

Henry County Zoning Ordinance
Appendix B Wind Energy
As Amended December 12, 2009

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2.01 Title. This ordinance shall be known as the Wind Energy Ordinance.

2.02 Authority. This ordinance is adopted pursuant to authority granted by ILCS Chapter 55 Counties Division 5-12 Zoning and Section 5/5-1063 Building Construction, Alteration, Maintenance.

2.03 Purpose. The purpose of this ordinance is to preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a wind energy system and to allow for the orderly development of land, protect property values and esthetic conditions within the county. This ordinance does not repeal, abrogate, annul, impair, or interfere with any existing ordinance.

2.04 Applicability. This ordinance applies to all unincorporated lands within the boundaries of Henry County.

2.05 Definitions. In this ordinance:

- (1) "Board" means the Zoning Board of Appeals.
- (2) "Committee" means the Planning Committee.
- (3) "Code Administrator" means the Zoning/Building Administrator.
- (4) "County Board" means Henry County Board.
- (5) "County Engineer" means Henry County Engineer.
- (6) "Department" means the Zoning/Building Department
- (7) "Large Wind System" means a wind energy system that has a nameplate capacity of more than 50 kilowatts, a total height of more than 100 feet, a blade diameter of more than 30 feet, and one or more wind towers with turbines.
- (8) "Small Wind System" means a wind energy system that has a nameplate capacity of 50 kilowatts or less, a total height of 100 feet or less, a blade diameter of 30 feet or less, and one or more wind towers with turbines.

(9) "Total Height" means the vertical distance from ground level to the tip of a wind turbine blade when the tip is at its highest point.

(10) "Wind Energy System" means 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, **transmission line, transmission line pole**, or other component used in the system.

(11) "Wind Farm System" means a wind energy system that includes two or more wind towers.

(12) "Wind Tower" means the monopole, freestanding, or guyed structure than supports a wind turbine generator.

(13) "Building Code" means Henry County International Building Code 2000 Edition as amended.

(14) "Comprehensive Plan" means Henry County Comprehensive Plan as amended.

(15) "Zoning Ordinance" means Henry County Zoning Ordinance as amended.

2.06 Standards.

(1) Location.

(a) A large wind energy system may only be located in areas that are zoned AG-1 Agriculture or M-1 Manufacturing with special use and building permits. A small wind system may be located in any zoning map district with special use and building permits.

(b) A large wind energy system, **excluding transmission line poles**, shall be located 1000 feet or more from an occupied structure on an adjoining property and 1.1 times total tower height or more from occupied structure on subject property, measured from wind tower base.

(c) A small wind energy system shall be located 1.1 times total tower height or more from an occupied structure on adjoining property and 80% total tower height or more from occupied structure on subject property measured from wind tower base.

(2) Set Backs.

(a) A small wind system must be set back from all property lines of the parcel on which it is located and from any right-of-way a distance 1.1 times total tower height measured from wind tower base.

(b) A large wind system, **excluding transmission line poles**, must be set back minimum distances as follows:

1. 1.1 times total tower height from any and all public/private right-of-way lines measured from wind tower base unless a variance is approved by the board.

2. 100 feet from all other property lines measured from the tip of the blade when located parallel with the ground unless a variance is approved by the board.

(3) Spacing and Density.

A wind energy system shall be separated from any other wind energy system by a minimum of 200 feet measured from the tips of the blades when the blades are parallel with the ground.

(4) Structure.

A wind energy system shall be of monopole construction to the extent practicable. If monopole construction is not practicable, a wind tower must be of freestanding construction to the extent practicable. If monopole or freestanding construction is not practicable, a wind tower may be guyed.

(5) Height.

The total height of a wind energy system shall be 500 feet or less, **except transmission lines and transmission line poles, which shall be 200 feet or less.**

(6) Clearance.

The vertical distance from ground level to the tip of a wind turbine blade when the blade is at its lowest point must be at least 25 feet.

(7) Access. Any wind tower located in a wind energy system, including any climbing aids, shall be secured against unauthorized access by means of a locked barrier or security fence.

(8) Electrical Wires. All electrical wires associated with a wind energy system, other than wires necessary to connect the wind turbine to its base and to overhead collection lines, shall be located underground unless a variance is approved by the board. **Transmission lines and transmission line poles shall not be located on road right-of-ways except as necessary to cross over a road.**

(9) Lighting. As required by the Federal Aviation Administration. Required lighting must comply with FAA minimum requirements and, whenever possible, be at the lowest intensity allowed using red lights at night. If more than one lighting alternative is available, the alternative that causes the least visual disturbance must be used.

