

2019 APR 29 A 9:55

ORDINANCE NO. 2019-16

CINDY MURRAY

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF
TIPPECANOE COUNTY, INDIANA

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA, THAT THE UNIFIED ZONING ORDINANCE OF TIPPECANOE COUNTY, INDIANA, BEING A SEPARATE ORDINANCE AND PART OF THE MUNICIPAL CODE OF LAFAYETTE, INDIANA, IS HEREBY AMENDED AS FOLLOWS:

Section 1: Amend **UZO Section 3-2 Permitted Use Table** by eliminating special exceptions for Large Wind Systems and Wind Farms as shown below:

Special Conds.	Permitted primary uses	Amend.	OR	I3	A	AA	AW
4-11-11	"Large Wind System" ¹⁹	55	S	S	S	S	S
4-11-11	"Wind Farm" ¹⁹	55	S	S	S	S	S
4-11-12	"Meteorological Tower"	66	S	S	S	S	S

Section 2: Amend **UZO Section 4-11-11 Wind Energy Systems** by deleting the following development standards as shown below:

- (g) ~~The minimum separation distance between a **wind tower** associated with a **large wind system** and all surrounding property lines, overhead utility or transmission lines, other electrical substations, **meteorological tower(s)** and **primary communications tower(s)** shall be no less than 1.1 times the **total height** of the **wind tower**. This is measured from the base of each **wind tower**.~~
- (h) ~~The minimum **setback** between a **wind tower** associated with a **large wind system** and **public street(s)** shall be no less than 1.1 times the **total height** of the **wind tower**.~~
- (i) ~~**Large wind system(s)** must be located at least 750' from the property line of a non-participating landowner and at least 1200' from any dwelling on a non-participating landowner's property.~~
- (j) ~~Wind Farms occupying multiple parcels may have internal property line setbacks waived by execution of a written document signed by all land owners sharing such a property line. All such documents shall be recorded in the office of the Tippecanoe County Recorder.~~
- (n) ~~**Special Exception** applications and **Improvement Location Permit** applications for a **large wind system** or a **wind farm** must be accompanied by a decommissioning plan detailing how the **large wind system** or **wind farm** will be dismantled and the land restored to its prior state. Such plan would be implemented when such **large wind system** or **wind farm** ceases operation for a period of 12 months, with or without notification to the **Administrative Officer**. The plan would include the removal of all portions of the **WECS**, including any components up to 4' below ground level. The decommissioning must be complete within 6 months.~~
- (p) ~~All wiring for **Wind Farm Collection Systems** shall be buried.~~

This ordinance shall be in full force and effect from and after its passage.

**PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE,
INDIANA, THIS _____ DAY OF _____, 20____.**

ATTEST:

Ronald Campbell, Presiding Officer

Cindy L. Murray, City Clerk

Presented by me to the Mayor of the City of Lafayette, Indiana, on the _____ day of
_____, 20____.

Cindy L. Murray, City Clerk

This Ordinance approved and signed by me on the _____ day of _____,
20____.

ATTEST:

Tony Roswarski, Mayor

Cindy L. Murray, City Clerk

THE

Area Plan Commission

of TIPPECANOE COUNTY

20 NORTH 3RD STREET
LAFAYETTE, INDIANA 47901-1209

(765) 423-9242
(765) 423-9154 [FAX]
www.tippecanoe.in.gov/apc

SALLIE DELL FAHEY
EXECUTIVE DIRECTOR

April 18, 2019
Ref. No.: 2019-094

Lafayette City Council
20 N. 6th Street
Lafayette IN 47901

CERTIFICATION

RE: UZO AMENDMENT #96

Dear City Council Members:

As Secretary to the Area Plan Commission of Tippecanoe County, I do hereby certify that at a public hearing held on April 17, 2019, the Area Plan Commission of Tippecanoe County voted 11 yes - 4 no on the motion to approve the enclosed amendment to the Unified Zoning Ordinance. Therefore, the Area Plan Commission of Tippecanoe County recommends to the Lafayette Common Council that the proposed zoning ordinance amendment be approved.

