

*Independence, Ohio*

**CHAPTER 1333  
Wind Energy Facilities**

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**1333.01 PURPOSE.**

This Chapter is adopted in order to provide for the construction and operation of Wind Turbine and Wind Energy Facilities in the City subject to reasonable conditions that will protect the public health, safety and welfare of the residents.  
(Ord. 2009-30. Passed 8-11-09.)

**1333.02 DEFINITIONS.**

As used in this chapter:

- (a) "Applicant" means the person or entity filing an application under this Chapter.
- (b) "Facility Owner" means the person(s) or entity(ies) having an equity interest in the wind energy facility, including their respective successors and assigns.
- (c) "Hub Height" means the distance measured from the surface of the tower foundation to the height of the wind turbine hub, to which the blade is attached.
- (d) "Non-Participating Landowner" means any landowner except those on whose property all or a portion of a wind energy facility is located pursuant to an agreement with the facility owner.
- (e) "Operator" means the person or entity responsible for the day-to-day operation and maintenance of the wind energy facility.
- (f) "Occupied Building" means any structure used as a residence or other public, private or commercial building used for public gathering that is occupied or in use when the permit application is submitted.
- (g) "Shadow Flicker" means the on-and-off flickering effect of a shadow caused when the sun passes behind the rotor of a wind turbine.
- (h) "Turbine Height" means the distance measured from the surface of the tower foundation to the highest point of the turbine rotor blade.
- (i) "Wind Turbine" means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, and may be of the following categories:
  - (1) Commercial Wind Turbine: A wind turbine in which the total height exceeds 150 feet and generates 100 kw or more.
  - (2) Personal Wind Turbine: A wind turbine in which the total height is less than 150 feet.
  - (3) Hobbyist Wind Turbine: A wind turbine that is less than 50 feet in height and has a blade diameter less than 12 feet.

- (j) "Wind Energy Facility" means an electric generating facility, whose main purpose is to supply electricity, consisting of one wind turbine and other accessory structure and building, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

**1333.03 APPLICABILITY.**

- (a) No person shall construct, erect, maintain, extend or remove a wind energy facility in the City without compliance with the provisions of this Chapter.

**1333.04 USE REGULATIONS.**

- (a) Conditionally permitted use. A wind energy facility may only be permitted as a conditional use. The Planning Commission may approve such use provided the applicant demonstrates compliance with the requirements of this Chapter.

**1333.05 CONDITIONAL USE PERMIT.**

- (a) No wind energy facility, or wind turbine shall be constructed or located within the City unless a conditional use permit has been issued by the Planning Commission to the facility owner or operator approving construction of the facility for compliance with the applicable sections of this Chapter and all other applicable provisions of the Code.

- (b) Any physical modification to an existing conditionally permitted wind energy facility or wind turbine that materially alters its size, type or function, shall require conditional use approval by the Planning Commission. Like-kind replacements as determined by the Building Commissioner shall not require review by the Planning Commission.

(c) Submission Requirements.

- (1) An application for a Conditional Use Permit shall be on a form approved by the Building Commissioner, but shall contain at least the following information:
- A. The name, address, and telephone number of the applicant.
  - B. The address and zoning district of the subject property.
  - C. A narrative description of the existing use.
  - D. A narrative describing the proposed wind energy facility or wind turbine, including an overview of the project; the project location, the approximate generating capacity of the wind energy facility or wind turbine; the representative type and height or range of height of the wind turbine to be constructed, including its generating capacity, dimensions and respective manufacturer, and a description of ancillary facilities.
  - E. An affidavit or similar evidence of agreement between the property owner and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner to apply for necessary permits for construction and operation of the wind energy facility or wind turbine.
  - F. Identification of the properties on which the proposed wind energy facility or wind turbine will be located, and all the properties adjacent to where the wind energy facility will be located, and all other properties that are within two (2) times the hub height.
  - G. A site plan showing the planned location of the wind energy facility or wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback, a lighting plan, a plan showing areas impacted by shadow flicker.
  - H. Documents related to decommissioning.
  - I. Aesthetics impact study. A visual simulation showing 360 degree view points around the wind energy facility or wind turbine.
  - J. Environmental impact study.

- K. Sound study set forth in Section 1333.12.
  - L. Proof of Insurance as set forth in Section 1333.16.
  - M. Other relevant documents, information, studies, reports, certifications and approval as may be reasonably requested by the Building Commissioner or Planning Commission to ensure compliance with this Chapter and the Code.
- (2) Upon receipt of a complete application for a Conditional Use Permit, the Building Commissioner shall, no later than sixty (60) business days, make a preliminary review of the application to determine compliance with the requirements of subsection (c)(1) hereof. If the Building Commissioner determines that the application is not complete, the Building Commissioner shall immediately notify the applicant; otherwise, the Building Commissioner shall forward the application to the Planning Commission for review at its next regularly scheduled meeting.
  - (3) The Planning Commission shall schedule a public hearing. The applicant shall participate in the hearing and be afforded an opportunity to present the project to the public and municipal officials, and answer questions about the project. The public shall be afforded an opportunity to ask questions and provide commitment on the proposed project.
  - (4) After the close of any public hearing, the Planning Commission shall make a determination whether to issue or deny the conditional use permit at its next regular meeting, unless the applicant requests for the decision to be postponed by the Planning Commission to a mutually agreeable date.
  - (5) Throughout the permit process, the applicant shall promptly notify the City of any changes to the information contained in the permit application.
  - (6) Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing as determined by the Building Commissioner.

