

**TOWNSHIP BOARD
BUSHNELL TOWNSHIP
MONTCALM COUNTY, MICHIGAN**

(Ordinance No. _____)

At a regular meeting of the Township Board for Bushnell Township held at the Township Hall on _____ and commencing at 6:00 p.m., the following Ordinance was offered for adoption by Township Board Member _____ and was seconded by Township Board Member _____:

**AN ORDINANCE REGULATING COMMERCIAL WIND ENERGY
CONVERSION SYSTEMS THROUGHOUT BUSHNELL TOWNSHIP.**

THE TOWNSHIP OF BUSHNELL (THE “TOWNSHIP”) ORDAINS:

Section 1. Title.

This Ordinance may be cited as the Bushnell Township Commercial Wind Energy Conversion Systems Ordinance.

Section 2. Purpose.

The purpose of this Ordinance is to protect the health, safety, and welfare of the residents of the Township; provide for the safe, effective, efficient, and orderly operation of commercial wind energy conversion systems within the Township; protect and preserve historic agricultural and recreational activities within the Township; protect and preserve the Township’s environmental and ecological assets, wetlands, and other ecological and environmentally sensitive areas; protect and preserve the open spaces, viewscapes, and rural aesthetics of the Township; and to provide regulations that balance the often-competing interests of property owners, their neighbors, and the community.

Section 3. Definitions.

The following definitions will apply unless the context clearly indicates or requires otherwise:

- Abandonment. A commercial wind energy conversion system, or any portion thereof, is abandoned if it has not been in substantial operation for a period of one year. This includes a commercial wind energy conversion system that was never operational, or if construction has been halted for a period of one year.

- Parcel. A parcel or lot as defined in the Land Division Act, PA 288 of 1967 (MCL 560.101 *et seq.*), as amended, or a condominium unit as defined in the Condominium Act, PA 59 of 1978 (MCL 559.101 *et seq.*), as amended.

- Commercial wind energy conversion system. A commercial wind energy conversion system is defined to mean a wind energy conversion system and any related buildings, structures, and equipment for which the principal design, purpose, or use is to provide energy for off-premises use or for the wholesale or retail sale of generated electricity to any person or entity.
- Wind energy conversion system. A wind energy conversion system defined to mean any part of a system, including but not limited to wind turbines, inverters, transformers, lines, wires, conduit, and cables that converts wind energy into electricity or any other form of usable energy, stores such electricity or any other form of usable energy, or transfers such electricity or any other form of usable energy.
- Wind Turbine. Wind turbine is defined to mean a device that converts wind energy into electrical energy. A wind turbine is generally comprised of a foundation, tower, rotor hub, rotor blades and nacelle. See Figure 1.

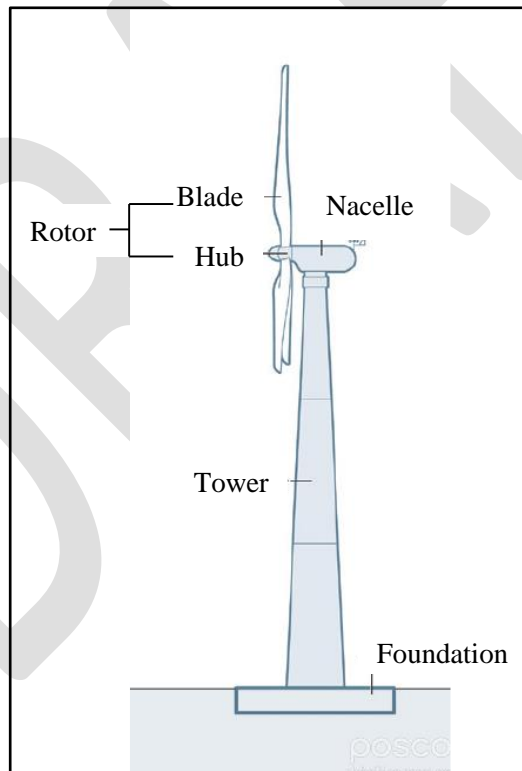


Figure 1

- Wind turbine coverage area. Wind turbine coverage area (turbine coverage area) is defined to mean the total area within a circle, that when viewed from above the wind turbine, is centered on the wind turbine base with a diameter equal to the rotor diameter. See Figure 2.