(10) Equipment. Unless located underground, any electrical equipment associated with a wind energy system shall be located under the sweep area of a blade assembly unless a variance is approved by the board.

(11) Appearance, Color, and Finish. The exterior surface of any visible components of a wind energy system must be a nonreflective, neutral color. Wind towers and turbines in an established wind farm system that are located within 1000 feet of each other must be of uniform design, including tower type, color, number of blades, and direction of blade rotation unless a variance is approved by the board

(12) Signs. No wind turbine, tower, building, or other structure associated with a wind energy system may be used to advertise or promote any product or service. No word or graphic representation, other than appropriate warning signs and owner identification, may be placed on a wind turbine, tower, building, or other structure associated with a wind energy system so as to be visible from any public road.

2.07 Permit Requirements.

(1) Special Use Permit. A special use permit approved by the County Board is required for each wind energy system except for a small wind energy system used for agricultural purposes. See Henry County Zoning Ordinance Article 19 Administration Section 19.7 Special Uses.

(2) Building Permit. A building permit is required for the installation of each wind energy system except for a single small wind energy system used for agricultural purposes. See Henry County International Building Code 2000 Edition as amended.

(3) Expiration. A special use permit issued pursuant to this ordinance expires if:

- (a) the wind energy system is not installed and functioning within 5 years from the date the permit is issued; or
- (b) the wind energy system is out of service or otherwise unused for a continuous 12-month period. Board may grant extensions to the 5 year and 12 month deadlines based on hardship conditions.

(4) Fees.

- (a) The application for a special use permit must be accompanied by the fee required for each wind energy system.
- (b) The application for a building permit must be accompanied by the fee required for each wind energy system.
- (c) A small wind energy system used for agricultural purposes is exempt from zoning and building fees.

(5) Financial Assurance.

- (a) Reasonable evidence of financial ability to construct the wind energy system as determined by the County Board is a condition precedent to the issuance of any special use or building permit under this ordinance.
- (b) Henry County and/or the property owner leasing land for a wind energy system may require a performance bond, surety bond, escrow account, letter of credit or other financial assurance to Henry County and/or property owner for each wind energy system that guarantees the performance of the restoration requirement set forth in Section 2.08.

2.08 Restoration Requirement.

- (1) A wind energy system that is out of service for a continuous 12-month period will be deemed to have been abandoned. The Code Administrator may issue a Notice of Abandonment to the owner of a wind energy system that is deemed to have been abandoned. The Code Administrator WILL withdraw the Notice of Abandonment if the Board approves an extension based on hardship conditions.
- (2) The owner of a wind energy system shall provide the Code Administrator with a written Notice of Termination of Operations if the operation of a wind energy system is terminated.
- (3) Within 8 months of receipt of Notice of Abandonment or within 8 months of providing Notice of Termination of Operations, the owner of a wind energy system must:
 - (a) Remove all wind turbines, aboveground improvements, and outdoor storage;
 - (b) Remove all foundations, pads, and underground electrical wires to a depth of 4 feet below the surface of the ground; and
 - (c) Remove all hazardous material from the property and dispose of the hazardous material in accordance with federal and state law.
- (4) Failure to comply with any of the conditions or restrictions imposed on a special use permit shall be deemed a violation of the Zoning Ordinance.
- (5) All Code Administrator determinations may be appealed to the Board.

2.09 Special Use Permit Procedure.

- (1) Special use permit applications shall be submitted to the Code Administrator. The application must be on a form approved by the Code Administrator and must be accompanied by 10 copies of a scaled drawing, other descriptive information sufficient to enable the Committee and Board to determine whether the requirements of this ordinance will be satisfied, and such other information as may be specified on the application form. The Code Administrator will review the application materials for completeness and may request that the applicant provide additional information. When the Code Administrator determines that the application is complete, the Code Administrator will forward it to the Committee and Board.
- (2) The Committee and Board will conduct a meeting and hearing on the application within 60 days after application submittal and minimum 15 day public notice. Following the public meeting and hearing both Committee and Board will submit recommendations and finding of facts to the County Board.
- (3) The County Board may grant a special use permit if it determines that the requirements of this ordinance are met and that granting the permit will not unreasonably interfere with the orderly land use and development plans of the county. Both the Board and County Board may include conditions in the permit as provided if those conditions preserve or protect the public health, safety and property values. Both the Board and County Board may consider the following factors when setting conditions:
 - (a) Proposed ingress and egress.
 - (b) Proximity to transmission lines to link the system to the electric power grid.
 - (c) Number of wind turbines and their location.
 - (d) Nature of land use on adjacent and nearby properties.
 - (e) Location of other wind energy systems in the surrounding area.
 - (f) Surrounding topography.
 - (g) Proximity to residential structures, residential zoning districts, or areas identified for future residential use.
 - (h) Design characteristics that may reduce or eliminate visual obtrusiveness.

