

Proposed Amendment of Jefferson Township Zoning Resolution

PROPOSED AMENDMENT DEFINITIONS

ADJOINING LOT LINE

The property boundary lines between the real property for the proposed siting of a wind turbine generator or anemometer tower subject of the Application and real property owned by another person, person or entity.

ANEMOMETER

The instrument for measuring and recording the speed of the wind.

ANEMOMETER TOWER

A structure, including all accessory facilities on which an anemometer is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.

FINANCIAL ASSURANCE

Reasonable assurance from a credit worthy party examples of which include a surety bond, trust **instrument**, cash escrow, or irrevocable letter of credit.

NATURAL AMBIENT NOISE LEVEL

The normal and predominant noise level at a given location.

PRIMARY STRUCTURE

For each property the structure that one or more persons occupy the majority of the time on that property for either business or personal reasons. Primary structures include structures as residences commercial buildings, hospitals, and day care facilities. Primary structures **exclude** structures such as hunting sheds, **storage** sheds, pool houses unattached garages, and barns.

PROFESSIONAL ENGINEER

A qualified individual who is licensed as a Professional Engineer in the State of Ohio.

SENSITIVE ENVIRONMENTAL AREAS

Any areas determined by the Ohio Department of Natural Resources that **consist** of unique or sensitive ecological, biological or related ecosystems.

WIND ACCESS BUFFER

The distance between any two or more wind turbine generators.

WIND TURBINE GENERATOR FACILITY (wpGF)

A tower, pylon, or other structure, including all accessory facilities, upon which any, all or some combination of the following are mounted:

I.) A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.

- 2.) A shaft, gear, belt, coupling **device** used to connect the rotor to a generator, alternator, or other electrical or mechanical energy producing device.
- 3.) A generator, alternator, or other **device** used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.

WIND TURBINE GENERATOR TOWER HEIGHT

The distance between the ground and the highest point of the wind turbine hub.

WPGF CONTRACT

The agreement between the Applicant and the landowner(s).

WPGF FACILITY

All necessary devices that together convert wind energy into electricity, including the rotor, nacelle generator, WPGF tower electrical components, WPGF tower to the substation.

WPGF OPERATOR

The entity responsible for the day-to-day operation maintenance of the WPGFG, including their respective successors assigns. Owner does not mean the property owner from whom the land is leased for locating the WPGF (unless the property owner has an equity interest in the WPGF or if any person holding a security interest provided that after foreclosure, such person seeks to sell the WPGF at the earliest practicable date.)

SUPPLEMENTARY DISTRICT REGULATIONS

WIND POWER GENERATING FACILITIES. Pursuant to the Township Zoning Inspector and Township **Trustees** being duly notified of the person's intent to construct Wind Power Generator Facilities (wpGF) in any area zoned for (V-I Rural Undeveloped District and R-I Low Density Residential District), public utilities, or other functionally equivalent providers may site a WPGF as a permitted use provided the following conditions are met:

- 1.) Applicability The Township Zoning Resolution governs the siting of Wind Power Generating Facilities (WPIGF) and substations that generate electricity by harvesting wind energy to be sold to the wholesale or retail market.
- 2.) Prohibition No Wind Power Generating Facilities (wpGF) or components thereof governed by this Township Zoning Resolution shall be constructed, erected, installed, or located within this Township until prior siting approval has been obtained pursuant to this Township Zoning Resolution.
- 3.) Siting Approval Application To obtain siting approval, the applicant must first submit a siting approval application to the Township Zoning Inspector and must contain the following information:
 - a.) Name and address of the applicant.
 - b.) Evidence that applicant is the owner of the property involved or has written permission of the owner to make such application.
 - c.) A plot and development plan drawn in sufficient detail to clearly describe the following:
 - Physical dimensions of the property, existing structures, and proposed structures.
 - Location of existing and proposed structures.
 - Location of existing and proposed electrical lines facilities
 - Existing topography
 - Proposed grading and removal of natural vegetations
 - Wind resource study
 - Setbacks
 - Ingress and egress identifying location and distance to the nearest County Township maintained road.
 - d.) A description of the access route from the nearest County or Township maintained road to include:
 - Road surface material stating the type and amount of surface cover
 - Width and length of access route
 - A road maintenance schedule
 - e.) Utilization of the property under the requested permit.
 - f.) Utility interconnection data and a copy of written notification to any utility of the proposed connection.
 - g.) Specific information of the type, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each WTG model, tower and electrical transmission equipment.
 - h.) A soil boring report.

