

Public Notice
NOTICE OF PUBLIC HEARING

WHEREAS, the Buchanan County Board of Supervisors will hold a public hearing for the first reading of the amendment to Chapter 50 Zoning Ordinance on and May 22, 2024 at 7:00 pm. The public hearing will be held at the Brandon Community Center, 802 Main Street, Brandon, Iowa; and WHEREAS, copies of the proposed amendment to Chapter 50 Parks, Zoning Ordinance are available in the County Auditor's office, 210 5th Ave. N.E., Independence, Iowa and can be obtained between 8:00 a.m. and 4:30 p.m., Monday through Friday.

WHEREAS, Section X, subsection A "Purpose." the Buchanan County Ordinance shall be amended too:
X. Wind Energy Conversion System Regulations
A. Purpose

This subsection establishes regulations for the installation and operation of Wind Energy Conversion Systems (WECS) within Buchanan County. The purpose of this regulation is to promote the safe, effective, and efficient use of wind energy conversion systems to reduce the on-site consumption of utility-supplied electricity. In addition, this ordinance provides a permitting process for wind energy systems to ensure compliance with the provisions of the requirements and standards established or referenced herein. The provisions of this ordinance shall not guarantee wind rights or establish access to the wind.

Preservation of Private Property Rights
Objectives:

- a) It is recognized that the establishment of policies regulating the use of land is a community issue. Adequate input and monitoring from local citizens and agencies must be considered during the comprehensive planning period.
b) To encourage the continued utilization of Chapter 335.2, Code of Iowa, County Zoning, Farm Exemption. This section provides for deregulation of farmland, farmhouses, farm barns, and other farm structures from county zoning. This may be used as an incentive to help the preservation of the farming industry.

Definitions

- 1. WECS: Wind Energy Conversion System: An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
2. Aggregated Project: Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.
3. Commercial WECS: A WECS of equal to or greater than one hundred (100) kilowatts in total name plate generating capacity.

a) Energy Production (Wind Project) WECS: One (1) or more WECS located together and used for production of electric power to be interconnected into local utility electrical grid and primarily for consumption by on-grid utility customers located off the property.

4. Non-Commercial WECS: A WECS of less than one hundred (100) kilowatts in total name plate generating Capacity.
a) Single Use Residential Production WECS: A single WECS, on an individual lot or parcel, used to produce energy primarily for residential consumption on the property where the WECS is located.

b) Shared Residential Production WECS: WECS used for residential consumption that is shared by more than one (1) property owner and placed within an easement area on private property, a common area (jointly owned property) within a development.
c) Single Use Non-residential Production WECS: One (1) or more WECS, used to produce energy primarily for the non-residential property where the WECS is located.

d) Shared Non-residential Production WECS: WECS used for non-residential consumption that is shared by more than one (1) property owner and placed within an easement area on private property, a common area - jointly owned property within a development.

5. Fall Zone: This area, defined as the furthest distance from the tower base, in which a guyed or non-guyed tower will collapse in the event of a structural failure. This area shall not be less than one and one-half (1.5) times the total height of the WECS tower. Refer to Table two (2).

6. Feeder Line: Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.

7. Meteorological Tower: For the purposes of this Wind Energy Conversion System Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to site WECS. Meteorological towers do not include towers and equipment used by airports, the Iowa Department of Transportation, or other similar applications to monitor weather conditions.

8. Micro-WECS: A WECS of one (1) kilowatt nameplate generating capacity or less and utilizing supporting towers of forty (40) feet or less.

9. Nacelle: Contains the key components of the wind turbine, including the gearbox, yaw system, and electrical generator.

10. Property line: The boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.

11. Rotor diameter: The diameter of the circle described by the moving rotor blades.

12. Shadow Flicker: Shall mean the visible flicker effect when rotating turbine blades cast shadows on the ground or nearby structures causing the repeating pattern of light and shadow.

13. Substations: Any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than thirty-five thousand (35,000) volts (35 kilovolts) for interconnection with high voltage transmission lines shall be located outside of the road right of way.

14. Total height: The highest point, above ground level, reached by a rotor tip or any other part of the WECS. The maximum total height of a commercial WECS shall be no more than six hundred (600) feet. Refer to Table two (2).

15. Tower: Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

16. Tower height: The total height of the WECS exclusive of the rotor blades.

17. Transmission Line: Those electrical power lines that carry voltages of at least sixty-nine thousand (69,000) volts (69 kilovolts) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

18. Public conservation lands: Land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, Federal Wildlife Refuges, Watertown Production Areas, County Parks, County Trails, City Parks, and City Trails. For the purposes of this section public conservation lands will also include lands owned in fee title by non-profit conservation organizations.

