

**WHITE RIVER TOWNSHIP
TOWNSHIP BOARD**

RESOLUTION NO. 74 - 2024

**RESOLUTION TO ADOPT ZONING ORDINANCE AMENDMENTS
REGARDING WIND ENERGY SYSTEMS**

At a meeting of the Township Board for White River Township, Muskegon County, Michigan, held on September 10, 2024, at 7:00 p.m. at Nellie B. Chisholm Middle School, 4700 Stanton Boulevard, Montague, MI 49437.

PRESENT: George Dufresne, Laura Anderson, Deb Harris, Patti Sargent, Ronald Bailey Jr.

ABSENT: None

The following preamble and resolution were offered by Harris and seconded by Anderson.

WHEREAS, the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 *et seq.*, as amended, authorizes townships to adopt and amend zoning ordinances to regulate the use of land and structures within their zoning jurisdictions; and

WHEREAS, White River Township (“Township”) has adopted such a zoning ordinance (“Zoning Ordinance”); and

WHEREAS, the Township Board desires to amend the zoning regulations for wind energy systems in the Township to be compatible with Public Act 233 of 2023 in order to retain local control over the zoning regulations for wind energy systems; and

WHEREAS, the Township Planning Commission held a duly noticed public hearing at a meeting on August 12, 2024 to consider amendments to the Zoning Ordinance regarding wind energy systems (“Proposed Amendments”); and

WHEREAS, the Township Planning Commission recommended adoption of the Proposed Amendments, as described in Ordinance No. 62-2024, An Ordinance to Amend the Zoning Ordinance to Regulate Wind Energy Systems in Accordance with PA 233 (the “Ordinance”); and

WHEREAS, the Township Board finds that undeveloped brownfield properties are especially conducive sites for wind energy projects because they provide an opportunity for renewable energy production while making use of otherwise vacant land; and

WHEREAS, the Township Board finds that certain brownfield properties in the Township are located near substations and existing transmission infrastructure necessary for wind energy projects; and

WHEREAS, the Township Board finds that amending the Zoning Ordinance with regard to wind energy regulations so that the Zoning Ordinance complies with PA 233 is necessary to ensure continued local control over the siting of wind energy projects; and

WHEREAS, the Township Board finds that the adopting the Ordinance is in the best interest of the health, safety, and welfare of the Township’s residents and the general public.

NOW, THEREFORE, the Township Board of the Township of White River resolves as follows:

1. Ordinance No. 62-2024, An Ordinance to Amend the Zoning Ordinance to Regulate Wind Energy Systems in Accordance with PA 233, attached as **Exhibit A**, is hereby adopted.
2. The Ordinance shall be filed with the Township Clerk.
3. The Township Clerk is directed to publish a notice of adoption within 15 days after adoption of the Ordinance.
4. A copy of the Ordinance shall be available for examination at the office of the Township Clerk, and copies may be provided for a reasonable charge.

5. Any resolutions that conflict with this Resolution are repealed to the extent necessary to give this Resolution full force and effect.

A vote on the above Resolution was taken and was as follows:

YEAS: Dufresne, Anderson, Harris, Sargent, Bailey

NAYS: None

ABSENT/ABSTAINING: None

RESOLUTION DECLARED ADOPTED.

STATE OF MICHIGAN)
)
COUNTY OF MUSKEGON)

I, the undersigned, the duly qualified and acting Clerk for the Township of White River, Muskegon County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Township Board of said Township at a meeting held pursuant to the Open Meetings Act on September 10, 2024.

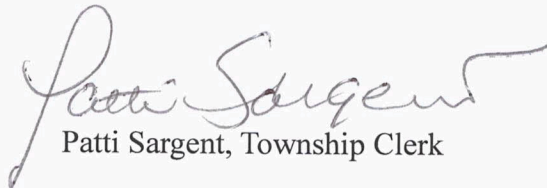

Patti Sargent, Township Clerk

EXHIBIT A

**WHITE RIVER TOWNSHIP
MUSKEGON COUNTY
MICHIGAN**

ORDINANCE NO. 62-2024

**AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO REGULATE WIND
ENERGY SYSTEMS IN ACCORDANCE WITH PA 233**

The Township of White River ordains:

Section 1. Addition of New Subsection 35 to Section 16.06(LL).

A new subsection 35 is added to Section 16.06(LL) of the White River Township Zoning Ordinance and reads in its entirety as follows:

35. WECS under PA 233. On or after November 29, 2024, once PA 233 of 2023 is in effect, then the following provisions apply to WECS with a nameplate capacity of 100 megawatts or more. WECS with a nameplate capacity of 100 megawatts or more shall only be permitted as a special land use in the Renewable Energy Overlay District.

