down until it can be demonstrated to the satisfaction of the Planning Director or designee that the facility can be operated so as to not exceed 35 decibels (dba) as measured at any non-participating property line.

Property Value: The WEF owner (applicant) or his, her or its successor shall assure the Town of Newport that there will be no loss in real property value due to the WEF.

Craven County, North Carolina

https://library.municode.com/nc/craven_county/ordinances/code_of_ordinances?nodetid=1094487

Setback: Wind Energy Facility – Dictated by the Tall structure setback requirements – **1 mile (5,280 feet)**

The following Wind Energy Facility noise, shadow flicker, ground clearance and electromagnetic interference standards apply to potential impacts associated with Wind Generators. These standards shall not apply to the installation of a Wind Energy Generator installed as an accessory use. 1. Audible sound from a Wind Turbine shall not exceed **35 dBA**, as measured at the property line of a Non-Participating Landowner. 2. Shadow flicker on any existing building on a Non-Participating Landowner's property is not permitted.

Clark County, South Dakota <https://clark.sdcounties.org/planning-zoning/>

Draft update - Setback: **5,280 feet** from non-participating occupied residence, business, church or school (in Town districts) & 3,960 feet from non-participating occupied residence, business, church, cemeteries or school in all other zoning districts.

Kosciusko County, Illinois https://www.kosciusko.in.gov/egov/documents/1740573877_10163.pdf

Wind Farms, Large Wind Turbines, WECS, meteorological testing towers (MET) towers 120' feet in height to 325 feet, and all related devices and structures for the above shall only be permitted after special exception approval in accordance with Article 5, section 5.4.

Setback: Each wind turbine generator or meteorological testing towers (MET) and any associated features shall be set back from any adjoining property lot line, road right-of-way, railroad right-of-way or overhead electrical transmission or distribution lines a **minimum distance of 3,960 feet or 6.5 times the height of the tower** from the base to the tip of the blade in vertical position, whichever is greater.

Maximum Noise Levels. Any proposed wind turbine generator shall produce sound levels that are **no more than 32 decibels** as measured on the dB(A) scale at the property lines of the site in question.

DeKaleb County, Illinois

Setbacks: All WECS towers shall provide the following minimum Setbacks:

1) All WECS towers shall be setback a distance of **not less than six (6) times** the height of the WECS tower from all property lines. All WECS towers shall be setback a distance of **not less than three (3) miles from a municipality.**

No WECS shall be located so as to cause an exceedance of the pre- construction/operation background sound levels by more than 5 dBA. The background sound levels shall be the L90A sound descriptor measured during a pre- construction noise study during the quietest time of the evening or night. All data recording shall be a series of contiguous ten (10) minute measurements. Measurements shall cover a minimum of 30 minutes. The ten (10) minute period with the lowest L90A levels shall be used for this test. L90A results are valid only when L10A results are no more than 15 dBA above L90A for the same time period.

Noise sensitive sites are to be selected based on predicted worst-case sound emissions (in LEQA and LEQC) which are to be provided by developer.

2) Test sites are to be located along the property line(s) of the receiving non-participating property(s).

3) A 5dB penalty is applied for tones or when the sound emissions fluctuate in amplitude or frequency over time in reasonable synchronicity with the blade revolution.

b. Low Frequency Sound Limit

1) The sound levels from the wind turbine at the receiving property shall not exceed the lower of either:

a) LEQA- L90A greater than 20 dB outside or inside any occupied structure, or b) A maximum not-to-exceed sound level of 50 dBC.

Boone County, Illinois

From all property lines: All WECS towers shall be setback a distance of **not less than two thousand six hundred forty (2,640) feet or 5.5 times the height of the WECS** including the blades at the highest point, whichever is greater. A participating Landowner may waive this setback requirement, but in no case shall a WECS tower be located closer to a primary structure than one thousand five hundred (1500) feet or three times the height of the WECS including the blades at the highest point, whichever is greater.

Many counties set height limits. The below summary covers 23 states.

Height Limit	# Counties
Less than 300 Feet	18
Less than 500 Feet	9
Less than 600 Feet	34
Less than 750 Feet	29

While updating the Commercial Wind Energy Facility ordinance, Whitman County has many options which would be consistent with actions in other states to set ordinances that protect the health, safety and general welfare of the citizens of the county, and that are consistent with the desires of the majority of the population.