### **1333.06 DESIGN AND INSTALLATION.**

(a) Design Safety Certification. The design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.

(b) Uniform Construction Code. To the extent applicable, the wind energy facility shall comply with the Ohio Uniform Construction Code.

(c) Controls and Brakes. All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

Wind turbines shall have an automatic safety mechanism that will shut down wind turbine when icing of the wind turbine blades occurs.

(d) Electrical Components. All electrical components of the wind energy facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.

(e) Visual Appearance.

- (1) Wind turbines shall be a non-reflective painted steel finish with non-obtrusive color such as white, off-white or gray as determined by the Architectural Review Board.
- (2) Wind energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

- (3) Wind turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner and operator.
- (4) Wind Turbines shall be erected on monopoles only.
- (f) Power Lines. On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.
- (g) Warnings.
  - (1) Clearly visible warning signs concerning voltage must be placed at the base of all transformers and substations.
  - (2) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor
- (h) Climb Prevention/Locks:
  - (1) Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
  - (2) All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

### **1333.07 SETBACKS.**

- (a) Occupied Buildings:
    - (1) Wind turbines shall be set back from the nearest occupied building, a distance not less than the normal setback requirements for that zoning classification or one and one-tenth (1.1) times the turbine height plus blade diameter; whichever is greater. The setback distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
    - (2) Wind turbines shall be set back from the nearest occupied building located on a nonparticipating landowner's property a distance of not less than one and one-tenth (1.1) times the turbine height plus blade diameter, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
  - (b) Property Lines: All wind turbines shall be set back from the nearest property line a distance of not less than the normal setback requirements for that zoning classification or one and one-tenth (1.1) times the turbine height plus blade diameter, whichever is greater. The setback distance shall be measured to the center of the wind turbine base to the nearest property line.
  - (c) Public Roads: All wind turbines shall be set back from the nearest public road a distance not less than one and one-tenth (1.1) times the turbine height plus blade diameter, as measured from the right-of-way line of the nearest public road to the center of the wind turbine base.
- No Wind Turbine or Wind Energy Facility shall be erected in the front yard or side yards of any property or within 20 feet of any lot line.

- (d) Waiver of Setbacks:
  - (1) Non-participating landowners may waive the setback requirements in subsection (a)(2) and subsection (b) above by signing a waiver that sets forth the applicable setback provision(s) and the proposed changes.
  - (2) The written waiver shall be in a form approved by the City's Law Director and shall notify the property owner(s) of the setback requirement by this Chapter, describe how the proposed wind energy facility or wind turbine is not in compliance, and state that consent is granted for the wind energy facility to not be set back as required by this Chapter.

- (3) Any such waiver shall be recorded in the Recorder of Deeds Office for the County where the property is located at applicant's sole cost. The waiver, in a form approved by the Law Director, shall describe the properties benefited and burdened, and advise all subsequent purchasers of the burdened property that the waiver of setback shall run with the land and may forever burden the subject property.
- (4) Upon application, the City may waive the setback requirement for public roads for good cause.

**1333.08 HEIGHT RESTRICTIONS.**

(a) Excluding the wind turbine, wind energy facilities' height shall be limited to the extent permitted by the Zoning District where the wind generation facility is located.

(b) The turbine height shall be further limited by the provisions set forth in 1333.07 Setbacks.

**1333.09 USE OF PUBLIC ROADS.**

(a) The applicant shall identify all state and local public roads to be used within the City to transport equipment and parts for construction, operation or maintenance of the wind energy facility.

(b) The City Engineer or a qualified third party engineer hired by the City and paid for solely by the applicant, shall document road conditions prior to construction. The City Engineer, or the qualified third party engineer, shall document road conditions again thirty (30) days after construction is complete or as weather permits.

(c) The City may request a bond for the road in compliance with the City's Code, and in an amount as determined by the City's Engineer.

(d) Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.

(e) The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.

**1333.10 LOCAL EMERGENCY SERVICES.**

(a) The applicant shall provide a copy of the project summary and site plan to local emergency services, including the City Fire Department and Police Department.

(b) Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy facility.

(c) Any cost for training associated with safety procedure at the wind facility or wind turbines shall be paid solely by applicant.

**1333.11 SHADOW FLICKER.**

(a) The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.

(b) The applicant shall provide a reasonable analysis of potential shadow flicker impacts for the entire site and the adjacent properties, as requested by the Planning Commission.

**1333.12 NOISE.**

(a) Audible sound from a wind energy facility or wind turbine shall not exceed limits set forth by Chapter 649 of the Codified Ordinances.

(b) Audible sound due to wind turbine or wind energy facility operations shall not exceed 5dba increase over existing background noise level (L90) or exceed 40dba for any period of time, when measured at any structure used as a residence, school, church, place of employment, or public library existing on the date of application for a wind turbine or a wind energy facility. All measurements should be taken using American National Standard Procedures. Measurements must be taken with qualified acoustical testing instruments meeting ANSI 1 standards.

(c) A Pre-construction Background Noise Survey shall be conducted at the applicant's sole expense by an independent noise consultant contractor approved by the City. Measurements shall be sampled for each residence, school, church, place of employment, or public library within 1 mile of proposed siting.

(d) A Sound Impact Study shall be made available prior to approval of a wind turbine or wind energy facility. The Sound Impact Study could be made by a computer modeling using data specific to the wind turbine make and model. The Sound Impact Study will be conducted at the Applicant's expense by an independent noise consultant contractor approved by the City.

