

CLINTON COUNTY BOARD OF COMMISSIONERS

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Administrator
Ryan L. Wood
Clerk of the Board
Diane Zuker

RESOLUTION NO. 2010-7

ADOPTING ORDINANCE NO. 66-09A,

AMENDMENT/SUPPLEMENT TO THE CLINTON COUNTY ZONING ORDINANCE FOR ON-SITE, SMALL SCALE WIND ENERGY SYSTEMS

At a regular meeting of the Board of Commissioners of Clinton County, Michigan, held at the County offices located at 100 E. State Street, St. Johns, Michigan on the 27th day of April, 2010, at 9:00 a.m.

PRESENT: David Pohl, Larry Martin, Paul McNamara, Jack Enderle, Eileen Heideman, Robert Showers and Adam Stacey

ABSENT: None

The following Resolution was offered by Commissioner Pohl and seconded by Commissioner Heideman.

WHEREAS, the Michigan Zoning Enabling Act, 2006 PA 110, as amended, authorizes the County Board of Commissioners to adopt, amend and supplement a zoning ordinance regulating the public health, safety and general welfare of persons and property; and

WHEREAS, the Clinton County Planning Commission ("Planning Commission") duly noticed and held a public hearing on November 12, 2009 to consider amendments ("Ordinance Amendments") to the Clinton County Zoning Ordinance in Case PC-29-09(A); and

WHEREAS, on January 14, 2010, the Planning Commission recommended adoption of the Ordinance Amendments for the reasons stated at the meeting; and

WHEREAS, the Planning Commission transmitted a summary of the comments received at the public hearing and its recommended Ordinance Amendments to the Clinton County Board of Commissioners (the "Board"); and

WHEREAS, on January 26, 2010, the Board considered the Ordinance Amendments recommended for adoption by the Planning Commission and decided to refer the Ordinance Amendments back to the Planning Commission to address questions and concerns of the Clinton County Board of Commissioners as stated at that meeting; and

WHEREAS, on February 11, 2010, the Planning Commission considered the questions and concerns raised by the Board and received additional public comments on the Ordinance Amendments; and

WHEREAS, on April 8, 2010, the Planning Commission considered the questions and concerns raised by the Board and the public comments received by the Planning Commission at its February 11, 2010 meeting and decided to recommend adoption of the Ordinance Amendments to the Board; and

WHEREAS, the Planning Commission transmitted a summary of its proceedings to the Board; and

WHEREAS, the Clinton County Board of Commissioners has determined that the Ordinance Amendments would promote and enhance the overall welfare and quality of life in Clinton County; and

WHEREAS, the Clinton County Board of Commissioners has determined that enacting said Ordinance Amendments is in the best interests of the public health, safety and welfare of the County's residents.

THEREFORE, be it resolved by the Board of Commissioners of Clinton County, Michigan, as follows:

1. Ordinance No. 66-09A, Amendment to Clinton County Zoning Ordinance, as amended, attached as Exhibit A to this Resolution, is hereby adopted.
2. The Ordinance Amendments, attached as Exhibit A, shall be filed with the County Clerk.
3. The County Clerk shall publish a notice of ordinance adoption in a newspaper of general circulation in the County within 15 days after adoption.
4. Any and all resolutions that are in conflict with this Resolution are hereby repealed.

ADOPTED:

YEAS: Eileen Heideman, Jack Enderle, Paul McNamara, Robert Showers, David Pohl, Adam Stacey and Larry Martin.

NAYS: None

STATE OF MICHIGAN)
COUNTY OF CLINTON)

I, Diane Zuker, Clerk of the County of Clinton, do hereby certify that the above and foregoing is a true and complete copy of certain proceedings taken by the Clinton County Board of Commissioners at a regular meeting held on the 27th day of April, 2010.

Diane Zuker, Clinton County Clerk

Larry Martin, Chairperson
Clinton County Board of Commissioners

EXHIBIT A

ORDINANCE NO. 66-09A

CLINTON COUNTY ORDAINS:

Section 1. Purpose and Findings.