- Wind turbine coverage area circumference. Wind turbine coverage area circumference (turbine coverage are circumference) is defined to mean the circumference of the wind turbine coverage area. See Figure 2.

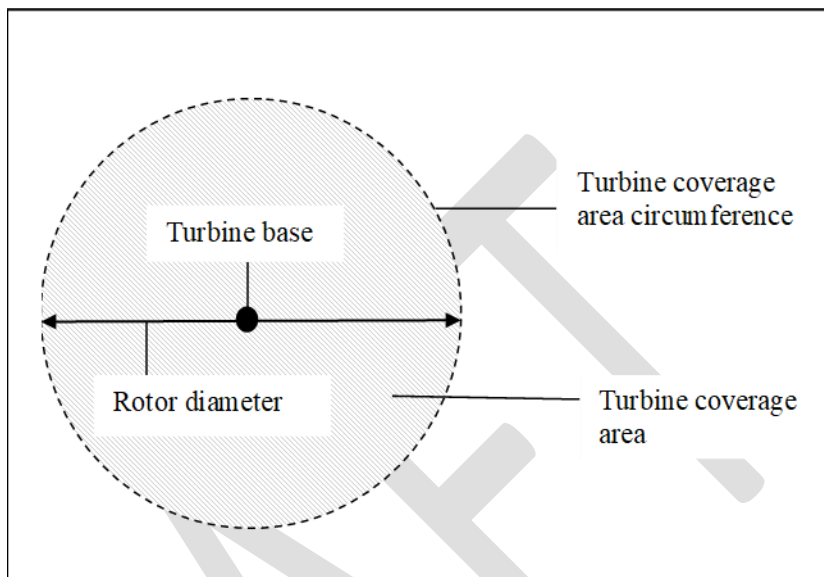


Figure 2

- Wind turbine rotor diameter. Wind turbine rotor diameter (rotor diameter) is added and defined to mean the diameter of the circle swept by the wind turbine blades. See Figure 3.
- Wind turbine rotor ground clearance. Wind turbine rotor ground clearance (rotor ground clearance) is defined to mean the distance as measured from the ground to the tip of the rotor blade at its lowest vertical position. See Figure 3.
- Wind turbine hub height. Wind turbine hub height (hub height) is defined to mean the distance as measured from the ground to the center of the rotor hub. See Figure 3.
- Wind turbine tip height. Wind turbine tip height (tip height) is added and defined to mean the distance as measured from the ground to tip of the rotor blade at its most upright vertical position. See Figure 3.