The Planning Commission may evaluate noise studies when ruling on applications for conditional use of wind generation facilities.

### **1333.13 WAIVER OF NOISE AND SHADOW FLICKER.**

(a) Non-participating landowners may waive the noise and shadow flicker provisions of this Chapter by signing a waiver of their rights.

(b) The written waiver shall notify the property owner(s) of the sound or flicker limits in this Chapter, describe the impact on the property owner(s), and state that the consent is granted for the wind energy facility to not comply with the sound or flicker limit in this Chapter. The form shall be approved by the City's Law Director.

(c) Any such waiver shall be recorded in the Recorder of Deeds Office of the County where the property is located at applicant's expense. The waiver shall describe the properties benefited and burdened, and advise all subsequent purchasers of the burdened property that the waiver of sound or flicker limit shall run with the land and may forever burden the subject property. The form shall be approved by the City's Law Director.

### **1333.14 ENVIRONMENTAL IMPACT.**

The applicant, within five (5) days of filing the application with the City, shall notify state and federal agencies in writing of possible environmental impacts.

### **1333.15 SIGNAL INTERFERENCE.**

The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind energy facility.

### **1333.16 LIABILITY INSURANCE.**

There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in the aggregate for all personal and hobbyist wind turbines and three million dollars (\$3,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate for commercial wind turbines. Certificates shall be made annually to the Building Commissioner without request.

### **1333.17 DECOMMISSIONING.**

(a) The facility owner and operator shall, at its sole expense, complete decommissioning of the wind energy facility, or individual wind turbines, within three (3) months after the end of the useful life of the facility or individual wind turbines.

(b) The wind energy facility or wind turbines will presume to be at the end of its useful life if no electricity is generated for a continuous period of three (3) months.

(c) Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a below grade depth of thirty-six (36) inches, and any other associated facilities.

(d) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(e) At the sole cost of the facility owner, an independent and Ohio certified - SEII structural engineer shall certify the total cost of decommissioning without regard to the salvage value of the equipment ("Decommissioning Costs").

(f) The facility owner or operator shall post and maintain with the City an amount equal to one hundred fifteen percent (115%) of the original Decommissioning costs. In the alternative, the one hundred fifteen percent (115%) of the Decommissioning Costs may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the City Law Director.

(g) If the facility owner or operator fails to complete decommissioning within the period prescribed by subsection (a) above, then the landowner shall have three (3) months to complete decommissioning.

(h) If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed by subsection (a) and (g) above, then the City may take such measures as necessary to complete decommissioning and use the posted funds for such purpose. The entry into and submission of evidence of a participating landowner agreement to the City shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the City may take such action as necessary to implement the decommissioning plan as set forth herein, including upon the property and removal of all decommissioned structures.

(i) The City shall release the Decommissioning Funds when the facility owner or operator has demonstrated and the City concurs that decommissioning has been satisfactorily completed, or upon written approval of the Municipality in order to implement the decommissioning plan.

#### **1333.18 PUBLIC INQUIRIES AND REMEDIES.**

(a) The facility owner and operator shall maintain a telephone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project

(b) The facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.

#### **1333.19 PROHIBITIONS.**

(a) There shall be no co-location on any wind turbine or wind energy facility for any other use.

(b) There shall be permitted only one wind turbine or wind energy facility on any property.

#### **1333.20 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.**

Nothing in this Section shall prohibit the Planning Commission from prescribing supplementary conditions and safeguards in addition to these requirements, or where no specific conditions are stated herein.

#### **1333.21 ARCHITECTURAL BOARD OF REVIEW.**

Before any conditional use permit is issued, the applicant shall submit its plans for review to the Architectural Board of Review pursuant to Chapter 1309.

**1333.22 VARIANCES.**

The Planning Commission may, in specific cases, vary or permit exceptions to any of the provisions of this chapter if it finds the applicant presents evidence of practical difficulties and that such variances will not violate the spirit or intent of this chapter and that a more harmonious and useful development will result.

**1333.99 PENALTY.**

In addition to the express provisions and remedies set forth in this chapter and Zoning Code, whoever violates or fails to comply with any provision of the chapter shall be guilty of a third degree misdemeanor which shall be punishable by not more than sixty (60) days in jail and a fine of not more than seven hundred fifty dollars (\$750.00) per offense. Each day of violation shall constitute a separate offense.

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Lakewood, Ohio

**CHAPTER 1160**  
**Wind Energy Facility**

<b>1160.01</b>	<b>Purpose.</b>	<b>1160.11</b>	<b>Noise and shadow flicker.</b>
<b>1160.02</b>	<b>Definitions.</b>	<b>1160.12</b>	<b>Waiver of noise and shadow flicker.</b>
<b>1160.03</b>	<b>Applicability.</b>	<b>1160.13</b>	<b>Signal interference.</b>
<b>1160.04</b>	<b>Use regulations.</b>	<b>1160.14</b>	<b>Liability insurance.</b>
<b>1160.05</b>	<b>Conditional use permit.</b>	<b>1160.15</b>	<b>Decommissions.</b>
<b>1160.06</b>	<b>Design and installation.</b>	<b>1160.16</b>	<b>Public inquiries and complaint remedies.</b>
<b>1160.07</b>	<b>Setbacks.</b>	<b>1160.17</b>	<b>Remedies.</b>
<b>1160.08</b>	<b>Height restrictions.</b>		
<b>1160.09</b>	<b>User of public roads.</b>		
<b>1160.10</b>	<b>Local emergency services.</b>		

**CROSS REFERENCES**

State regulations - see Ohio R.C. 721.04

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**1160.01 PURPOSE.**

This Chapter is adopted in order to provide for the construction and operation of Wind Energy Facilities in the *City* including Lakewood's jurisdictional limit two (2) miles into Lake Erie, subject to reasonable conditions that will protect the public health, safety and welfare.

