

RESOLUTION #1254 – AMENDMENT #31

A RESOLUTION ADDING SECTION 12.13, PUBLIC WIND ENERGY CONVERSION SYSTEMS TO APPENDIX A, ZONING AND MASTER PLAN RESOLUTION, PART 1, ZONING RESOLUTION, ARTICLE XII, GENERAL PROVISIONS, OF THE CODE OF SALINE COUNTY, KANSAS.

WHEREAS, on September 22, 2008, the Saline County Planning and Zoning Commission held a public hearing to consider a text amendment to the Saline County Code that would allow individuals to install public wind energy conversion systems on property in unincorporated Saline County; and

WHEREAS, the Saline County Planning and Zoning Commission voted (7-0) to recommend to the Board of Commissioners, Saline County, Kansas, approval of the text amendment, herein indicated as Attachment A; and

WHEREAS, on November 25, 2008, the Board of County Commissioners, Saline County, Kansas, considered the text amendment at a public hearing; and

WHEREAS, the Board of County Commissioners, Saline County, Kansas, finds that the proposed text amendment would:

- A. Support the intent and purposes of the Saline County Zoning Resolution and Comprehensive Plan; and
- B. Provide for more flexibility in the utilization of agriculturally zoned land.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Saline County, Kansas that the text amendment adding Section 12.13, Public Wind Energy Conversion Systems, to the Saline County Code be approved as recommended by the Saline County Planning and Zoning Commission this 25th day of November, 2008.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this resolution shall be effective upon publication in The Salina Journal.

BOARD OF COUNTY COMMISSIONERS
SALINE COUNTY, KANSAS

Craig Stephenson, Chairman

Sharon A. Barragree, Vice-Chairman

Randall E. Duncan, Secretary

ATTEST

Donald R. Merriman, County Clerk

Yea ____ Nay ____

Section 12.13. Commercial Wind Energy Conversion Systems.

12.13.01. Purpose. The purpose of this section is to provide for the construction and operation of Commercial Wind Energy Conversion Systems (WECS) in Saline County, subject to reasonable restrictions, which will preserve the public health and safety.

12.13.02. Findings. Saline County finds that wind energy is an abundant, renewable and nonpolluting energy resource and that its conversion to electricity will reduce individual dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Wind energy systems also reduce peak power demands and help diversify the County's energy supply.

12.13.03. Definitions.

- a. Private wind energy facility: an energy facility that consists of one or more small-scale wind turbines or other such devices and their related or supporting facilities that produces electric power from wind that is to be used primarily by the individual or entity that owns the property on which the facility is located. (See Section 12.12.)
- b. Commercial wind energy facility: an energy facility that consists of one or more wind energy conversion systems or other such devices and their related or supporting facilities that produces electric power from wind, some or all of which is to be distributed to an off-site customer or customers.

12.13.04. Application Process – Commercial wind energy facility. Commercial wind energy facilities shall be permitted in the AG (Agricultural) Zoning District and shall require approval of a Saline County Conditional Use Permit from the Saline County Planning & Zoning Commission, a Zoning Compliance Certificate from the Saline County Planning & Zoning Department, and a City of Salina Building Permit from the City of Salina Building Services Department. Commercial wind energy facilities shall be prohibited in all other zoning districts governed by these regulations.

Minimum requirements for Conditional Use Permit submittal for a commercial wind energy facility:

- a. Survey of the subject property stamped by a licensed Kansas surveyor showing the location of the proposed facility including ingress and egress. (Also see submittal requirements as outlined in document entitled Commercial Submittal Process Checklists.)
- b. Site plan of the proposed facility stamped by a licensed Kansas civil engineer with sufficient detail to understand the nature and scope of the proposed project and the attributes of the specific location. (Also see submittal requirements as outlined in document entitled Commercial Submittal Process Checklists.)
- c. Written approval from FAA for the proposed structure or evidence of non-applicability.
- d. Written approval from the Kansas Department of Wildlife and Parks that the project as proposed will have no affect on threatened or endangered species as designated by the Kansas Nongame and Endangered Species Conservation Act of 1975 and amendments thereto. If affected, the applicant shall provide a copy of the special action permit issued from the KDWP for the proposed use.
- e. Map showing all the residences within 1500 feet of the subject property and waivers signed by all the property owners of any identified residences.
- f. Proof that the affected utility company has been informed of the customer's intent to install a Commercial Wind Energy Facility.
- g. Standard drawings of the wind turbine structure, including the tower, base, footings and ice/wind loads. In addition, a site-specific engineering analysis (which shall include a soils analysis), and certification of all WECS by a licensed professional engineer shall also be required.
- h. Data pertaining to the tower's safety and stability, including safety results from test facilities.

- i. Narrative including how noise, soil erosion and dust, water quality, safety issues, and fire risks will all be handled.
- j. Decommissioning Plan describing the manner in which the Commercial Wind Energy Facility shall be dismantled and removed from the site at the end of its useful life.
- k. Surety in the form of an escrow account, surety bond or insurance policy in an amount approved by the Board of County Commissioners as necessary to restore the site to its pre-development state. Pre-development shall mean removing all visible above-grade infrastructure.
- l. Written statement from the landowner confirming that they have read Section 12.13.06 and understand the extent of their liability for any commercial WECS located on their property. This shall include a document recorded with the Saline County Register of Deeds indicating that future property owners will also be made aware of the potential liability.