To the extent the following provisions conflict with the provisions in subsections 1 through 34 above, these provisions control as to WECS with a nameplate capacity of 100 megawatts or more. All provisions in subsections 1 through 34 above that do not conflict with this subsection remain in full force and effect and shall be applicable to all WECS regardless of nameplate capacity. The following provisions do not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect, and do not apply to WECS with a nameplate capacity of less than 100 megawatts.

- a. Setbacks. WECS must comply with the following minimum setback requirements, with setback distances measured from the center of the base of the wind tower:

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	2.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Residences and other structures on participating properties	1.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Nonparticipating property lines	1.1 times the maximum blade tip height
Public road right-of-way	1.1 times the maximum blade tip height to the center line of the public road right-of-way

Overhead communication and electric transmission, not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height to the center line of the easement containing the overhead line
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- b. Shadow flicker. Each wind tower must be sited such that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions as indicated by industry standard computer modeling.
- c. Height. Each wind tower blade tip must not exceed the height allowed under the Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR part 77.
- d. Noise. The WECS must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.
- e. Lighting. The WECS must be equipped with a functioning light-mitigating technology. To allow proper conspicuity of a wind turbine at night during construction, a turbine may be lighted with temporary lighting until the permanent lighting configuration, including the light-mitigating technology, is implemented. The Township may grant a temporary exemption from the requirements of this subparagraph if installation of appropriate light-mitigating technology is not feasible. A request for a temporary exemption must be in writing and state all of the following:
 - (1) The purpose of the exemption.
 - (2) The proposed length of the exemption.
 - (3) A description of the light-mitigating technologies submitted to the Federal Aviation Administration.
 - (4) The technical or economic reason a light-mitigating technology is not feasible.
 - (5) Any other relevant information requested by the Township.
- f. Radar interference. The WECS must meet any standards concerning radar interference, lighting (subject to subparagraph e), or other relevant issues as determined by the Township.
- g. Environmental regulations. The WECS must comply with applicable state or federal environmental regulations.

- h. Host community agreement. The applicant for a special land use permit for a WECS shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the WECS owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.

Section 2. Amendment to Section 16.06(LL)(3)(a).

Section 16(LL)(3)(a) is amended in its entirety to read as follows:

- a. WECS, Wind Farms, Single WECS for Commercial Purposes, and WECS Testing Facilities. Wind energy conversion systems such as a WECS, wind farm, single WECS for commercial purposes, and WECS Testing Facilities associated with the commercial application of a WECS may be allowed as a Special Use within the Renewable Energy Overlay District, subject to the regulations and requirements of this Section.

Section 3. Amendment to Section 16.06(LL)(3)(b).

Section 16(LL)(3)(b) is amended in its entirety to read as follows:

- b. Single WECS for On-site Service Only. Single WECS applications of wind energy conversion system, including WECS Testing Facilities, to service the energy needs of only the property where the structure is located may be approved in the Renewable Energy Overlay District as a Special Use, provided the property upon which the system is to be located is at least three and one-half (3-1/2) acres in size and subject to the review and approval procedures and standards/criteria of this Section, as well as all of the following:

- (1) The tower shall not exceed a height of 80 feet.
- (2) The blade diameter (tip to tip) shall not exceed 100 feet.
- (3) The height of the overall WECS (with the blade in the vertical position) shall not exceed 130 feet above ground level (at normal grade).
- (4) The distance of the structure from all property lines shall be at least two (2) times the WECS height.

Except for the requirements contained above in this subsection (c)(2), single WECS for on-site service only shall not be subject to the other requirements of Section 10.11A

Section 4. Amendment to Section 5.03.

Section 5.03 of the White River Township Zoning Ordinance is amended by the deletion of subsection X in its entirety. The remaining subsections are relettered accordingly.

Section 5. Validity and Severability.

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 6. Repealer.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 7. Effective Date.

This Ordinance/ordinance amendment shall become effective seven (7) days after the adoption of this Ordinance/ordinance amendment (or summary thereof) appears in the newspaper as provided by law.

The vote to adopt this ordinance/ordinance amendment was as follows:

YEAS: Dufresne, Anderson, Harris, Sargent, Bailey

NAYS: None

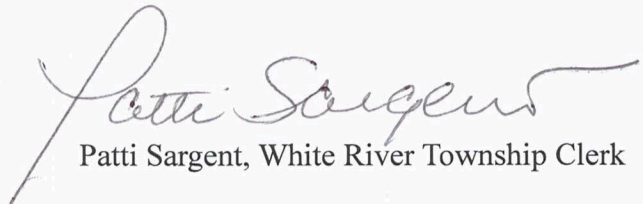
ABSENT/ABSTAINING: None

THIS ORDINANCE/ ORDINANCE AMENDMENT IS HEREBY DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance/ordinance amendment adopted by the Township Board for White River Township at a meeting of said Board held on September 10, 2024.

Dated: September 10, 2024


Patti Sargent, White River Township Clerk