**1160.02 DEFINITIONS.**

- (a) **APPLICANT** means the person or entity filing an application under this Chapter.
- (b) **FACILITY OWNER** means the entity or entities having an equity interest in the wind energy facility, including their respective successors and assigns.
- (c) **HUB HEIGHT** means the distance measured from the surface of the tower foundation to the height of the wind turbine hub, to which the blade is attached.
- (d) **NON-PARTICIPATING LANDOWNER** means any landowner except those on whose property all or a portion of a wind energy facility is located pursuant to an agreement with the facility owner or operator.
- (e) **OPERATOR** means the entity responsible for the day-to-day operation and maintenance of the wind energy facility.
- (f) **OCCUPIED BUILDING** means a residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.
- (g) **SHADOW FLICKER** means the on-and-off flickering effect of a shadow caused when the sun passes behind the rotor of a wind turbine.
- (h) **TURBINE HEIGHT** means the distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.
- (i) **WIND TURBINE** means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

(j) **WIND ENERGY FACILITY** means an electric generating facility, whose main purpose is to supply electricity, consisting of one (1) or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

**1160.03 APPLICABILITY.**

(a) No person shall construct, erect, maintain, extend or remove a wind energy facility in the *City*, including the territory extending into Lake Erie to the distance of two (2) miles from the natural shore line pursuant to the authority granted in Ohio Revised Code §721.04, without compliance with the provisions of this Chapter.

(b) Wind energy facilities constructed prior to the effective date of this *Code* shall not be required to meet the requirements of this *Code*; provided that any physical modification to an existing wind energy facility that materially alters the size, type and number of wind turbines or other equipment shall require a conditional use from the Commission.

**1160.04 USE REGULATIONS.**

(a) Conditionally Permitted Use.

(1) A wind energy facility may only be permitted as a conditional use. The Commission may approve such use provided the applicant demonstrates compliance with the requirements of this Chapter and all of the provisions of Chapter 1161, and Section 1173.02.

**1160.05 CONDITIONAL USE PERMIT.**

(a) No wind energy facility, or addition of a wind turbine to an existing wind energy facility, shall be constructed or located within the *City* unless a conditional use permit has been issued by the Commission, pursuant to the requirements of Chapter 1161 and Section 1173.02, to the facility owner or operator approving construction of the facility for compliance with the applicable sections of this Chapter and the *Code*.

(b) Fees. The fee(s) established pursuant to Section 1173.06.

(c) Any physical modification to an existing conditionally permitted wind energy facility that materially alters the size, type and number of wind turbines or other equipment shall require conditional use approval by the Commission pursuant to Chapter 1161. Like-kind replacements as determined by the Building Commissioner shall not require review by the Planning Commission.

(d) Submission Requirements.

(1) An application for a Conditional Use Permit shall be on a form approved by the Director and shall contain the following information:

- A. The name, address, and telephone number of the applicant.
- B. The address and zoning district of the subject property.
- C. A narrative description of the existing use.
- D. A narrative describing the proposed wind energy facility, including an overview of the project; the project location; the approximate generating capacity of the wind energy facility; the approximate number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.
- E. An affidavit or similar evidence of agreement between the property owner and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner to apply for necessary permits for construction and operation of the wind energy facility.
- F. Identification of the properties on which the proposed wind energy facility will be located, and the properties adjacent to where the wind energy facility will be located.

- G. A site plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback, a lighting plan, a plan showing areas impacted by shadow flicker, and other information the Commission may require.
  - H. Documents related to decommissioning.
  - I. Other relevant studies, reports, certifications and approval as may be reasonably requested by the *City* to ensure compliance with this Chapter and *Code*.
  - J. Any documents reasonably deemed necessary by the Director.
  - K. The fee as established pursuant to Section 1173.06.
- (2) Upon receipt of an application for a Conditional Use Permit, the Director shall, within thirty (30) working days, make a preliminary review of the application to determine compliance with the requirements of paragraph (1) herein. If the Director determines that the application is not complete, the Director shall immediately notify the applicant; otherwise, the Director shall forward the application to the Commission for review at its next regularly scheduled meeting.
  - (3) Within sixty (60) days of a completeness determination, the Director shall schedule a public hearing. The applicant shall participate in the hearing and be afforded an opportunity to present the project to the public and municipal officials, and answer questions about the project. The public shall be afforded an opportunity to ask questions and provide comment on the proposed project.
  - (4) Within one hundred and twenty (120) days of a completeness determination, or within forty-five (45) days after the close of any hearing, whichever is later, the Commission will make a determination whether to issue or deny the permit application.
  - (5) Throughout the permit process, the applicant shall promptly notify the *City* of any changes to the information contained in the permit application.
  - (6) Changes to the pending application that do not materially alter the initial site plan may be adopted without a renewed public hearing as determined by the Commissioner.