- (i) Possible adverse effects on migratory birds, raptors, and other animals and wildlife.
- (j) Possible adverse effects of stray voltage, interference with broadcast signals, shadow effect, and noise.
- (k) Impact on the orderly development, property values, and esthetic conditions within the county.
- (l) Recommendations of interested parties that may be affected by the wind energy system.
- (m) Any other factors that are relevant to the proposed system.

(4) The Board may consider variances to one or more of the factors. See Henry County Zoning Ordinance Article 19 Administration Section 19.4 Variances.

(5) The Committee and Board recommendations, finding of facts and any conditions will be recorded in the minutes and forwarded to the County Board for final determination.

(6) The County Board's decision to approve or reject the special use permit application may be appealed to the Circuit Court.

2.10 Building Permit Procedure.

(1) Building permit applications shall be submitted to the Code Administrator. The application must be on a form approved by the Code Administrator and must be accompanied by two copies of a drawing that shows the proposed location and distance of the wind energy system with reference to the property lines of the parcel on which it is located; any residence, business, or public building on an adjacent parcel; the right-of-way of any public road that is within 500 feet; and such other information as may be specified on the application form. Construction plans prepared and sealed by a structural engineer licensed to practice in Illinois stating and illustrating compliance with the Henry County International Building Code 2000 Edition as amended will be required for each wind energy system. Special inspections by approved inspection agencies will be required. A copy of the FAA permit for lighting, if necessary, will also be required.

(2) The Code Administrator should issue a permit or deny the application within one month of the date on which the application is received.

(3) The Code Administrator will issue a building permit for a wind energy system if the application materials show that the proposed tower location meets the requirements of this ordinance, building code and the special use permit issued by the County Board.

(4) If the application is approved, the Code Administrator will return one copy of the drawing with the building permit and retain the other copy with the application.

(5) If the application is rejected, the Code Administrator will notify the applicant in writing and provide a written statement of the reason why the application was rejected.

(6) The building permit must be conspicuously posted on the premises so as to be visible to the public at all times until construction or installation of the tower is complete.

(7) All Code Administrator determinations may be appealed to the Board.

2.11 Signal Interference.

The owner of a wind energy system must take such reasonable steps as are necessary to prevent, eliminate, or mitigate any interference with cellular, radio or television signals caused by the wind energy system.

2.12 Violations.

It is unlawful for any person to construct, install, maintain, modify, or operate a wind energy system that is not in compliance with this ordinance or with any condition contained in a special use or building permit issued pursuant to this ordinance. See applicable Zoning Ordinance, Building Code and ILCS sections.

2.13 Administration and Enforcement.

- (1) This ordinance shall be administered by the Code Administrator.
- (2) The Code Administrator may enter any property for which a special use or building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met as specified by statute, ordinance and code.

2.14 Penalties.

- (1) Zoning – petty offense. Maximum \$500 fine with each week violation continues uncorrected constituting a separate offense. Building – petty offense. Maximum \$500 fine with each week violation continues uncorrected constituting a separate offense.
- 2) Nothing in this section shall be construed to prevent the county from using any other lawful means to enforce this ordinance.

2.15 County Highway and Township Road Agreements.

Each wind energy system shall have a written agreement with County Engineer and respective Township Highway Commissioner(s) regarding use of county/township road, bridges and right-of-way. Performance/surety bonds or other financial assurance documents may be required to guarantee the performance of the road agreements before a building permit can be issued.

2.16 Wind Energy System Owner/County/Property Owner Restoration Agreement.

Each wind energy system shall have a written agreement with Henry County and/or property owner regarding restoration requirements as discussed in this ordinance. Performance/surety bonds or other financial assurance documents may be required to guarantee restoration (decommissioning) before a building permit can be issued.

2.17 RELATED RULES AND REGULATIONS.

Each wind energy system shall comply with all applicable local, state and federal requirements.

2.18 Severability.

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Reviewed/approved by the Henry County State’s Attorney

State’s Attorney

Date

Approved and adopted by the Henry County Board on this 8th day of December, 2009.

Chairman

County Clerk

Rejected by the Henry County Board on this 8th day of December, 2009.

Chairman

County Clerk