A. Purpose. Michigan's Public Act 295 of 2008 is known as the Clean, Renewable, and Efficient Energy Act (the "Act"). The Act's purpose is to promote the development of clean energy, renewable energy, and energy optimization through the implementation of a clean, renewable, and energy efficient standard. Clinton County has followed a similar path through the adoption and creation of the County's "Green Initiative" in an effort to achieve significant long term financial and environmental savings by establishing reasonable goals and objectives related to reducing greenhouse emissions. Property owners in the County may desire to achieve similar savings by establishing an on-site wind energy system to power their homes and businesses. Establishing development regulations to address wind energy will help promote the County's "Green Initiative" while protecting the public health, safety and welfare of County residents.

B. Findings. The following regulations have been developed with the intention of obtaining an appropriate balance between the need for clean, renewable energy resources and the need to protect the public health, safety, and welfare of the community. Property owners may desire to develop on-site wind energy systems to provide clean, renewable energy for their own property.

Section 2. Amendment of Article 2, Section 203. Section 203, entitled Definitions, of Article 2, entitled Definitions, of the Zoning Ordinance of Clinton County is hereby amended to add the terms as follows:

Wind Energy Facilities and Systems: As used in this Ordinance the following definitions shall apply to wind energy facilities and systems:

Ambient. The sound pressure level exceeded 90% of the time or L₉₀.

ANSI. American National Standards Institute.

dB(A). The sound pressure level in decibels. Refers to the "a" weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

Decibel. The unit of measure used to express the magnitude of sound pressure and sound intensity.

Horizontal Axis WES. A wind energy system design in which the shaft is parallel to the ground and the blades are perpendicular to the ground.

Hub Height. The vertical distance measured from ground level to the center of the turbine hub.

MET (meteorological) Tower. The structure and equipment used to determine the placement or potential placement of a WES, containing instrumentation such as anemometers designed to provide wind data.

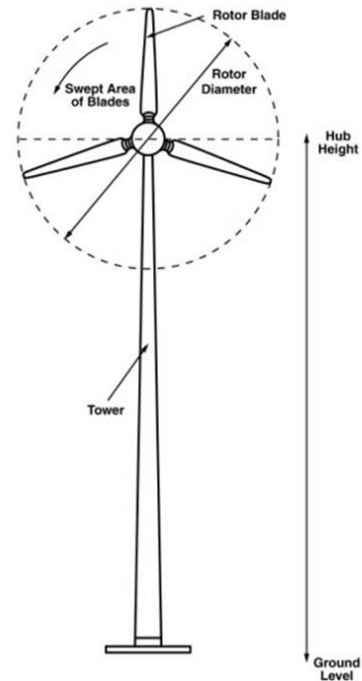
Non-Participating Parcel. A parcel of record that is in not in any way used, occupied, maintained, let, leased or authorized to be used for an On-Site WES, Utility Scale WES, MET Tower (of any size), or Wind Energy Generation Facility or any part of such systems.

On-Site WES. A WES with the purpose of providing energy to only the property where the structure is located, or to adjacent properties under the same ownership or control as the property where the structure is located, or to adjacent properties with the consent of the owners of the property where the structure is located and the owners of the adjacent properties. Said structures will be classified as a WES less than one hundred-fifty (150') feet in total height.

Participating Parcel. A parcel or parcels of record that is used, occupied, maintained let, leased or authorized to be used for a Utility Scale WES, MET Tower, a transmission line or any other WEGF related devices or easements which accompany the implementation of a WES. For On-Site WES, the Participating Parcel(s) are the parcel(s) where the structure is located and or providing power to.

Pre-Existing Sound Pressure Level. The amount of background sound at a given location prior to the installation of a WES which may include, but is not be limited to traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The sound levels are to be measured on a dB(A) weighted scale as defined by the American National Standards Institute.

Shadow Flicker. Alternating changes in light intensity caused by the moving blade of a WES casting shadows on the ground and stationary objects.



Sound Pressure. Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

Sound Pressure Level. The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

Total Height. Vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the WES whichever is greater.

Utility Scale WES. A WES designed and constructed to provide electricity to the electric utility grid through interconnection at transmission lines and either (1) possesses a total height of equal to or greater than one hundred-fifty (150') feet or (2) occupied by a number of turbines that exceed a combined total potential power output greater than a maximum of ten (10) kW per hour or both.

Vertical Axis WES. A wind energy system design where the rotating shaft is perpendicular to the ground and the cups or blades rotate parallel to the ground.

WES Rotor Diameter. The distance measured across the central potential swept area of a WES blade's pattern.

Wind Energy System (WES). Equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system. Also refers to the term "wind turbine" or "wind generator".