#### **1160.06 DESIGN AND INSTALLATION.**

(a) Design Safety Certification: The design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from *Underwriters Laboratories*, *Det Norske Veritas*, *Germanischer Lloyd Wind Energies*, or other similar certifying organizations.

(b) Uniform Construction Code: To the extent applicable, the wind energy facility shall comply with the Ohio Uniform Construction Code.

(c) Controls and Brakes: All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

(d) Electrical Components: All electrical components of the wind energy facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.

- (e) Visual Appearance.
  - (1) Wind turbines shall be a non-obtrusive color such as white, off-white or gray.
  - (2) Wind energy facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
  - (3) Wind turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner and operator pursuant to Chapter 1329 – Signs (Building Code).
- (f) Power Lines.
  - (1) On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.
- (g) Warnings:
  - (1) Clearly visible warning signs concerning voltage must be placed at the base of all transformers and substations.
  - (2) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.
- (h) Climb Prevention/Locks:
  - (1) Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.
  - (2) All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

**1160.07 SETBACKS.**

- (a) Occupied Buildings:
  - (1) Wind turbines shall be set back from the nearest occupied building, a distance not less than the normal setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
  - (2) Wind turbines shall be set back from the nearest occupied building located on a non-participating landowner's property a distance of not less than two (2) times the hub height, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.
- (b) Property Lines: All wind turbines shall be set back from the nearest property line a distance of not less than the normal setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured to the center of the wind turbine base.
- (c) Public Roads: All wind turbines shall be set back from the nearest public road a distance not less than 1.1 times the turbine height, as measured from the right-of-way line of the nearest public road to the center of the wind turbine base.
- (d) Waiver of Setbacks:
  - (1) Non-participating landowners may waive the setback requirements in subsection (a)(2) above and subsection (b) above by signing a waiver that sets forth the applicable setback provision(s) and the proposed changes.
  - (2) The written waiver shall notify the property owner(s) of the setback requirement by this Chapter, described how the proposed wind energy facility is not in compliance, and state that consent is granted for the wind energy facility to not be setback as required by this Chapter.

- (3) Any such waiver shall be recorded in the Recorder of Deeds Office for the County where the property is located. The waiver shall describe the properties benefitted and burdened, and advise all subsequent purchasers of the burdened property that the waiver of setback shall run with the land and may forever burden the subject property.
- (4) Upon application, the *City* may waive the setback requirement for public roads for good cause.

**1160.08 HEIGHT RESTRICTIONS.**

(a) Wind generation facilities' height shall be limited to the extent permitted by the Zoning District where the wind generation facility is located.

- (1) See Sections 1121.05, 1123.05, 1125.04, 1127.05, 1129.07, 1131.06, 1133.07, and 1135.08.

(b) Height shall be further limited by the provisions set forth in Section 1160.07 Setbacks.

**1160.09 USE OF PUBLIC ROADS.**

(a) The applicant shall identify all state and local public roads to be used within the *City* to transport equipment and parts for construction, operation or maintenance of the wind energy facility.

(b) The *City* Engineer or a qualified third party engineer hired by the *City* and paid for by the applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

(c) The *City* may bond the road in compliance with state regulations.

(d) Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.

(e) The applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.

**1160.10 LOCAL EMERGENCY SERVICES.**

(a) The applicant shall provide a copy of the project summary and site plan to local emergency services, including the *City* Fire Department.

(b) Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy facility.

**1160.11 NOISE AND SHADOW FLICKER.**

(a) Audible sound from a wind energy facility shall not exceed limits set forth by Chapter 515 in the *Lakewood* Codified Ordinances "Noise Control."

(b) The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.

- (1) The Planning Commission may evaluate noise and shadow flicker when ruling on applications for conditional use of wind generation facilities.

**1160.12 WAIVER OF NOISE AND SHADOW FLICKER.**

(a) Non-participating landowners may waive the noise and shadow flicker provisions of this Chapter by signing a waiver of their rights.

(b) The written waiver shall notify the property owner(s) of the sound or flicker limits in this Chapter, describe the impact on the property owner(s), and state that the consent is granted for the wind energy facility to not comply with the sound or flicker limit in this Chapter.

(c) Any such waiver shall be recorded in the Recorder of Deeds Office of the County where the property is located. The waiver shall describe the properties benefitted and burdened, and advise all subsequent purchasers of the burdened property that the waiver of sound or flicker limit shall run with the land and may forever burden the subject property.

**1160.13 SIGNAL INTERFERENCE.**

The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind energy facility.

**1160.14 LIABILITY INSURANCE.**

There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 Million per occurrence and \$1 Million in the aggregate. Certificates shall be made available to the *City* upon request.

**1160.15 DECOMMISSIONING.**

(a) The facility owner and operator shall, at its expense, complete decommissioning of the wind energy facility, or individual wind turbines, within twelve (12) months after the end of the useful life of the facility or individual wind turbines.

(b) The wind energy facility or individual wind turbines will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

(c) Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36) inches, and any other associated facilities.

(d) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(e) An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning ("Decommissioning Costs") without regard to the salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to the *City* after the first (1) year of operation and every fifth (5) year thereafter.

(f) The facility owner or operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs; provided, that at no point shall Decommissioning Funds be less than twenty-five (25) percent of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or State chartered lending institution chosen by the facility owner or operator and participating landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the *City*.

(g) Decommissioning Funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the *City*.

(h) If the facility owner or operator fails to complete decommissioning within the period prescribed by subsection (a) above, then the landowner shall have six (6) months to complete decommissioning.