19. Wind Turbine: A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

C. Applicability
1. It shall be unlawful to construct, erect, install, alter, or locate any WECS within unincorporated Buchanan County, without rezoning the area of the proposed site to the "M" Manufacturing District and after being authorized by the Buchanan County Board of Supervisors ("BOS") in a public hearing.

2. The rezoning process would include transition to the Manufacturing District with a restriction to include Wind Energy generation and any adjoining crop farming application which may apply.

D. Procedures
1. Applications for a WECS Permit shall be made on a permit application to Buchanan County for any WECS proposed in unincorporated Buchanan County.

2. No WECS or wind turbine shall be constructed, erected, converted, installed, reconstructed, enlarged, located, relocated, structurally altered, or otherwise developed including the placement of additional buildings and appurtenances without obtaining a zoning placement permit and being in full compliance with the terms of this section and other applicable codes, regulations, and policies adopted by the County, State, or Federal Government.

3. Rezoning or map amendment shall be applied for and reviewed under the procedures established in Section XVI (A) 17; XXIII (L); and XXIII (M) of this Ordinance, except where noted below.

4. The application for all WECS shall include the following information:
I. The name(s) and address of the project applicant.
II. The name of the project owner.

III. The legal description of the site where development is planned.
IV. A preliminary description of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid. Preliminary site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.

V. Documentation of land ownership, land ownership agreements, or legal control of the property.
The building permit (after zoning approval) for the Commercial WECS shall also include:
I. Final site plan.
II. Final legal description.

III. Engineer's certification.
IV. The latitude and longitude of individual wind turbines.
V. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within ten (10) rotor diameters of the Proposed WECS.

VI. Location of wetlands, scenic, and natural areas [including bluffs] within one thousand three hundred twenty (1,320) feet of the proposed WECS. [dependent on DNR/Code]

VII. Applicant must provide a Third-party acoustical analysis and a Third-Party Shadow Flicker Analysis from a firm(s) who is agreed upon by both Buchanan County and the applicant. Acoustic and shadow flicker analysis shall be performed at the nearest point of each adjoining and adjacent property line to the base of the tower, unless that property in question is under a waiver as described in Section E, District Regulations. No residence will experience more than thirty (30) hours per year, or more than thirty (30) minutes per day, of shadow flicker at the nearest point on the property to the WECS. To ensure compliance with this requirement prior to construction, the applicant will submit a report prepared by a qualified third party using the most up-to-date computer modeling software available, demonstrating that the proposed project will comply with the above requirements based on real world or adjusted case assessment modeling. The report must show the locations and estimated amount of shadow flicker to be experienced at all residences as a result of the individual WECS in the project.

VIII. Federal Aviation Administration (FAA) Permit Application.
IX. Location of all known Communications Towers within two (2) miles of the proposed WECS.

X. Decommissioning Plan which includes agreement of one hundred percent (100%) removal.
XI. Description of potential impacts on nearby WECS and wind resources on adjacent properties.

6. In addition to the rezoning fee, the applicant must also file a bond in an amount determined by the Buchanan County Board of Supervisors and approved by the Buchanan County Engineer. Said bond shall be from a surety company authorized to do business in the State of Iowa and Buchanan County. The bond shall be conditioned that the applicant under this section will pay to the county any and all damages caused to the streets, highways, and bridges, by applicant.

7. Aggregated Project Procedures: Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews, and as appropriate, approvals. Permits will be issued and recorded separately. Joint applications will be assessed fees as one project.

E. District Regulations
1. WECS may be permitted as a Principal Permitted Use in the "M" Manufacturing District, as set forth in Section XVI of this Ordinance, so long as bulk requirements and setback requirements are addressed. Said bulk requirements are shown in Table two (2) below.

2. WECS may only be constructed in areas that are rated less than fifty-five (55) CSR. Only areas rated less than fifty-five (55) CSR may be considered for rezoning and land use change.

3. Setbacks: Substations and Accessory Facilities:
a. Minimum setback standards for substations and feeder lines shall be consistent with the standards for essential services outlined in the Buchanan County Zoning Ordinance.

b. Substation setbacks:
1. Ten (10) feet; structure setback from road ROW; located wholly outside the right-of-way.
2. Property lines ten (10) feet; structure setback from property lines; side yard.