Wind Energy Generation Facility (WEGF). Electricity generating facility consisting of one or more Utility Scale wind turbines under common ownership or operation control, and includes substations, MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers.

Section 3. Amendment of Article 4. Article 4, entitled Zoning District Regulations, of the Zoning Ordinance of Clinton County is hereby amended to add the following use as a permitted use in all districts as follows:

On-Site Use WES / MET Towers under 150 feet, subject to Sections 501.L and 530.

Section 4 Amendment of Article 5. Article 5, entitled General Provisions, of the Zoning Ordinance of Clinton County is hereby amended to add Section 501.L as follows.

Section 501 Accessory Buildings, Structures and Uses

- L. On-Site WES shall be considered accessory structures and subject to the provisions of this Section and Section 530.

Section 5 Amendment of Article 5. Article 5, entitled General Provisions, of the Zoning Ordinance of Clinton County is hereby amended to add Section 530 as follows.

Section 530. On-Site WES or MET Towers under 150 Feet

Such improvements and associated equipment are intended to serve the needs of the on-site consumer.

- A. Application for On-Site WES or MET Towers under 150 Feet

Prior to any installation efforts taking place upon the subject property/properties an application for an Administrative Site Plan Review under Section 722 must be filed and approved by the Clinton County Community Development Department.

Information required for said review must include the following:

1. All information about the Participating Parcel required for a Preliminary Site Plan under Section 709.
2. Proposed type, number and height of the On-Site WES or MET Tower under 150 feet to be constructed including the manufacturer and model, product specifications regarding noise output (measured in decibels; dB(A)), total rated generating capacity, dimensions, rotor diameter, and description of ancillary facilities (including but not limited to tower design, color, and wiring).
3. Evidence that the Michigan Public Service Commission and the subject utility company has been informed of the applicant's intent to install an interconnected, customer-owned generator and that such connection has been approved.
4. The location(s) of the On-Site WES or MET Tower under 150 feet and its supporting electrical system's components including distances from existing structures, utility lines or any other possibly impacted items on-site.
5. An engineered set of plans illustrating the proposed On-Site WES or MET Tower under 150 feet must be prepared or reviewed by a registered engineer.
6. Documentation establishing that any and all necessary building permits required for the On-Site WES or MET Tower under 150 feet have been acquired prior to installation.

7. Standard drawings of any proposed equipment for review of the structural components of the On-Site WES or MET Tower under 150 feet, including structures, towers, bases, and footings. A registered engineer's certification is required for all drawings and any necessary calculations that indicate that the system complies with all applicable local, state, and federal building, structural and electrical codes.
8. Any additional information deemed necessary by the Zoning Official to demonstrate compliance with the requirements found in this Subsection 530.

B. General Requirements

An On-Site WES or MET Tower under 150 feet is a permitted use in all zoning districts if it complies with the following requirements:

1. Installation and operation of the proposed On-Site WES or MET Towers under 150 feet shall be consistent with the public health, safety and welfare of Clinton County.
2. Any structure classified as a permitted use under this Section must be less than one hundred-fifty (150') feet in total height.
3. On-Site WES and MET Towers under 150 feet must comply with all State, Federal and local laws and regulations, including but not limited to the applicable requirements of the Federal Aviation Administration ("FAA"), the Michigan Airport Zoning Act and the Michigan Tall Structures Act both prior to and after installation.
4. The On-Site WES and MET Towers under 150 feet must minimize the adverse impacts of technological obsolescence of such equipment.
5. Visual Appearance
 - a. On-Site WES and MET Towers under 150 feet shall be required to be of a neutral, non-reflective, non-obtrusive color which must be maintained throughout the life of the product.
 - b. On-Site WES and MET Towers under 150 feet shall not be artificially lighted with except to comply with applicable FAA or other Federal, State or local requirements, or to the extent necessary for the reasonable safety and security thereof.
 - c. No advertising may be allowed upon an On-Site WES or MET Towers under 150 feet. Additional items such as banners,

streamers, flags and similar items are hereby prohibited from being attached to any On-Site WES or MET Towers under 150 feet and or their support structure.