(i) If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed by subsection (a) and (h) above, then the *City* may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to the *City* shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the *City* may take such action as necessary to implement the decommissioning plan.

(j) The escrow agent shall release the Decommissioning Funds when the facility owner or operator has demonstrated and the *City* concurs that decommissioning has been satisfactorily completed, or upon written approval of the municipality in order to implement the decommissioning plan.

**1160.16 PUBLIC INQUIRIES AND COMPLAINT REMEDIES.**

(a) The facility owner and operator shall maintain a telephone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

(b) The facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.

**1160.17 REMEDIES.**

(a) It shall be unlawful for any person, firm, or corporation to violate or fail to comply with or take any action which is contrary to the terms of this Chapter, or any permit issued under this Chapter, or cause another to violate or fail to comply, or to take any action which is contrary to the terms of this Chapter or any permit issued under this Chapter.

(b) If the *City* determines that a violation of this Chapter or the permit has occurred, the *City* shall provide written notice to any person, firm, or corporation alleged to be in violation of this Chapter or permit. If the alleged violation does not pose an immediate threat to public health or safety, the *City* and the parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of violation.

(c) If after thirty (30) days from the date of the notice of violation the *City* determines, in its discretion, that the parties have not resolved the alleged violation, the *City* may institute civil enforcement proceedings or any other remedy at law to ensure compliance with this Chapter or permit.

Middlefield, Ohio

**CHAPTER 1162**  
**Small Wind Energy Conversion Systems**

<b>1162.01</b>	<b>Small wind energy conversion systems generally.</b>	<b>1162.04</b>	<b>Permit application and fee.</b>
<b>1162.02</b>	<b>Definitions.</b>	<b>1162.05</b>	<b>Location requirements.</b>
<b>1162.03</b>	<b>Permit required.</b>		

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**1162.01 SMALL WIND ENERGY CONVERSION SYSTEMS GENERALLY.**

Small wind energy conversion systems (SWECS) less than five megawatts in capacity shall be permitted, with an approved conditional use zoning permit, subject to all requirements as provided herein. Wind power systems five megawatts in capacity or greater are regulated by the Ohio Public Utilities Commission (PUCO).

**1162.02 DEFINITIONS.**

(a) "FAA" means the Federal Aviation Administration of the United States Department of Transportation.

(b) "Guy cable" means any cable or wire that extends from a small wind energy system for the purpose of supporting the system structure.

(c) "Meteorological tower" means a facility consisting of a tower and related wind-measuring devices, which is used solely to measure winds preliminary to construction of a small wind energy conversion system. Meteorological towers shall not be allowed for time periods in excess of six months, and shall be removed prior to the installation of the wind energy conversion system for which they are measuring. A request to install a meteorological tower shall be included in the application to install a small wind energy conversion system.

(d) "Rated nameplate capacity" means the maximum rated output of electric power production equipment for a small wind energy conversion system. This output is typically specified by the manufacturer with a "nameplate" on the equipment.

(e) "Rotor diameter" means the length as measured across the center of the full spin of the rotors of a SWECS turbine.

(f) "Small Wind Energy Conversion System (SWECS)" means a wind energy conversion system consisting of a wind turbine, tower and associated control or conversion electronics that generates power for an individual property for the purpose of reducing on-site energy consumption with a rated nameplate capacity of 100kW or less. This includes, but is not limited to, storage, electrical collection and supply equipment, and transformers. Excess electrical power generated, and not presently needed for on site use, may be utilized by the utility company.

(g) "Tower height". The tower height of a small wind energy conversions system means the total height above finished grade of the fixed portion of the tower, excluding the wind turbine blades.

(h) "Turbine" means the parts of a small wind energy conversion system including the blades, generator and tail.

**1162.03 PERMIT REQUIRED.**

No person shall install or construct a SWECS within the corporate boundaries of the Village until compliance has been made with all provisions of this chapter and all other applicable sections of the Village's regulations, and a conditional zoning permit has been authorized and a permit issued by the Zoning Inspector.

**1162.04 PERMIT APPLICATION AND FEE.**

(a) Any person desiring to install a SWECS within the corporate boundaries of the Village shall make application for a conditional zoning permit to the Planning Commission in accordance with the requirements of Chapter 1153, Use Regulations.

(b) All requests for permits shall be accompanied by a completed application, all required information, and a three hundred fifty dollar (\$350.00) fee for each wind turbine. No refund of any part of a permit application fee shall be made to an applicant in cases of a denial of a permit by the Village.

(c) At the time of application, one thousand five hundred dollars (\$1,500) shall be deposited with the Village Fiscal Officer for application review costs. Each time a Village incurred cost is charged against this amount, the deposit shall be replenished to the one thousand five hundred dollar (\$1,500) level. All such Village costs shall be documented, a permanent record maintained, and a copy sent to the applicant. Upon completion of the review of the application, whether approved or denied, any unused portion of this deposit shall be returned to the applicant.

