

**ORIGINAL**

**REPORT TO THE BOARD OF COMMISSIONERS  
OF DELAWARE COUNTY, INDIANA**

**DATE:** March 10, 2009

**To the Honorable:**

Board of County Commissioners of Delaware County, Indiana

**Dear Board Members:**

The Delaware-Muncie Metropolitan Plan Commission hereby submits to you the following report on AN ORDINANCE TO AMEND THE TEXT OF THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE REGARDING WIND POWER ACCESSORY USES/STRUCTURES.

**WHEREAS**, the Commission has given reasonable regard to the comprehensive plan; current conditions and the character of current structures and uses in each district; the most desirable use for which the land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

**NOW, THEREFORE**, the Delaware-Muncie Metropolitan Plan Commission favorable recommended (9-0) the proposed Ordinance to Amend.

**DELAWARE-MUNCIE METROPOLITAN  
PLAN COMMISSION**

**BY:**



\_\_\_\_\_  
President



\_\_\_\_\_  
Secretary

ORDINANCE NO. 2009-010 A

**BEING AN ORDINANCE TO AMEND  
THE TEXT OF THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE  
REGARDING WIND POWER ACCESSORY USES/STRUCTURES**

**WHEREAS**, the State enabling act for planning and zoning empowers the Board of County Commissioners of Delaware County, Indiana, to adopt a comprehensive zoning ordinance and also provides for amendments to said ordinance as deemed necessary from time to time; and

**WHEREAS**, the State enabling act also provides for amendments to the comprehensive zoning ordinance to further promote the health, safety and general welfare; and

**WHEREAS**, the Delaware-Muncie Metropolitan Plan Commission has given legal notice of a public hearing with due notice as required by law, for consideration of proposed amendments and favorably recommends (9-0) said amendments to the Board of Commissioners of Delaware County, Indiana.

**WHEREAS**, the Board of County Commissioners of Delaware County, Indiana has given reasonable regard to the comprehensive plan; current conditions and the character of current structures and uses in each district; the most desirable use for which the land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Delaware County, Indiana that the text of the Delaware County Comprehensive Zoning Ordinance, heretofore adopted on the 11th day of December, 1973, be amended, changed and supplemented as follows:

**Section 1.** That the Delaware County Comprehensive Zoning Ordinance, Article IX, Section 14, Subsection A-2. TYPES OF ACCESSORY USES/STRUCTURES shall be amended by inserting a new Item F as follows:

**ARTICLE IX**

**Section 14, A-2 TYPES OF ACCESSORY USES/STRUCTURES**

F. Small Wind Energy Systems – small wind energy systems are a permitted accessory use in all zoning districts subject to the following requirements:

1. Setbacks. A wind tower for a Small Wind Energy System shall be set back a distance equal to its total height plus the length of one blade from:
  - (1) Any State or local roadway right-of-way, existing or proposed, whichever is greater;
  - (2) Any right of ingress or egress on the owner's property;
  - (3) Any overhead utility lines;
  - (4) All property lines; and
  - (5) Any existing guy wire, anchor or other small wind energy tower.

A small wind energy system shall not be located in any front yard area.

2. Access. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 10 feet above the ground.
3. Electrical Wires. All electrical wires associated with a Small Wind Energy System, other than wires necessary to connect the wind generator to the wind tower wiring, the wind tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
4. Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). Lighting of other parts of the Small Wind Energy Systems, such as appurtenant structures, shall be limited to that required for safety purposes, and shall be reasonably shielded from adjacent residential uses and residential zones.
5. Height. A small wind energy system shall not exceed one hundred fifty feet (150'), however, no wind energy system shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces as regulated by the State and the FAA guidance on airspace protection.
6. Appearance, color, and finish. The wind generator and wind tower shall remain painted or finished the color or finish that was originally applied by the manufacturer.
7. Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, wind tower, building, or other structure associated with a Small Wind Energy System, visible from any public road shall be prohibited.
8. Noise and Signal Interference. Sound produced by small wind energy systems under normal operating conditions, as measured at the property line, shall comply with limitations contained in local noise ordinances. Sound levels may be exceeded during short term events such as utility outages and/or severe wind storms. A small wind energy system shall not interfere with communication systems such as, but not limited to, radio, television, telephone, satellite, or emergency services communication systems.
9. Utility notification and interconnection. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement. Any property owner seeking to construct a Small Wind Energy System and connect such system to the main power grid with the capability of transporting energy back to their main power company shall meet all applicable requirements of the Indiana Utility Regulatory Commission for approval and provide documentation of such approval prior to construction and being issued a building permit.
10. Ground Clearance: The minimum clearance between the lowest extension of a rotor blade tip and the highest point of the ground within thirty feet of the tower base shall be thirty (30) feet.
11. Braking: A small wind energy system shall be equipped with a manual and automatic braking device capable of halting operation.
12. Compliance & Permits. A Small Wind Energy System shall comply with all applicable building and electrical codes. Applications for building permits shall include standard drawings of the wind generator and stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer. Applications for building permits shall also include line drawings of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
13. Abandonment: A Small Wind Energy System that is out-of-service for a continuous 6 month period will be deemed to have been abandoned. The Zoning Administrator may issue a Notice of Abandonment to the owner of a Small Wind Energy System that is deemed to have been abandoned. The Owner shall have the right to respond in writing to the Notice of Abandonment setting forth the reasons for operational difficulty and providing a reasonable timetable for corrective action, within 30 days from the date of the Notice. The Administrator shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the wind energy system has not been abandoned. If the Small Wind Energy System is determined to be abandoned, the owner shall remove the wind generator and tower at the Owner's sole expense within 3 months of the