- d. Any electrical system components related to the On-Site WES or MET Tower under 150 feet, besides those wires reaching from the base of the support structure to the turbine, are required to be placed underground within the boundary of each Participating Parcel at a depth designed to accommodate the existing land use to the maximum extent practical.
- e. The On-Site WES or MET Tower under 150 feet minimizes the negative visual impact of On-Site WES or MET Towers under 150 feet on neighborhoods, community landmarks, historic sites and buildings, natural environmentally sensitive areas and public right-of-ways.

6. Ground Clearance

- a. Horizontal axis On-Site WES must have a minimum distance of twenty (20') feet between the lowest extension of a rotational blade and the average grade at the base of the structure within a thirty-two (32') foot radius.
- b. Vertical axis On-Site WES must have a minimum distance of twenty (20') feet between lowest part of the vertically rotating turbine and the average grade at the base of the structure within a thirty-two (32') foot radius.

7. Sound

- a. No On-Site WES may exceed forty-five (45) dB(A) at any adjacent property line of a Non-Participating Parcel. During short-term events including but not limited to severe wind, snow or rain storms if the ambient sound pressure level exceeds forty-five (45) dB(A), the standard shall be ambient dB(A) plus five (5) dB(A).

8. Number

- a. A Participating Parcel shall be occupied by a number of turbines not to exceed a combined total potential power output greater than a maximum of ten (10) kW per hour and not to exceed three (3) households.

9. Safety

- a. An On-Site WES shall have a governing, breaking, feathering or other fail-safe system, designed by a certified engineer, to mitigate and prevent uncontrolled rotation during adverse weather conditions.
- b. An On-Site WES or MET Tower under 150 feet must possess protection measures from lightning strikes.
- c. A structural analysis must be provided demonstrating the worthiness of the proposed On-Site WES or MET Tower under 150 feet support system in the event of adverse weather conditions.
- d. Support structures (i.e. the tower and or base) for an On-Site WES or MET Tower under 150 feet may utilize guy wires. Said guy wires must be clearly visible from ground level to a vertical height of six (6') feet via altered coloring, striping methods or other administrative approved methods of delineating or highlighting this part of the structure. Anchor points for an On-Site WES utilizing guy wires must not be located within the road right-of-way and must be anchored entirely upon the participating parcel.

10. Setbacks

- a. All setbacks required for On-Site WES and MET Towers under 150 feet shall be measured from the outside edge of the base of the tower to the nearest adjacent property line of a Non-Participating Parcel. On-Site WES and MET Towers under 150 feet shall be recognized as an accessory structure on a residential lot as stated in Section 501.L.
- b. An On-Site WES or MET Tower under 150 feet must not be greater than the total height of the proposed structure away from a Participating Parcel's property line.
- c. The base location for any On-Site WES or MET Tower under 150 feet must not be located within the Participating Parcel's minimum zoning classification's setback requirements from existing structures, property lines or other necessary setbacks related to the site, including but not limited to utility easements, well/septic separations, or drain easements.
- d. A minimum setback of a one to one (1:1) total height to separation distance is required between multiple On-Site WES or MET Towers under 150 feet.

- e. If an On-Site WES or MET Tower under 150 feet is mounted to a structure, then the placement of said turbine upon the structure shall be opposite to the structure's façade facing the road right-of-way. In the case of a corner lot or lake property, the County's Zoning Official must determine which façade may be considered the Participating Parcel's principal frontage and shall place the turbine accordingly.
 - f. The placement of said structure meeting the conditions of Section 501.F must also maintain the greater of either the front-yard setback requirement for the Participating Parcel's (1) given zoning class or (2) the On-Site WES or MET Tower under 150 feet's total height.
 - g. All On-Site WES or MET Tower under 150 feet must maintain a one-to-one (1:1) total height to setback ratio from existing utility easements, power lines or other public infrastructure related items which may exist upon the participating parcel.
11. Collocation. No collocation of any Wireless Communications Facilities shall be permitted on any On-Site Wes or MET Tower less than 150 feet.
 12. Requirements of Section 501. As accessory uses, the On-Site WES or MET Towers under 150 feet must meet all applicable requirements of Section 501, including but not limited to Sections 501.F and 501.I. However, to the extent there is any discrepancy between the regulation contained in Section 501 and this Section, the regulations under this Section shall control over the general provisions of Section 501.

Section 6. Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 7. Repealer Clause. Any ordinances, resolutions or parts of ordinances or resolutions, in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 8. Effective Date. This Ordinance shall be effective seven (7) days after publication.