Julie Clarkson-Gulick

Sent from [Outlook](#)

September 10, 2025

Whitman County Commissioners
Whitman County Planning Commission
Whitman County Planner

Dear Commissioners, Planning Commission members and County Planner:

I have previewed the PowerPoint material for tonight's presentation and I see that consultants have been commissioned to come in and tell the decision makers how all studies showing health impacts to residents living too close to wind turbines are wrong, and there is no problem as long as you are a mere 2.1x the height of the tower away.

Sadly, while it is common for counties to allow setbacks as little as 1.1-2.1 times the height of the towers, many towns and counties are choosing to protect their citizens to a greater degree. To add to the list I sent in my June 18 letter, below are some additional counties which have setbacks much greater than Mr. Ollson claims are adequate.

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https://thomascountyne.gov/pdfs/planning_zoning/zoning%20regulations.pdf

Setback (Commercial): Property lines **3 miles** (as measured from centerline of turbine)

Noise: No Commercial/Utility WECS shall exceed **35 Dba** at the nearest structure occupied by humans.

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Setback (Commercial): Neighboring Dwelling Units – Non participating **2 miles**

Hamilton County, Nebraska <https://hamiltoncountyne.gov/wp-content/uploads/2021/07/hamilton-county-zoning-current.pdf>

Setback (Commercial): Property Line for non-participating landowner: **2 miles**

C-9

Noise - Audible sound (dB) thresholds: **40 dB** at the nearest non-participating property line from the hours of **8:00am to 8:00pm**. **37 dB** at the nearest non-participating property line during the hours of **8:00pm to 8:00am**. Testing for compliance shall be completed by an independent entity approved by the Hamilton County Board of Commissioners. The cost of this testing shall be paid for by the owner of the WECS. If not in compliance with the above listed dB levels, an immediate shutdown of the WECS shall be required until it can come into compliance. Such testing shall happen every 2 years. Results of testing shall be presented to the County Board at a regular board meeting.

Baker County, Oregon

https://www.bakercountyor.gov/planning/zoning/Chapter_750_Wind_Power_Generation_Facilities.pdf

No portion of a Commercial or Small-Scale Wind Power Generation Facility shall be within **2 miles** of: 1. Properties designated on the Comprehensive Land Use Plan Map as residential [those zoned Rural Residential (RR-5) or Recreation Residential (RR-2) only], or 2. The city limits of an incorporated city, unless a resolution specifically supporting placement of a wind power generation facility within 2 miles of the city limits has been passed by the city council of that city. D. Furthermore, no portion of a wind turbine generator that is part of a Commercial Wind Power Generation Facility shall be located **within 2 miles of an existing dwelling** unless an Affidavit of Consent has been signed by all property owners with an existing dwelling within 2 miles of the wind turbine generator. This Affidavit of Consent shall be recorded with the deed records in the Baker County Clerk's Office.

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https://umatillacounty.gov/fileadmin/user_upload/Planning/Ordinances/Ordinance_2012-04.pdf

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Walworth County, South Dakota <https://walworthco.org/county-ordinances/>

Wind turbines shall meet the following minimum spacing requirements.

Distance from existing off-site residences, business and churches shall be **at least ten thousand five hundred and sixty (10,560) feet or 2 miles**. Distance from other existing buildings or structures shall be at least one thousand (1,000) feet. Distance from on-site or lessor's residence shall be at least five hundred (500) feet. Distance to be measured from the wall line of the neighboring principal building to the base of the WES turbine.

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Setback: Regardless of calculated setbacks no Type 2 or Type 3 WEFT shall be less than **1.5 miles** from any property line as determined by the town's official property maps.

Noise Limit: Sound levels due to the operation of any project shall not exceed 50 dBA at project property lines or **30 dBA** as measured at any occupied structures in the Town of Caratunk.

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https://trempealeaucountywi.documents-on-demand.com/Document/14b64896-1d49-ea11-a2e6-000c29a59557/CHAPTER_21.pdf

Setback: Each Wind Turbine shall be set back from the nearest structure used as a residence, school, hospital, church, place of employment or public library, a distance no less than **one (1) mile**.

Noise Limit: Audible Noise due to Wind Energy Facility or Wind Turbine operations shall not exceed the lesser of five (5) decibels (dBA) increase over the existing background noise level (L90) or exceed **forty (40) decibels (dBA) for any period of time**, when measured at any structure used as a residence, school, hospital, church, place of employment, or public library existing on the date of approval of any Wind Energy Facility or Wind Turbine permit.