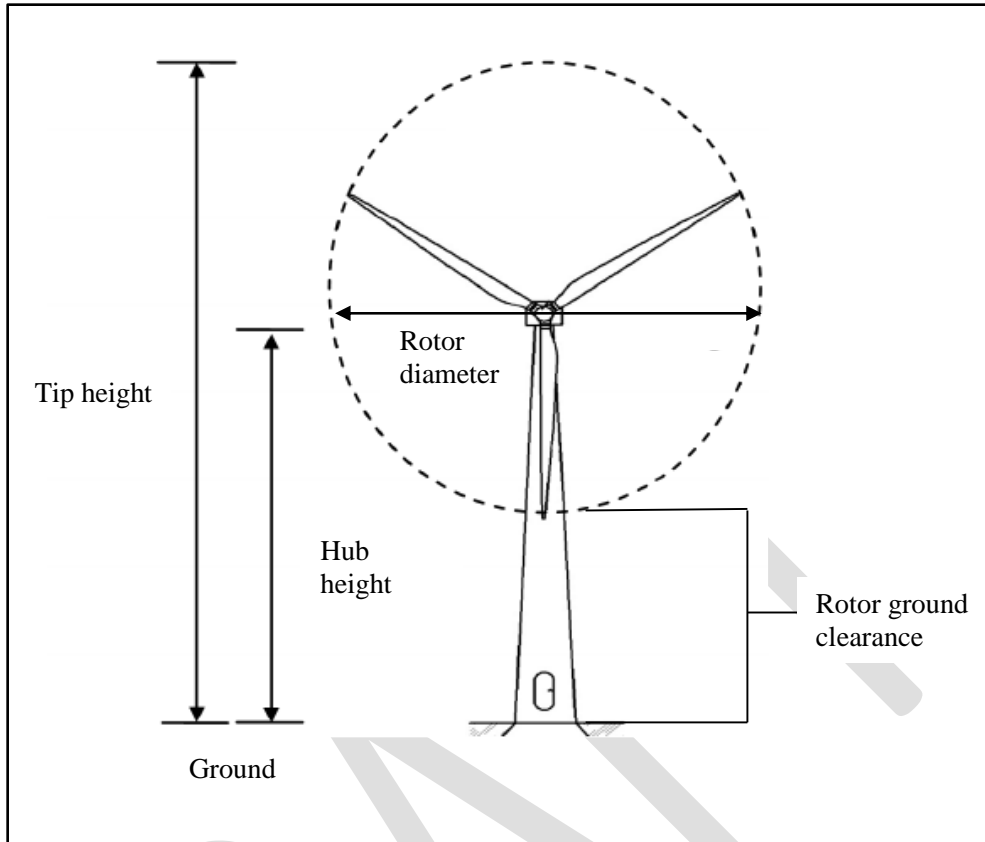


Figure 3

Section 4. Commercial Wind Energy Conversion Systems.

- A. Unless authorized by and operated in strict accordance with the provisions of this Ordinance, commercial wind energy conversion systems, or any portions thereof, are prohibited within the Township.
- B. Commercial wind energy conversion systems without a Township permit issued pursuant to this Ordinance are prohibited within the Township.
- C. A Township permit is a revocable privilege granted by the Township. The application for or granting of a Township permit under this Ordinance does not create or vest any right, title, franchise, or other property interest.

Section 5. Permit Application.

- A. All applications for a Township permit must be filed with the Township Clerk utilizing and complying with the Township application, forms, and processes, as adopted from time to time by resolution of the Township Board. Only complete applications will be accepted.

- B. As part of the application process, the applicant may be required to provide any information reasonably deemed by the Township to be required for the consideration of Township permit approval.
- C. The following are required as part of any application:
1. The escrow deposit as required by Section 9.
 2. The name, address, and phone number of the applicant, any authorized representatives of the applicant, the proposed operator if known, and the real property owners of the parcels being utilized as a part of the commercial wind energy conversion system.
 3. Project description identifying the planned capacity in megawatts; construction sequence and timeline; development phases if any; rated useful life of wind turbines, transformers, and inverters; and possible future expansions.
 4. If the applicant is not the property owner, an affidavit or evidence of an agreement establishing that the applicant has the permission of the property owner to apply for the special land use.
 5. Scaled renderings depicting the three typical views of the commercial wind energy conversion system, including one view from the public right-of-way.
 6. Site plan showing the size and location of all proposed buildings, structures, and equipment including but not limited to transformers by type, inverters by type, wind turbines by type; required setbacks; parcel lines; signage; fences; vegetation; drainage systems; easements; public rights-of-way; private roads; floodplains; bodies of water; lighting; proposed access routes; distribution, transmission, gen-tie, and collection lines; and land elevations. The site plan must be drawn to scale and must indicate how the commercial wind energy conversion systems will be connected to substations.
 7. Noise impact study and noise level map.
 8. Shadow flicker study and map.
 9. Glare study and glare map.
 10. Electromagnetic signal interference study and map.
 11. Environmental and ecological impact studies detailing the affect the construction and operation of the commercial wind energy conversion system will have on the parcels upon which the wind energy conversion systems are located as well as the surrounding area and a plan for mitigating the negative environmental and ecological impact the construction and operation of the

commercial wind energy conversion system will have on parcels comprising the commercial wind energy conversion system as well as the surrounding area. The impact study and mitigation plan must address water resources, air quality, wildlife, floodplains, wetlands, unique farmlands or soils, erosion and sediment control, drainage, areas of aesthetic or historic importance, archeological or cultural concerns, neighboring properties, utilities and infrastructure, noise, glare, light, shadow flicker, waste disposal, and any other relevant factors.