Sincerely,



Sallie Dell Fahey
Executive Director

SDF/kl

Enclosure: Staff Report and Ordinance

**UZO AMENDMENT #96
BANNING LARGE WIND ENERGY CONVERSION SYSTEMS**

**STAFF REPORT
April 11, 2019**

UZO Amendment #96

BANNING LARGE WIND ENERGY CONVERSION SYSTEMS

Staff Report
April 11, 2019

The Wind Energy Conversion System (WECS) regulations in the Unified Zoning Ordinance have been in place since 2007. Concerned citizens have once again brought this topic to the Ordinance Committee's attention. Discussions on this topic occurred at Ordinance Committee on October 3rd and December 5th (2018) and finally again at the February 6th and March 6th meetings. These discussions stemmed from the interest of a wind farm developer who was signing contracts with landowners in rural southwestern Tippecanoe County. Concerned citizens asked the Ordinance Committee to revisit our WECS regulations, to ensure that the development standards were still appropriate, given the larger size and height of today's wind turbines.

Some of the main topics discussed included the existing setback of these wind towers from non-participating properties and whether a height limit was needed. After much staff research it was concluded that our ordinance was in-line with several of our peer communities. The setback from participating properties is based on a ratio to ensure that the taller a tower is the farther it would be setback. The setback from non-participating landowners, however, was static. The ordinance currently requires that a large wind system be setback from a non-participating property line by at least 750 feet and the setback from their dwelling be at least 1200 feet. This setback from non-participating property owners made sense when wind towers were around 300 feet tall. Now that some towers in other states are being constructed well over 500 feet tall, this setback would not function as intended.

It was decided by the Ordinance Committee, with overwhelming support of concerned citizens, that Large Wind Systems (over 140' in height) were not desired or appropriate in Tippecanoe County. This was not only because of the taller than originally anticipated turbines, since a height limit could have been imposed; but because of the more urban nature of Tippecanoe County as compared to surrounding counties like White, Benton, Warren and Clinton Counties. The overall population density of the county further supports this notion (although it could be argued that there are parts of Tippecanoe County with population densities very similar to those rural counties.)

Under the guidance of APC's legal counsel, staff has prepared the attached ordinance amendment prohibiting Large Wind Systems in any zone by altering the Permitted Use Table in chapter 3 of the zoning ordinance. (Since the category still exists in the Permitted Use Table, the definition of a Large Wind System would also remain in the ordinance. The development standards regarding Large Wind Systems are to be removed to avoid confusion.)

If this amendment is passed by the member jurisdictions, Small Wind Systems and Micro Wind Systems will still be permitted as accessory uses in all zones where the primary use is permitted. Small Wind Systems are defined as up to 140' tall, a nameplate capacity less than or equal to 50 kilowatts, and a swept area of 40' or less. Micro Wind systems are defined as a system that is building-mounted that has a nameplate capacity of 10 kilowatts or less and projects no more than 15' above the highest point of the roof.

While the possibility of generating electricity by way of large wind turbines will no longer be an option in Tippecanoe County, staff and the Commission still support renewable energy sources. This decision is not a reflection of the county's attitude towards renewable energy sources, but rather it is a matter of location, the rights of neighboring property owners and an undesirable land use. Clean energy is an ever-changing and improving technology. Staff hopes that this ban may be revisited sometime in the future.

RECOMMENDATION:

Approval

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. _____ BEING THE UNIFIED ZONING ORDINANCE OF TIPPECANOE COUNTY.

Be it ordained by the (County Commissioners of Tippecanoe County, Indiana; the Common Council of the City of Lafayette, Indiana; the Common Council of the City of West Lafayette, Indiana; the Town Council of the Town of Battle Ground, Indiana; the Town Council of the Town of Dayton, Indiana; and the Town Council of Clarks Hill, Indiana), that Ordinance No. _____, being the Unified Zoning Ordinance of Tippecanoe County is hereby amended as follows:

Section 1: Amend **UZO Section 3-2 Permitted Use Table** by eliminating special exceptions for Large Wind Systems and Wind Farms as shown below:

Special Conds.	Permitted primary uses	Amend.	OR	I3	A	AA	AW
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~~implemented when such **large wind system** or **wind farm** ceases operation for a period of 12 months, with or without notification to the **Administrative Officer**. The plan would include the removal of all portions of the **WECS**, including any components up to 4' below ground level. The decommissioning must be complete within 6 months.~~

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