Shadow Flicker: Unless owned by the applicant, no parcel of real estate shall be subject to shadow flicker from a Wind Turbine unless mitigation has taken place and agreed by the owner/operator and affected property owners involved and recorded.

Brown County, Nebraska

<https://browncountyne.gov/wp-content/uploads/2024/09/Zoning-Regulations.pdf>

Setback: **Property lines 1 mile**

Noise: No commercial/utility WECS shall exceed **45 dBA** at the nearest structure occupied by humans.

Washoe County, Nevada

https://www.washoecounty.gov/csd/planning_and_development/code_enforcement/files/forms_reports_manuals/dev_code/washoe_county_development_code.pdf

Setback (Commercial): **Three (3) times the overall machine height, including the uppermost extension of any blades, from the property line of any nonparticipating Washoe County Development Code One (1) mile from any existing off-site dwelling(s) or other occupied buildings within Washoe County.**

Height Restrictions – Commercial Wind Machines. The overall height of Commercial wind machines, including the uppermost extension of any blades, **shall not exceed six-hundred (600) feet.**

Washington County, Colorado

<https://washingtoncounty.colorado.gov/sites/washingtoncounty/files/documents/wind%20energy%20application.pdf>

Setback: No wind turbine generator shall be located such that the distance between the center of the base of the tower and the nearest point of any existing building designed or used for human occupancy or assembly (including but not limited to a dwelling, school, foster care facility, church and the like) is less than **one mile**.

Noise Standards. The noise level generated by a WECS shall not exceed **45 Aweighted decibels ("dBA")** for more than six minutes out of any one-hour time period, or exceed 50 dBA for any time period, as measured at the property line of any property neighboring the property upon which the WECS is located. If the ambient sound pressure level exceeds 45 dB(A), the standards set forth in the preceding sentence shall be the ambient sound pressure level plus 5 dB(A).

Clark County, Idaho <https://www.clark-co.id.gov/media/171>

Setbacks From Property Line: Towers or other structures associated with the wind farm project shall be set back from the external boundaries of the project property a distance of not less than one and one-half (1 1/2) times the total overall height of the tallest structure.

Towers shall be set back **at least one (1) mile from any inhabited structure** including schools, libraries, churches, hospitals, and places of business or industry. A siting permit shall be obtained from the county planning and zoning administrator ensuring compliance with this setback requirement.

Noise: Wind turbine tower facilities shall be located with relation to property lines so that the level of noise produced during any wind turbine operation **shall not exceed forty (40) dBA, measured at the boundaries of all adjacent parcels** that are owned by non-site owner or at any point past the property line of the lot on which the turbine is to be erected.

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Height Limit: Utility scale – 1,000 KW or more – **maximum height 275 feet**.

Setback: **A 1-mile setback from any property line, vacant or occupied dwelling unit, public or private R-O-W and/or Access Easement.**

Noise Limit: Maximum noise impact of **35 decibels** for more than 5 consecutive minutes as measured at any property line.

Shadow Flicker: Applicant shall provide a shadow flicker and blade glint report for each proposed facility...identify problem zones within a 1-mile radius where shadow flicker will interfere with existing or future residences and roadways...shadow flicker or blade glint that falls on a portion of an occupied property is acceptable only if the flicker or glint does not exceed 120 seconds per day for 7 consecutive days with a five-hour maximum per year and flicker or glint falls more than 100 feet from an existing residence or business property.

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Height Limit: Total height of any IWT shall not exceed **450 feet** measured to the blade tips at the maximum distance above grade.

Setback: Minimal fixed distance of **1-mile (5,280 feet)** is required from the outer edge of the base of each IWT to the closest point of any property line of any non-participating property.

Noise Limit: No IWEF shall be allowed to operate if it exceeds **35 dBA** day or night and a pre-construction background noise study must be conducted for all properties any part of whose **property lines are located within 2 miles of any IWT.**

Shadow Flicker: May not cause unreasonable adverse shadow flicker effect – 3 days or more in any 1 month, if annualized would total more than **12 hours of flicker per year.**

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Setback: WEF shall be setback from non-participating property lines, federal highway, state highway and/or public road for **at least 5,000 feet and have a maximum height above highest adjacent grade of 275 feet.**

Noise: No WEF or its generators, equipment or apparatus shall produce noise above **35 decibels (dba)** for more than five times within seven consecutive days as measured at any property line of non-participating landowners, the applicant and/or owner shall shut down the WEF within one business day of being informed to do so by the Town Planning Director or designee. The facility shall remain shut down until it can be demonstrated to the satisfaction of the Planning Director or designee that the

facility can be operated so as to not exceed 35 decibels (dba) as measured at any non- participating property line.