**1162.05 LOCATION REQUIREMENTS.**

As a basis for assuring that SWECS and any associated equipment will be of minimum hazard to and compatible with, surrounding development, the location, evaluation and approval of a proposed tower site and associated production and processing equipment site shall be based upon the following criteria:

- (a) Maximum Tower Height. The maximum tower height shall be 150 feet, except as imposed by FAA regulations.
- (b) Turbine Clearance. No portion of the turbine, including rotor blades, shall extend within twenty feet of the ground. No portion of the turbine may extend over overhead utility lines, parking areas, driveways or sidewalks.
- (c) Minimum Setbacks. Minimum setbacks from all property lines for the SWECS shall be either 100 feet or equal to 1.5 times the overall blade tip height of the SWECS, whichever is greater. No part of the small wind energy conversion system structure, including, but not limited to, guy wire anchors and any necessary ground-mounted conversion equipment, may extend closer than twenty-five feet to the property line. SWECS shall be set back a distance equal to 1.5 times the overall blade tip height of the SWECS from the nearest existing residential or commercial structure.
- (d) Noise. The small wind energy conversions system shall conform to Section 1159.07(a)(3).
- (e) Automatic Over-Speed Controls. All small wind energy conversion systems shall be equipped with manual (electronic or mechanical) and automatic over-speed controls to limit the blade rotation speed to within the design limits of the small wind energy conversion system.
- (f) Utility Notification. No small wind energy conversion system shall be installed until evidence has been given that the electrical utility company has been informed of, and approved the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (g) Tower Color. Tower colors shall be white, off-white, gray or neutral subdued tones, such as earth tones of green or brown. Towers shall not be finished in bright or vivid colors, nor shall the tower be used for advertising of any kind.
- (h) Multiple Towers. Multiple small wind energy conversion systems are allowed on any site, provided all minimum standards are met and total wattage is less than 5MW.
- (i) Lighting. Small wind energy conversion systems shall not be artificially lighted, except as required by the FAA.
- (j) Wiring. All wiring from the tower to any structures or connections shall be underground.
- (k) Climb Prevention. Small wind energy conversion systems shall not be climbable up to fifteen feet above the ground surface.

- (l) Compliance with Other Regulations. The applicant or owner shall be responsible for acquiring all necessary approvals from other applicable agencies, including but not limited to the FAA.
- (m) Maintenance. Small wind energy conversion systems are subject to the provisions of the Property Maintenance Code and shall be maintained in working order, structurally sound, and with any surface treatments intact.
- (n) Abandoned Facilities. Any small wind energy conversion system that is not operated on a functional basis for a period of six consecutive months shall be deemed abandoned. The Zoning Inspector may order the repair or removal of said small wind energy conversion system, in accordance with these provisions. The applicant, owner, or other person responsible for the facility shall repair or remove the same within sixty days of receipt of notification by certified mail. If said facility is not either operational or removed after sixty days, the Village may remove the system at the owner's expense.
- (o) Insurance. Prior to the issuance of a zoning permit for the installation of a SWECS, the applicant shall provide the Village with evidence that the applicant's insurance policy has been endorsed to cover damage or injury that might result from the installation and operation of the SWECS.

Sandusky, Ohio

CHAPTER 1153  
Wind Energy Conversion Systems

1153.01	Purpose.	1153.06	Small wind energy conversion system requirements.
1153.02	Definitions.	1153.07	Commercial wind energy conversion system requirements.
1153.03	Applicability.	1153.08	Non-use.
1153.04	Conditional use.		
1153.05	Permit requirement.		

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**1153.01 PURPOSE.**

The purpose of this Chapter is to preserve and protect the public health and safety and to promote the orderly land use and development of the City of Sandusky by the implementation of standards and procedures by which the installation and operation of Wind Energy Conversion Systems (WECS) shall be governed as a conditional use.  
(Ord. 09-006. Passed 1-26-09.)

**1153.02 DEFINITIONS.**

(a) A wind energy conversion system (WECS) includes any or all of the following components:

- (1) A turbine with propeller-style blades, or
- (2) A vertical rotor, or
- (3) Other means of capturing the energy in moving air;
- (4) A tower or
- (5) A mounting structure;
- (6) An electrical power generator with
- (7) Associated electrical power transmission circuitry;
- (8) A battery or
- (9) Other means of storing energy;
- (10) Other means of transmitting energy (hydraulic, mechanical, etc.);
- (11) Mechanical control mechanisms;
- (12) Electrical/electronic/computer control circuitry;
- (13) A foundation;
- (14) Enclosures.

(b) Total Height means the distance measured from ground level to the highest point that any part of the WECS can reach.

(c) Small WECS means a WECS that will be used primarily to reduce on-site consumption of electrical power.

(d) Wind Turbine Rotor means that portion of a wind turbine that includes the blades or scoops, hub and shaft.

(e) Tower means an elevating structure intended to raise the rotor, turbine and accessory equipment above either the ground surface or the top of a building.

(f) Commercial WECS means a WECS consisting of more than one wind turbine and tower, or a WECS that will be used primarily for off-site consumption of electrical power.

(g) Wind Turbine means a WECS that converts wind energy into another form of energy by means of rotary motion driven by the passage of air through the WECS. The definition includes a WECS designed to mount directly on the roof of existing buildings including residences.

(h) Applicant means the person or entity filing an application for a conditional use permit under this Chapter.

**1153.03 APPLICABILITY.**

(a) This Chapter applies to all Wind Energy Conversion Systems (WECS), small and commercial, and Wind Turbines as defined in Section 1153.02 of this Chapter proposed to be constructed or located after the effective date of this Chapter.

(b) Any WECS constructed or located prior to the effective date of this Chapter shall not be required to meet the provisions of this Chapter provided that any physical modification to such pre-existing WECS that materially alters the size, type and number of any such WECS shall require compliance with this Chapter. If any pre-existing WECS is destroyed or damaged to the extent of more than 50 percent of its fair market value at the time of destruction or damage, it shall not be reconstructed except in conformity with this Chapter.