Table 2. WECS Setback Requirements: Wind Turbines and Meteorological Towers

Table with 5 columns: Property Lines, Wind Turbine - Non-Commercial Micro WECS, Wind Turbine - Commercial WECS, Meteorological Towers, and other setback categories. Each row lists setback requirements in terms of height per Certified Engineer.

Table with 5 columns: Public conservation lands managed as grasslands, Wetlands, Other Structures, Other Existing WECS, Cemeteries, Any City Limits, Height Restrictions. Each row lists setback requirements in terms of distance or height.

\*All costs associated will be at the applicants' expense/ No cost will be assumed by Buchanan County, Iowa.
1. Notwithstanding the above in Table two (2), The setback for dwellings shall be reciprocal in that no dwelling shall be constructed within four and one-half (4.5) times the total height of a commercial wind turbine, unless a release of liability is received from the WECS landowner and contractor.

2. The setback shall be measured from future rights-of-way if a planned changed or expanded right-of-way is known.

F. Requirements and Standards
1. Safety Design Standards
a. Engineering Certification: For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

b. Clearance: Rotor blades or airfoils must maintain at least thirty (30) feet of clearance between their lowest point and the ground.
c. Warnings: For all Commercial WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage.

2. Height Standard
a. Total height - Non-Commercial WECS shall have a total height of less than two hundred (200) feet.
b. Total Height must also be in compliance with all municipal airport ordinances within Buchanan County or adjoining counties. This shall include, but not be limited to, the Independence Municipal Airport Ordinance as well as the Oelwein Municipal Airport Ordinance.

c. Commercial WECS shall be in compliance with Section XVI (D), above as well as setback requirements as outlined in Table two (2). In any circumstance where the requirements are difficult to interpret, Table two (2) in this ordinance will take precedence.

3. Security
a. Climbing Apparatus: All external climbing apparatus for accessory WECS shall be located at least eight (8) feet above the ground, and the tower must be designed to prevent climbing within the first eight (8) feet.

b. Fencing: To limit access to the tower, a non-climbing fence six (6) feet high with a locked gate shall be installed around the WECS at the discretion and expense of the owner and/or operator.

4. Meteorological towers may be guyed.
5. Color and Finish: All wind turbines and towers that are part of a commercial WECS shall be white, grey or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

6. Lighting: Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

7. Other Signage: All signage on site shall comply with Article VII (W)(E)(2) (Performance Standards), Section XX (Outdoor Advertising Signs and Billboards) of this Ordinance. The manufacturer's or owner's company name and/or logo shall be placed upon the nacelle of the WECS.

a. One sign, limited to four (4) square feet, shall be posted at the base of each tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the phone number of the owner and operator to call in case of an emergency.

b. Each entrance to a wind turbine / project shall include a notice of restriction to authorized personnel, a warning of high voltage, and phone number of the owner and/or operator to call in case of an emergency.
c. Each driveway will be given a 911 address by Buchanan County, and each WECS at that address will be given a unique letter or number for the purpose of identification.

8. Feeder Lines: All communications and feeder lines, equal to or less than thirty-four and one-half (34.5) kilovolts in capacity, installed as part of a WECS shall be buried where reasonably feasible. Feeder lines installed as part of a WECS shall not be considered an essential service. This standard applies to all feeder lines subject to Buchanan County Ordinances.

9. Waste Disposal: Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

10. Impacts on Public Infrastructure: Reimbursement of all costs related to excessive wear and tear to any public infrastructure such as but not limited to county roads and bridges, any highway systems, storm water management related improvements and/or public utilities that are caused by the construction, maintenance, or removal of any WECS projects. Any incurred expenses shall be reimbursed to the affected local government(s). A determination shall be made by the Zoning Administrator after consultation with the County Engineer and the Board of Supervisors to establish if excessive wear and tear or damage has occurred and to estimate the costs of repair for said work. Any damages to any haul routes, as determined by the County Engineer, shall be reimbursed to the local government(s) affected and shall be billed to the corporation or company owning said WECS and to be paid within forty-five (45) days of issuance and may be subject to late charges, interest or penalties as allowed by law.

Also, all haul routes shall be reviewed and approved by the County Engineer on use of any rural county roads prior to construction, maintenance or removal of any WECS. In order to review proposed haul routes and/or work locations, WECS owner(s) and/or their contractors shall contact the County Engineer a minimum of six (6) months prior to starting any work within the county.