12. Proof of environmental compliance, including compliance with Part 31 - Water Resources Protection, of the Natural Resources and Environmental Protection Act, Part 91-Soil Erosion and Sedimentation Control, Part 301 - Inland Lakes and Streams, Part 303 - Wetlands, Part 365 - Endangered Species Protection, and any other applicable laws and rules in force at the time the application is considered by the Township Board.
13. Demonstrated consultation with the U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines.
14. A transportation plan for construction and operational phases of the commercial wind energy conversion system including any applicable agreements with the County Road Commission and the Michigan Department of Transportation.
15. A decommissioning plan demonstrating compliance with the requirements of Section 12.
16. A decommissioning estimate consistent with the requirements of paragraph Section 10.

Section 6. Permitting Process.

- A. Within sixty calendar days of receiving a completed application, the Township Clerk will present the application to the Township Board.
- B. The Township Board will hold a public hearing on the application prior to rendering any final determination.
- C. The Township Board is the permitting authority. Township permits will only be issued if the Township Board finds that the application and proposed operation of the commercial wind energy conversion system comply with the requirements of this Ordinance and that the operation of the commercial wind energy conversion system would not be unreasonably detrimental to the health, safety, and welfare of the general public. The Township Board may condition approval upon the fulfillment of certain criteria consistent with the requirements and intent of this Ordinance.

- D. No Township permit will be issued until the requirements of Sections 10 and 11 have been met.
- E. A Township permit is transferable with prior approval of the Township Board following a public hearing. The new permit holder must comply with this Ordinance, the permit, and all approvals and conditions issued by the Township.

Section 7. Site Plan Modifications.

- A. Following the issuance of a Township permit, minor modifications to a commercial wind energy conversion system site plan may be made following approval by the Township Supervisor. However, the Township Supervisor may refer any proposed minor modification to the Township Board for approval in accordance with the procedure set forth in Paragraph 7(B). The determination of what constitutes a minor modification is at the Township Supervisor's reasonable discretion.
- B. Following the issuance of a Township permit, major modifications to a commercial wind energy conversion system site plan must be approved by the Township Board prior to being made. Application and approval for modifications will be made in accordance with Sections 5 and 6 except that only those documents being modified need to be submitted and no public hearing is required prior to the approval of a modification unless such modification would alter the parcels being utilized as a part of the commercial wind energy conversion system.

Section 8. Commercial Wind Energy Conversion System Requirements.

- A. Commercial wind energy conversion systems may only be located on parcels of land that are [REDACTED] acres in size or larger.
- B. Commercial wind energy conversion systems are not permitted on property enrolled in the Farm Land and Open Space Preservation Program under Part 361 of the Natural Resources and Environmental Protection Act, PA 451 of 1994 (MCL 324.36101 *et. seq.*), as amended.
- C. No more than [REDACTED]% of any parcel may be covered by a wind energy conversion system. Wind turbine coverage area will be used when calculating the coverage area for individual wind turbines.
- D. Wind turbines may not exceed a maximum tip height of [REDACTED].
- E. Wind turbines must have a minimum ground clearance of [REDACTED].
- F. Wind turbines must be spaced in accordance with the manufacturer's recommendations.
- G. Wind turbines must be painted with a single, subdued, non-reflective, matte finish.