Property Value: The WEF owner (applicant) or his, her or its successor shall assure the Town of Newport that there will be no loss in real property value due to the WEF.

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Setback: Wind Energy Facility – Dictated by the Tall structure setback requirements – **1 mile (5,280 feet)**

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Kosciusko County, Illinois https://www.kosciusko.in.gov/egov/documents/1740573877_10163.pdf

Wind Farms, Large Wind Turbines, WECS, meteorological testing towers (MET) towers 120' feet in height to 325 feet, and all related devices and structures for the above shall only be permitted after special exception approval in accordance with Article 5, section 5.4.

Setback: Each wind turbine generator or meteorological testing towers (MET) and any associated features shall be set back from any adjoining property lot line, road right-of-way, railroad right-of-way or overhead electrical transmission or distribution lines a **minimum distance of 3,960 feet or 6.5 times the height of the tower** from the base to the tip of the blade in vertical position, whichever is greater.

Maximum Noise Levels. Any proposed wind turbine generator shall produce sound levels that are **no more than 32 decibels** as measured on the dB(A) scale at the property lines of the site in question.

DeKaleb County, Illinois

Setbacks: All WECS towers shall provide the following minimum Setbacks:

1) All WECS towers shall be setback a distance of **not less than six (6) times** the height of the WECS tower from all property lines. All WECS towers shall be setback a distance of **not less than three (3) miles from a municipality.**

No WECS shall be located so as to cause an exceedance of the pre- construction/operation background sound levels by more than 5 dBa. The background sound levels shall be the L90A sound descriptor measured during a pre- construction noise study during the quietest time of the evening or night. All data recording shall be a series of contiguous ten (10) minute measurements. Measurements shall cover a minimum of 30 minutes. The ten (10) minute period with the lowest L90A levels shall be used for this test. L90A results are valid only when L10A results are no more than 15 dBa above L90A for the same time period.

Noise sensitive sites are to be selected based on predicted worst-case sound emissions (in LEQA and LEQC) which are to be provided by developer.

2) Test sites are to be located along the property line(s) of the receiving non-participating property(s).

3) A 5dB penalty is applied for tones or when the sound emissions fluctuate in amplitude or frequency over time in reasonable synchronicity with the blade revolution.

b. Low Frequency Sound Limit

1) The sound levels from the wind turbine at the receiving property shall not exceed the lower of either:

a) LEQA- L90A greater than 20 dB outside or inside any occupied structure, or b) A maximum not-to-exceed sound level of 50 dBC.

Boone County, Illinois

From all property lines: All WECS towers shall be setback a distance of **not less than two thousand six hundred forty (2,640) feet or 5.5 times the height of the WECS** including the blades at the highest point, whichever is greater. A participating Landowner may waive this setback requirement, but in no case shall a WECS tower be located closer to a primary structure than one thousand five hundred (1500) feet or three times the height of the WECS including the blades at the highest point, whichever is greater.

Many counties set height limits. The below summary covers 23 states.

Height Limit	# Counties
Less than 300 Feet	18
Less than 500 Feet	9
Less than 600 Feet	34
Less than 750 Feet	29

While updating the Commercial Wind Energy Facility ordinance, Whitman County has many options which would be consistent with actions in other states to set ordinances that protect the health, safety

and general welfare of the citizens of the county, and that are consistent with the desires of the majority of the population.