11. Discontinuation and Decommissioning: A WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Buchanan County Zoning Administrator outlining the steps and schedule for returning the WECS to service.

a. The removal/discontinuance/decommissioning of any WECS shall be the sole responsibility of the WECS device/facility owner or owner and/or operator, with one hundred percent (100 %) removal, including any expenses related to the release of any easements.

b. Each Commercial WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use.

c. The cost estimates shall be made by a competent party; such as a licensed third party, a contractor capable of decommissioning, or a person with suitable expertise or experience with decommissioning wind turbine projects.

d. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities and access roads.

e. The site shall be stabilized, graded, and cleared of any and all debris by the owner of the WECS device/facility or its assigns. An optional agreement may be included in their contract between the owner and contractor recorded with the county.

f. Any access roads shall be removed, cleared and graded by the owner of the WECS device/facility or its assigns, unless the owner of the parent parcel desires to keep the access road in place. Buchanan County at no time will be assumed to take ownership or maintenance of any access road unless through official action by the Board of Supervisors.

g. Buchanan County will require financial security in the form of a cash escrow, an irrevocable letter of credit, or a performance bond of one hundred thirty (130) percent of the decommission value to ensure that the decommissioning process of a Commercial WECS is completed as required in this subdivision and all documents will be reviewed by the county auditor every three (3) years.

12. Ownership/Management Changes.
a. Written notification shall be given to the Zoning Administrator and County Auditor upon change of ownership of a WECS.

b. The owner of a WECS shall give notice in writing to the Zoning Administrator of any change in their onsite management.

G. Other Applicable Standards
1. Noise: Noise shall not exceed fifty (50) decibels (dBA).

2. Electrical codes and standards: All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

3. Federal Aviation Administration: All WECS shall comply with FAA standards and permits.

4. Uniform Building Code: All WECS shall comply with the State Building Code adopted by the State of Iowa.

5. Interference: The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, cell phone, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within two miles of the proposed WECS location upon application to the county for permits. No WECS shall be constructed so as to interfere with County or Iowa Department of Transportation microwave transmissions.

6. A WECS Permit may be revoked any time the WECS does not comply with the rules and regulations set forth in this ordinance or WECS Permit. The revocation of the WECS Permit requires the WECS to be physically removed within one-hundred eighty (180) days.

7. WECS Permit Process. All WECS Permit applications shall be approved by the Buchanan County Board of Adjustment following the standards and procedures as set forth in the Buchanan County Zoning Ordinance.

a. Condemnation Waiver. Issuance of a WECS construction permit shall be conditioned on the permit holder's enforceable promise, supported by the consideration of the issuance of the WECS construction permit, that the permit holder shall never use, or seek to use EMINENT DOMAIN to acquire any real property interests to construct or operate this project.

b. In any action brought by the County against the Permit Holder of a WECS Construction Permit to enforce the provisions of this Ordinance, the County shall be entitled to recover its reasonable attorney fees and court costs as may be awarded by the decision-making tribunal.

8. Release of Liability. Buchanan County shall be fully released of any liability associated with any WECS built in unincorporated Buchanan County.

9. Insurance: The Owner or Operator of the WECS shall provide a certificate of insurance prior to receiving a Zoning Permit. The Owner or Operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least Three Million (3,000,000.00) Dollars per occurrence and Three Million (3,000,000.00) Dollars of aggregate and file that with the Buchanan County Auditor at each renewal period.

10. Severability Clause: If any of the provisions of this Ordinance are for any reason found to be illegal or void, then the lawful provisions of this Ordinance, which are separate from said unlawful provisions shall be and remain in full force and affect, the same as if the Ordinance contained no illegal or void provisions.

11. Repealer: This Ordinance takes precedence over any previous copy or draft specified for Commercial WECS in the Buchanan County Development Zoning Ordinances. All ordinances or parts of ordinance in conflict with the provisions of this ordinance are hereby repealed.

If the proposed amendments would be adopted as described above: WECS Uses (A-2 District Only) Including in Table 1. On Page 22 would be removed or eliminated from the Zoning Ordinance.

11. Wind Energy Conversion Systems (WECS) would be removed or eliminated from A. Principal Permitted Uses on Page 47 of the Zoning Ordinance.

Interested parties that are unable to attend the hearing may submit written concerns prior to the date and time of the hearing to the Board of Supervisors, P.O. Box 317, Independence, Iowa 50644.

Passed this 15th day of May 2024.

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