date of Notice of Abandonment. If the owner fails to remove the wind generator and wind tower, the Administrator may pursue a legal action to have the wind generator and tower removed at the Owner's expense.

Small Wind Energy Systems shall not be attached to any building, including guy wires. Meteorological Towers (Met Tower) shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a Small Wind Energy System. Each lot of record is eligible for one Small Wind Energy System only, provided all requirements can be met, except that lots greater than five (5) acres may be eligible for two small wind energy systems, provided all requirements can be met.

g. Building Mounted Wind Systems, provided the system has a nameplate capacity (manufacturer's rating) of 10 kilowatts or less than projects no more than fifteen (15) feet above the highest point of the roof, excluding chimneys, antennae and other similar structures.

**Section 2.** That the Delaware County Comprehensive Zoning Ordinance, Article XXXIII, Section 2, TERMS AND MEANINGS shall be amended by adding the following definitions:

## **ARTICLE XXXIII**

### **Section 2 TERMS AND MEANINGS**

**METEOROLOGICAL TOWER (Met Tower)** – Defined to include the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

**SMALL WIND ENERGY SYSTEM** – Means a single-towered wind energy system that:

- A. Is used to generate electricity;
- B. Has a rated nameplate capacity of 100 kilowatts or less; and
- C. Has a total height of 150 feet or less.

**TOTAL HEIGHT** – Means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

**WIND ENERGY SYSTEM** – Means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, guy wire or other component used in the system.

**WIND ENERGY SYSTEM OWNER** – Shall mean the individual that owns, or intends to own, the property upon which he/she will operate a Small Wind Energy System that will be operated in accordance with this Ordinance.

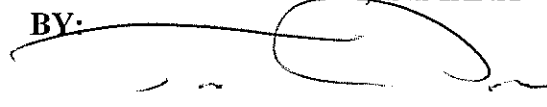
**WIND GENERATOR** – Means blades and associated mechanical and electrical conversion components mounted on top of the tower.

**WIND TOWER** – Means the monopole, freestanding, or guyed structure that supports a wind generator.


**Section 3.** This Ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of Delaware County, Indiana, and such publication is required by law.

**Section 4.** This Ordinance is adopted this   C   day of   Apr: 1  , 2009.

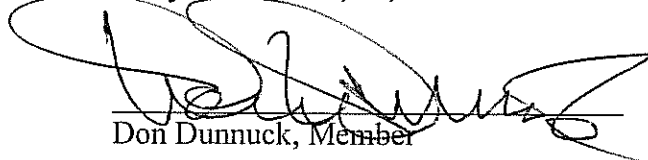
**BOARD OF COMMISSIONERS  
DELAWARE COUNTY, INDIANA  
BY:**



Todd Donati, President

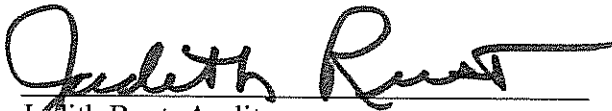


Larry W. Bledsoe, Jr., Vice President



Don Dunnuck, Member

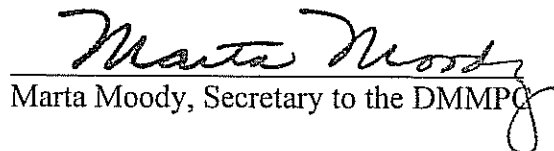
**ATTEST:**



Judith Rust, Auditor  
Delaware County, Indiana

Presented us in regular session this 5th day of March, 2009 and by us favorably recommended (9-0 )  
this 5th day of March, 2009.

**DELAWARE-MUNCIE  
METROPOLITAN PLAN COMMISSION**



Marta Moody, Secretary to the DMMP