Julie Clarkson-Gulick

Megan Zumbuhl

From: Denis Tracy
Sent: Tuesday, December 16, 2025 9:59 AM
To: Megan Zumbuhl
Subject: FW: Bavaria 10H Rule

From: Carol Black <carol.black208@gmail.com>
Sent: Thursday, December 4, 2025 1:08 PM
To: Denis Tracy <DenisT@whitmancounty.gov>
Cc: Alan Thomson <Alan.Thomson@whitmancounty.gov>; Tom Thompson <tommyt1976@gmail.com>
Subject: Re: Bavaria 10H Rule

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Google Translate

Governing Party Passes 10H Rule for New Wind Turbine Construction

Wednesday, November 12, 2014

– By Jürgen Umlauf –

After a heated debate, the Bavarian State Parliament, with a majority vote from the CSU (Christian Social Union), passed the 10H rule for the construction of new wind turbines in Bavaria, which was introduced by the state government. It will come into effect later this year. Under the new law, the construction of wind turbines will only be permitted if their distance to the nearest residential area is at least ten times the turbine's height. Shorter distances are possible by mutual agreement within the municipality and with the affected neighboring communities. Isolated farmsteads and hamlets, which are considered by the law to be not particularly worthy of protection, are exempt from the rule. For these, the minimum distance of 800 meters stipulated by the Federal Immission Control Act continues to apply.

CSU representative Otmar Bernhard justified the law by citing the ever-increasing height of wind turbines. Therefore, he argued, the protection of neighboring residents must also be improved. "We don't want to prevent wind turbines, but rather find a reasonable balance of interests between those who want to build them and those who are affected," said Bernhard. The expansion targets for wind power remain unchanged. Interior Minister Joachim Herrmann stated that the 10H rule does not break new ground in building law. Defining the required distance of a structure based on its height has always been a core component of the Bavarian building code. "This is not a law to prevent wind power, but rather a law to promote citizen participation," Herrmann emphasized.

The opposition, however, warned of the end of wind power expansion in Bavaria. With this law, only 0.05 percent of the state's land area would remain usable for wind power, explained SPD energy expert Natascha Kohnen. She called for a postponement of the decision until the open-ended energy dialogue initiated by the state government is concluded. She argued that 10H is an inappropriate preemptive

measure. "You are restricting wind power in Bavaria before the energy dialogue has even had a chance to discuss it," Kohlen said, addressing the CSU.

The opposition, on the other hand, warned of the law ending wind power expansion in Bavaria. According to Martin Stümpfig (Alliance 90/The Greens), the law shifts the blame for wind power expansion onto municipalities. Instead of the regional plans previously coordinated between municipalities, individual municipal decisions will now be made. The existing commitment of citizens, municipalities, and investors is thus being "trampled underfoot." Thorsten Glauber (Free Voters) saw no sound rationale for the law. "Why didn't you choose 5H, 6H, or 8H?" he asked. The only reason, he argued, was that 10H could bring wind power expansion to a standstill. This, he claimed, was precisely what 11 out of 12 experts had predicted at a parliamentary hearing in the summer.

Procedural Debates Before the Vote

Before the vote, there were several heated procedural debates. The opposition had urged that the final deliberations on the 10H law be postponed until a new hearing on the amendments introduced by the CSU parliamentary group had taken place. Refusing to grant this access violates the minority rights of the opposition. "This makes a farce of the hearing procedure, grossly disregards the rules of procedure of the state parliament, and infringes upon the opposition rights enshrined in the Bavarian Constitution," stated Green Party Managing Director Thomas Gehring. His CSU colleague, Josef Zellmeier, rejected the accusations as unfounded, citing a corresponding statement from the State Parliament's office.

The opposition factions announced their intention to challenge the 10H law before the Bavarian Constitutional Court. State Parliament Vice President Peter Meyer (Free Voters) cited several grounds for this challenge. He argued that the minority rights of the opposition had been violated in the hearing question. Furthermore, he asserted that the state government had exceeded its legal bounds in certain provisions of the 10H law. Meyer also stated that the veto right granted to municipalities in certain cases under the new approval process for wind turbines against the plans of neighboring communities violates the right to local self-governance.

On Dec 4, 2025, at 12:43 PM, Denis Tracy <DenisT@whitmancounty.gov> wrote:

Hi Ms. Black,

This looks very interesting, but my high school German is rusty.

Do you have this in English? Or am I not clicking the right link?

Best,

Denis

From: Carol Black <carol.black208@gmail.com>

Sent: Thursday, December 4, 2025 9:45 AM

To: Alan Thomson <Alan.Thomson@whitmancounty.gov>; Denis Tracy <DenisT@whitmancounty.gov>

Cc: Tom Thompson <tommyt1976@gmail.com>

Subject: Bavaria 10H Rule

Alan Tompson and Denis Tracy

For the public record for the Public Hearing on December 17, and to help with your cataloging the Findings of Facts.

Attached: Findings of Facts - Bavaria 10H

Regards,
Carol Black