**1153.04 CONDITIONAL USE.**

A WECS shall be considered a conditional use in any zoning district.

**1153.05 PERMIT REQUIREMENT.**

(a) No WECS, small or commercial, shall be constructed or located within the City of Sandusky unless a conditional use permit has been issued to the applicant.

(b) The conditional use permit application shall be made in compliance with this Chapter and Chapter 1109 of the Codified Ordinances and be accompanied with a fee in the amount of one hundred dollars (\$100.00).

(c) Any physical modification to an existing and permitted WECS that materially alters the size, type and number of such WECS shall require a permit modification under this Chapter. Like-kind replacements shall not require a permit modification.

(d) An applicant who proposes to construct or locate a WECS, as defined in this Chapter, on the roof of an existing structure shall be required to apply for a conditional use permit and request a waiver by the Planning Commission from those requirements of this Chapter that the Planning Commission finds are not applicable.

**1153.06 SMALL WIND ENERGY CONVERSION SYSTEM REQUIREMENTS.**

(a) Permitted Locations. A small WECS is permitted in any zoning district.

(b) Setbacks.

(1) Property lines. The vertical part of a small WECS shall be set back from the nearest property line, public road right-of-way and communication and electrical line not less than 1.1 to 1.0 times its total height.

(c) Design Standards.

(1) Tower Design. The design of the small WECS tower, if any, shall be a single enclosed pole, which is freestanding, without guy wires. Open lattice towers shall not be employed.

(2) Minimum Blade Height. The minimum height of the lowest extent of a turbine blade shall be 30 feet above the ground or 30 feet above any structure or obstacle within 30 feet horizontally from any part of the arc of the turbine blades.

(3) Access. No tower shall have a climbing apparatus within 15 feet of the ground. All access doors or access ways to towers and electrical equipment shall be able to be locked.

(4) Noise. No small WECS shall generate sounds exceeding 60 dBA as measured 100 feet from the tower. Noise generated by any small WECS shall also comply with existing City noise ordinances.

- (5) Visual Appearance. Small wind energy conversion or tower systems shall be finished in a corrosion-resistant, non-obtrusive finish and color that is non-reflective. No small WECS or tower shall be lighted unless required by the FAA. No flags, streamers, decorations, advertising signs of any kind or nature whatsoever shall be permitted on any small WECS.
  - (6) Electrical Interconnections. All electrical interconnection or distribution lines shall be underground and comply with all applicable codes and public utility requirements.
  - (7) Signal Interference. Efforts shall be made to site small WECS or towers to reduce the likelihood of blocking or reflecting television and other communication signals. If signal interference occurs, both the small WECS or tower owner and individual receiving interference shall make reasonable efforts to resolve the problem. No small WECS or tower shall cause permanent and material interference with television or other communication signals.
- (d) Permit Applications. Application for a small WECS and/or tower shall include the following information:
- (1) Site plan (map view) to scale showing the location of all of the components of the proposed small WECS and the locations of all existing buildings, structures and property lines, along with distances; and
  - (2) Elevation (side view) drawings of the site to scale showing the height, design and configuration of the small WECS and the height and distance to all existing structures, buildings, electrical lines and property lines; and
  - (3) Structural drawings and engineering analyses of the WECS tower and/or supporting structure, demonstrating adequate weight and lateral stress capacity; and
  - (4) A standard foundation and anchor design demonstrating adequate vertical and lateral support capacity for the soil conditions at the site; and
  - (5) Specific information on the type, size, rotor material, rated power output, performance, safety and noise characteristics of all parts of the WECS; including the name and address of the component manufacturers, model and serial numbers of all WECS components; and
  - (6) Emergency and normal shutdown procedures; and
  - (7) An electrical one-line drawing of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes; and
  - (8) Evidence that the provider of electrical service of the property has been notified of the intent to install an interconnected electricity generator; unless the system will not be connected to the electricity grid.

#### **1153.07 COMMERCIAL WIND ENERGY CONVERSION SYSTEM REQUIREMENTS.**

- (a) Permissible Locations. A commercial WECS may be permitted as a conditional use (special exception) in a non-Residential District.
- (b) Setbacks.
  - (1) Property Lines. A commercial WECS shall be set back from the nearest property line and public road right-of-way not less than 1.0 times the total height of the system.
  - (2) Other Uses. No commercial WECS shall be located within 1,000 feet of a platted subdivision, park, church, school or playground.
  - (3) Inhabited Structures. A commercial WECS shall be set back from the nearest inhabited building, power line or communication line, not less than 1.0 times its total height.
- (c) Design Standards. A commercial WECS shall comply with the design standards set forth in Section 1153.06, including all of its subsections.

(d) Permit Applications. A commercial WECS shall comply with the permit application requirements set forth in Section 1153.06, including all of its subsections.

(e) Multiple WECS. Multiple WECS shall not be permitted without approval by the Planning Commission.

**1153.08 NON-USE.**

(a) Any small WECS, commercial WECS or tower which complies with the terms of this chapter which is not used for two (2) years, excluding repairs; shall be removed within the following six (6) months. Failure to remove the system shall be deemed a violation of this chapter.

(b) Any small WECS or commercial WECS which is non-conforming and which is not used for one (1) year, excluding repairs, shall be removed within the following six (6) months. Failure to remove the system shall be deemed a violation of this chapter.