- i.) Any other information normally required by the Township as part of its Zoning Resolution.

Design and Installation

1.) Design Safety Certification

- a) WPGF shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Gennanischer Lloyd Wind Energie (GL) or an equivalent third party.
- b.) Following the granting of siting approval under this Resolution, a Professional Engineer shall certify, as part of the building permit application, that the foundation of the tower design of the WPGF, including substation, transformer, underground cabling or parts thereof and access road, is with accepted professional standards, given local soil and climate conditions.

2.) Controls and Brakes

All WPGF shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.

3.) Electrical Components

All electrical components of the WPGF shall conform to applicable local, state, and national codes, and relevant national and international standards (ie. ANSI and International Electrical Commission).

4.) Color

Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color.

5.) Compliance with the Federal Aviation Administration

- The applicant for the WPGF shall comply with all applicable Federal Aviation Administration (FAA) requirements.
- If lighting is required by the FAA the light shall not be strobe lighting or any other intermittent white lighting fixtures, unless expressly required by the FAA. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to the FAA and the Township.

6.) Warnings

- A reasonably visible warning sign concerning voltage must be placed at the base of all pad mounted transformers and substations.
- A reasonably visible warning sign stating contact phone number of operator in case of emergency.
- Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires up to the height of fifteen (15) feet from the ground.

7. Climb Prevention

All WPGF towers must be unclimbable by design or protected by anti-climbing devices.

8. Setbacks

- All WPGF towers shall be set back a distance of at least 1.1 times the WPGF tower height from any primary structure. The distance for the above setback shall be measured from the point of the primary structure foundation closest to the WPGF tower to the center of the WPGF foundation..

_All WPGF towers shall be set back at least one thousand feet (1000) feet from any public school property.

_All WPGF towers shall be set back a distance of at least 1 times the WPGF tower height from public roads. The distance for the above setback shall be measured from the edge of the public road right of way to the center of the WPGF foundation.

- All WPGF towers shall be setback a distance of at least 1.1 times the WPGF tower height from the adjacent property lines. The affected owner may waive this setback requirement by signing a waiver with WPGF and to be submitted to the trustees.

-The applicant does not need to obtain a variance from the Township upon execution of a contract with WPGF by an adjacent property owner of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property.

9.) Sign

A sign of no more than four (4) square feet in area displaying an address and toll-free telephone number, answered by a person twenty-four hours per day, seven days per week, for emergency calls and information inquires shall be posted at the wind turbine generator. No wind turbine generator tower or anemometer tower or site shall include any advertising sign.

10.) Maintenance

- The owner or operator of the WPGF shall furnish an operation and maintenance report to the Township on an annual basis.

- Any physical modification to the WPGF that alters the mechanical load, mechanical load path, or major electrical components shall require reapplication for conditional use under this Amendment. Like kind replacements shall not require re-application. Prior to making any physical modification (other than like-kind replacement), the owner or operator shall request, in writing, a determination from the Township Board of Zoning Appeals whether the physical modification requires reapplication for conditional use permit. The Board of Zoning Appeals shall, in its sole and absolute discretion, make such determination.

11.) Interference

-The applicant shall provide the applicable microwave transmission providers and local emergency service providers / 911 operators copies of the project summary and site plan as set forth in the Resolution. To the extent that the above providers demonstrate a likelihood of interference with its communications resulting from WPGF, the applicant shall take reasonable measures to mitigate such anticipated interference. If, after construction of the WPGF, the owner or operator receives a written complaint related to the above-mentioned interference, the owner or operator shall take reasonable steps to respond to the complaint.