12.13.05. Requirements for a commercial wind energy facility.

- a. No turbine shall be located closer than 1.5 times the total turbine height from public roads or property lines. Total turbine height is defined as the height of the structure supporting the turbine, plus the height of the rotor blade at its highest point, measured from the elevation of the ground surface at the base of the tower.
- b. No turbine shall be located closer than 1500 feet to any residence located off the subject property unless a signed and executed waiver form signed by the property owner of the affected residence is supplied to the applicant and included with the CUP application.
- c. No turbine shall be located closer than 2 times the total turbine height from another turbine.
- d. The lowest point of the rotor blades shall be at least 30 feet above ground level at the base of the tower.
- e. Individual wind turbines shall be set back from easements and existing utilities a minimum of 1.5 times the total turbine height. In order to be closer to the easement, written permission from the easement owner will be required.
- f. All new power lines associated with energy production shall be installed underground. Power lines associated with distribution of energy to customers may be located above ground.
- g. All turbines shall be mounted on non-guyed or monopole type structures.
- h. All wind energy facilities shall maintain a galvanized finish or be painted a color in conformance with the surrounding environment (white, gray, pale blue or pale green). No signage, writing or images may be placed on the tower at any time. In addition, no flags, streamers or other items may be attached to the facility.
- i. Individual wind turbine heights, lighting and markings shall comply with but not exceed FAA requirements. If lighting of turbines or other structures is required, "daytime white/nighttime red" shall be the only type of lighting allowed with shielding from the ground and area residences.

12.13.06. Nuisance management. Commercial Wind Energy Facilities shall be located in areas where there are adequate setbacks from residential areas and adjacent rural homes so that negative impacts from the turbines are mitigated.

- a. Upon receipt by the Saline County Planning & Zoning Department of a complaint regarding noise from an existing public wind energy conversion system facility, the owner of the property on which the commercial facility is located may be required, at the owner's expense, to have prepared by an independent acoustical consultant an acoustical study that shall demonstrate that the noise level caused by the operation of the project – measured at five feet above ground level at the property line of the subject property – shall not exceed 65 decibels.
- b. Upon receipt by the Saline County Planning & Zoning Department of a complaint regarding any other issues from an existing commercial facility, the owner of the property on which the WECS are located may be required, at the owner's expense, to have

prepared by an independent consultant a study that shall demonstrate that the issue identified in the complaint is either within reasonable standards or mitigated to within reasonable standards.

- c. The owner of the property on which the commercial facility is located shall minimize or mitigate, at the owner's expense, any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.
- d. Any WECS that are not functional shall be repaired by the property owner or removed at the property owner's expense.
- e. In the event that the County becomes aware of any commercial facility that has been non-functional for a continuous period of six (6) months, the County will notify the property owner by registered mail and provide 45 days for corrective action or a written response. In such a response, the property owner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the County deems the timetable for corrective action as unreasonable, the County shall notify the owner of the property on which the commercial facility is located and such property owner shall remove all evidence of the project within a reasonable time frame at their expense.
- f. On all of the above issues, the County will determine on a case-by-case basis a reasonable length of time in which property owners will either need to respond to complaints (maximum of 30 days) or correct confirmed violations.

12.13.07. Environmental Factors.

- a. All commercial facilities shall be required to meet any applicable flood plain requirements.
- b. Construction and operation shall be done in a manner so as to minimize soil erosion; facilities should avoid steep slopes.
- c. Dust emission control measures shall be utilized during construction and, where appropriate, during the life of the project.
- d. In areas where grassland burning is practiced, infrastructure should be able to withstand periodic burning of vegetation.

12.13.08. Enforcement and Penalties

- a. The Zoning Administrator shall be responsible for the administration and enforcement of this resolution.
- b. If the Zoning Administrator determines that any of the provisions of the zoning resolution are being violated or if any of the conditions of approval of the Conditional Use Permit are being violated, the property owner of the commercial facility will be notified in writing. The written notice will indicate the nature of the violation and order the action necessary to correct the violation within a reasonable time frame at the property owner's expense. The County will determine on a case-by-case basis what a reasonable time frame is.
- c. Any violation of any condition of Conditional Use Permit approval shall be addressed at a public hearing before the Saline County Planning Commission. Three such violations shall constitute revocation of the Conditional Use Permit. Upon revocation of the Conditional Use Permit, the County shall notify the property owner and such property owner shall remove all evidence of the project within a reasonable time frame at their expense. The County will determine on a case-by-case basis what a reasonable time frame is.
- d. On all of the above issues, a "reasonable length of time" for property owners to respond to complaints shall not exceed 30 days; a "reasonable length of time" to correct confirmed violations shall be based on the nature of the violation(s) and shall be determined by the County.