- H. Wind turbines must have automatic braking, governing, or feathering systems to prevent uncontrolled rotation or over-speeding.
- I. Wind turbines must have lightning protection.
- J. Wind turbines must be equipped with ice-detection and ice-prevention or de-icing technology in order to prevent unsafe operation and ice throws.
- K. Total shadow flicker must not exceed [REDACTED] hours per year or [REDACTED] minutes per day, whichever is less, on any parcel that does not have a wind turbine for the permitted commercial wind energy conversion system placed on it or at any one point on a public right-of-way.
- L. All above-ground structures and equipment including but not limited wind turbines, transformers, and inverters must be setback a minimum of [REDACTED] feet from all parcel lines and a minimum of [REDACTED] feet from all public rights-of-way. Wind turbine setbacks will be measured from the parcel line to the turbine area circumference. If wind turbines for the permitted commercial wind energy conversion system are located on more than one parcel, the setbacks requirements of this Paragraph 8(L) do not apply to the parcel lines shared by those parcels that have a wind turbine for the permitted commercial wind energy conversion system.
- M. Lighting of the commercial wind energy conversion system must be limited to the minimum light necessary for safe operations. Lighting must be FAA compliant and wildlife friendly to the extent feasible.
- N. The commercial wind energy conversion systems must not produce any glare that interferes with the use of neighboring parcels, private roads, or public rights-of-way.
- O. Wind turbines must be enclosed by fencing that meets the requirements of the National Electric Code, as amended. Barbed wire is prohibited.
- P. The noise pressure level generated by a commercial wind energy conversion system must not exceed [REDACTED] as measured at the perimeter of the parcels upon which the commercial wind energy conversion system is located or any public rights-of-way. If wind turbines for the permitted commercial wind energy conversion system are located on more than one parcel, the setbacks requirements of this Paragraph 8(P) do not apply to the parcel lines shared by those parcels that have a wind turbine for the permitted commercial wind energy conversion system.
- Q. All collection lines, wires, conduits, and cables must be located underground. Distribution, transmission, and gen-tie lines within the commercial wind energy conversion system may only be located above-ground when required by the State of Michigan or federal agency having jurisdiction.

- R. Knox boxes containing keys, contact information, and commercial wind energy conversion system schematics must be provided at all gated entrances for emergency personnel access.
- S. Commercial wind energy conversion systems must obtain and operate in accordance with all applicable permits and approvals.
- T. Commercial wind energy conversion systems must be constructed and operate in accordance with all applicable laws, ordinances, codes, rules, and regulations.
- U. Commercial wind energy conversion systems must be constructed and operated in a manner that does not produce unreasonable negative environmental and ecological impacts.
- V. Commercial wind energy conversion systems must be constructed and operated in a manner that does not produce unreasonable electromagnetic interference.
- W. All existing drain tile must be properly maintained in working order.

Section 9. Escrow Account.

- A. The applicant must fund an escrow account at the time of application.
- B. The escrow account must remain funded for sixty calendar days following the Township Board's final determination regarding the permit application.
- C. The escrow account amount will be determined from time to time by resolution of the Township Board and is intended to cover the Township's cost regarding technical or legal matters related to the processing of the application.
- D. The Township may draw upon the escrow account to cover the Township's actual costs regarding technical or legal matters related to the processing of the application.
- E. The applicant will be entitled to the return of all unused funds of the escrow account sixty calendar days following the Township Board's final determination on the application.
- F. If the Township, requires the applicant to replenish the escrow account and the applicant fails to do so within fourteen calendar days after receiving notice, then the application will be deemed abandoned, and the Township will take no further action regarding the application.
- G. The escrow account will be maintained by the Township consistent with the applicable Government Accounting Standard Board requirements. The Township may deposit escrow funds into any account with a depository financial institution. The Township need not segregate the escrow funds or deposit the escrow funds into an interest-bearing account. The applicant will not be entitled to any interest on the escrow funds.

Section 10. Decommissioning Financial Security.

- A. To ensure the proper and timely decommissioning of the commercial wind energy conversion system, the permit holder must maintain financial security from the issuance of the Township permit through the completion of final decommissioning.
- B. The security must be in the form of 1) a surety bond with terms acceptable to the Township naming the Township as the sole obligee or 2) an irrevocable letter of credit with terms acceptable to the Township naming the Township as the sole beneficiary. The duration of the security will be termed to the completion of the decommissioning of the commercial wind energy conversion system as required by Section 12.
- C. The amount of security will be determined by the Township Board on a case-by-case basis and reasonably approximate the cost of decommissioning the permitted commercial wind energy conversion system. Such security amount will not include salvage values. The applicant will provide the Township with an initial decommissioning estimate at the time of application.
- D. The security will be reviewed every five years by the Township Board. The permit holder will provide the Township Board with a then-current decommissioning estimate. Any increase or modification to the security must be provided to the Township within thirty calendar days of request.
- E. Required financial security must be filed with the Township Clerk following approval the permit by the Township Board and prior to the issuance of any permit.

Section 11. Insurance Requirements.