-If, after construction of the WPGF, the owner or operator receives a written

complaint related to interference with local broadcast residential television, the owner or operator shall take reasonable steps to respond to the complaint.

12.) Local Fire Department

- The applicant, owner or operator shall submit to the local Fire Department a copy of the site plan. Upon request by the local Fire Department, the owner or operator shall cooperate with local Fire Department to develop the Fire Department's emergency response plan. Nothing in this Section of this Amendment shall alleviate the need to comply with all other applicable fire laws and regulations. Upon request by the local Fire Department, the owner or operator shall on a yearly basis, participate in High Angel Rescue using a WPGF.

13.) **Materials Handling, and Storage, and Disposal**

- All solid wastes related to the construction, operation maintenance, and decommissioning of the WPGF shall be removed from the site promptly and disposed of in accordance with all applicable local, state, and federal laws.

- All hazardous materials related to the construction, operation, and maintenance of the WPGF shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal laws.

14.) Noise Levels

- Noise levels from each WPGF unit of WPGF project shall be in compliance with applicable State of Ohio regulations. The applicant, through the use of a qualified professional, as part of the siting approval application process, shall appropriately demonstrate compliance with the above noise regulations.

15.) Wind Access Buffer

A Wind Access Buffer of a minimum of nine hundred (900) feet must be observed.

16.) Birds

A qualified professional such as an ornithologist or wildlife biologist, shall conduct an avian habitat study, as part of the siting approval application process, to determine if the installation of the WPGF will have a substantial adverse impact on birds.

17. Public Participation

Nothing in this Resolution is meant to augment or diminish existing opportunities for public participation.

18. Liability Insurance

The owner or operator of each WPGF tower shall maintain a current general liability policy covering bodily injury and property damage with limits of at least three million dollars per occurrence.

19.) **Decommissioning** Plan

Prior to receiving site approval under this Resolution, the applicant, owner, and/or operator must formulate a Decommissioning Plan to ensure that WPGF project is properly decommissioned. The Decommissioning Plan shall include:

- Provision describing the triggering events for decommissioning the WPGF project.
- Removal of structures, debris, **access** roads, and electrical cabling, including transmission lines below the soil surface, as specified in each individual WPGF contract.

- Provisions for restoration of the soil and vegetations.
- An estimate of the decommissioning costs certified by a Professional Engineer approved by the Jefferson Township Trustees.
- Financial Assurance, unless contract stipulates a financial set aside for decommissioning secured by the owner/operator (in the form of a surety bond) for the purpose of adequately performing the decommissioning, in an amount equal to the Professional Engineer's certified estimate of the decommissioning costs plus anticipated inflation. The cost of professional engineering for decommissioning will be paid for by the owner/operator.
- Identification of and procedures for Township access to financial assurances.
- A provision that the terms of the Decommissioning Plan shall be binding upon the OWDer or operator and any of their successors, assigns, or heirs.

20.) Remedies

- The applicant's owner's or operator's failure to materially comply with any of the above provisions shall constitute default under this Resolution.
- Prior to implementation of the existing Township procedures for the adjudication of such default(s), the appropriate Township body shall first provide written notice to the owner and operator, setting forth the alleged default(s). Such written notice shall provide the OWDer and operator a reasonable time period, not to exceed sixty (60) days, for good faith negotiation period, the existing Township Resolution provisions addressing the adjudication of such default(s) shall govern.
- If the Township determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the resolution of such default(s) shall govern.

21.) Expenses

All reasonable expenses incurred by the Jefferson Township **Trustees** to review and certify the WPGF plan shall be paid by the applicant.

22.) Schedule of Fees, Charges, and Expenses

As stated in the Zoning Resolution of Jefferson Township, Logan County, Ohio any WPGF company will abide by the schedule of applicable fees, charges, and expenses set by the Township Trustees at the time of application prior to any action taken.