- A. Insurance must be maintained by permit holder in full force and effect from the issuance of the Township permit through the completion of final decommissioning.
- B. The permit holder must maintain commercial general liability insurance on terms reasonably acceptable to the Township naming the Township as an additional insured. Insurance must be carried in an amount not less than Five Million Dollars (\$5,000,000.00) for injury and damage arising out of a single occurrence.
- C. The insurance certificate must contain a clause stating that coverage may not be canceled, revoked, or modified without a minimum of thirty days' notice to the Township.
- D. In lieu of the commercial general liability insurance requirements set forth in paragraphs 11(B)-(C), a self-insured permit holder may enter into an indemnification agreement with the Township on terms acceptable to the Township. Such indemnification will be for an amount not less than Five Million Dollars (\$5,000,000.00) for injury and damage arising out of a single occurrence.

- E. The insurance requirements of this section 11 must be met following approval of the permit by the Township Board and prior to the issuance of any permit.

Section 12. Decommissioning.

- A. A commercial wind energy conversion system, or any part thereof, must be fully decommissioned within 365 calendar days of abandonment.
- B. Decommissioning requires the complete removal and disposal of the commercial wind energy conversion system, including but not limited to, buildings, structures and equipment to include transformers, inverters, wind turbines including foundations, signage, fences, transmission, distribution, and collection lines, other lines, wires, conduits, and cables. Within one growing season, the area of parcels where commercial wind energy conversion system structures and equipment were located must be planted with perennials that will stabilize the soil and prevent soil erosion.
- C. The Township may draw upon the security posted pursuant to Section 11 and complete the decommissioning if the decommissioning as required by this Section 12 is not timely completed.

Section 13. Joint and Several Liability.

The permit holder and landowner are jointly and severally liable and responsible for compliance with this Ordinance. Either party may be cited and held responsible for a violation of this Ordinance.

Section 14. Violation and Penalty.

- A. A violation of this Ordinance constitutes a municipal civil infraction punishable by a fine of not less than one thousand dollars (\$1,000) and not more than ten thousand dollars (\$10,000) in addition to costs of prosecution and any other costs permitted at law.
- B. Each day during which any violation continues is deemed a separate offense.
- C. A violation of this Ordinance is declared to be a nuisance *per se* subject to abatement.
- D. Nothing in this Section 14 precludes the Township from pursuing other remedies available at law or equity.

Section 15. Enforcement.

- A. The Montcalm County Sherriff's Department, the Michigan State Police, the Township Ordinance Enforcement Officer, and any other individual or entity designated by resolution of the Township Board are authorized to enforce this Ordinance.

- B. Any individual or entity authorized to enforce this Ordinance may, as a condition of the Township permit, enter onto the solar farm and conduct an inspection of the solar farm in order to ensure compliance with this Ordinance.

Section 16. Conflict.

- A. Nothing in this Ordinance will be construed in such a manner so as to conflict with existing Township ordinances except as otherwise stated herein.
- B. Nothing in the Ordinance shall be construed in such a manner so as to conflict with federal law, or any law of the State of Michigan.

Section 17. Repealer.

- A. Ordinance No. 011023 entitled “AN ORDINANCE TO IMPOSE A MORATORIUM ON THE CONSTRUCTION AND OPERATION OF OFFSITE WIND ENERGY SYSTEMS, WIND ENERGY SYSTEMS, WIND ENERGY FACILITIES, AND MET TOWERS” is hereby repealed.
- B. Any other ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 18. Savings Clause.

The provisions of this Ordinance are severable. If any part of this Ordinance is declared void or inoperable for any reason by a court of competent jurisdiction, such declaration does not void any or render inoperable any other part or portion of this Ordinance.

Section 19. Effective Date.

This Ordinance is effective upon the expiration of the 30th day following its publication in the manner required by law.

The vote regarding the adoption of this Ordinance was as follows:

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

Chris Smith
Township Supervisor

Louise Belyou
Township Clerk

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance adopted by the Bushnell Township Board at the date, time, and place as specified above, pursuant to the required statutory procedures.

Respectfully submitted,

Louise Belyou
Township Clerk

Adopted:
Published:
Effective: