

RECORDING FEE \$ none FILED FOR RECORD THE 14 DAY OF STATE OF IOWA, BUTLER COUNTY:
May 20 13 AT 12:02 Jane Jacobs RECORDER
TRANSFER FEE \$ O'CLOCK 9 P. M. INSTRUMENT NO. 2013-1918 BY DEPUTY

**BUTLER COUNTY ORDINANCE TITLE VI No. 11
BUTLER COUNTY, IOWA**

Adopted May 14, 2013

Preparer Information: Zoning Administrator, 319-267-9968
Return Document to: Butler County Auditor, PO Box 325, Allison, IA 50602

This ordinance amends the Zoning Ordinance to establish wind energy systems regulations

BUTLER COUNTY WIND ENERGY SYSTEMS TITLE VI NO. #11

An Ordinance amending Zoning Ordinance Title VI No. 7 to establish wind energy systems regulations for Butler County, Iowa.

The Board of Supervisors of Butler County, Iowa ordains:

A. Small Wind Energy Systems

The purpose of this regulation is to promote the safe, effective, and efficient use of small wind energy systems installed to reduce the on-site consumption of utility-supplied electricity. This ordinance is in compliance with HF810, enacted in 2009, creating the Small Wind Innovation Zone program. Butler County finds that wind energy is an abundant, renewable, and non-polluting energy resource and that its conversion to electricity will reduce our dependence on non-renewable energy resources and decrease the air and water pollution that results from the use of non-renewable energy sources.

Distributed small wind energy systems will help diversify the state's energy portfolio. Small wind energy systems also make the electricity supply market more competitive by promoting customer choice. The State of Iowa has enacted a number of laws and programs to encourage the use of small-scale renewable energy systems, including net metering, sales tax exemptions, property tax exemptions, production tax credits, and the Small Wind Innovation Zone program.

Small wind energy systems shall be a permitted use in all zoning classifications provided a conditional use is issued in conformance with and subject to certain requirements as set forth below. Butler County shall require the installer of the small wind energy system, or the owner of the property upon which the system will be installed, to obtain a building permit for the system.

1. **Tower Height and setback.**

The base of the small wind energy system tower shall be set back from all property lines, public right of ways, and above-ground public utility lines at a distance of not less than 115% of the total extended height of the tower. Towers shall be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission, provided that the tower installation complies with the other applicable setbacks herein provided. As long as the total extended height meets the setback requirements, there shall be no specific height limitation, except as imposed by the Federal Aviation Administration regulations as stated in Section XX (C) of Butler County Ordinance VI No.7.

2. **Requirements for engineered drawings/approval and soil studies.**

A small wind energy system of greater than 20 kw, or a small wind energy system mounted on a structure other than a free-standing tower, shall not be erected in Butler County, unless the plans and specifications for the system have received the stamped approval of an Iowa registered engineer. In lieu of obtaining the stamped approval of an Iowa registered engineer for each small wind energy system of 20 kw or less mounted on a free-standing tower, including its soils study and foundations plans for such system, for a one-time review and stamped approval by an Iowa registered engineer as suitable for construction in any soil condition that exists in the State of Iowa. If such one-time stamped approval is obtained, that manufacturer may thereafter construct small wind energy systems of 20 kw or less in Butler County, utilizing the approved soils study and foundation plans for the 20 kw small wind energy system, without obtaining and presenting the stamped approval of an Iowa registered engineer for each such installation.

3. Compliance with Federal Aviation Administration Regulations (FAA)
No small wind energy system shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.
4. Safety
Any climbing foot pegs or rungs below 12 feet of a free-standing tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood may be fastened to the bottom tower section such that it cannot readily be climbed.
5. Sound
Sound produced by the small wind energy system under normal operating conditions, as measured at the property line, shall: a) not produce sound at a level that would constitute a nuisance; b) shall comply with any local ordinance regulating the volume of sound as a nuisance, if applicable. Sound levels, however, may be exceeded during short-term events out of anyone's control, such as utility outages and/or severe wind storms.
6. Compliance with National Electric Code
Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the design and manner of installation conforms to the state National Electric Code.
7. Utility Notification
No small wind energy system shall be installed until evidence has been given that the utility company has authorized interconnection of the small wind energy system to its electrical distribution or transmission, under an agreement offered by the utility. Properties not connected to the public utility system shall be exempt from this requirement.
8. Insurance
A person seeking a building permit to erect a small wind energy system shall provide evidence, in the form of a certificate of insurance satisfactory to Butler County, showing general liability insurance coverage for the installation and operation of the system under a standard homeowner's or standard business owner's policy, separate and distinct from any insurance requirements of a public utility.
9. Abandonment
If a wind turbine is inoperable for six consecutive months, the owner shall be notified that they must, within six months of receiving the notice, restore the small wind energy system to operating condition. If the owner fails to restore the system to operating condition within the six month time frame, it shall be considered abandoned and the owner shall be required, at the owner's expense, to remove the small wind energy system. A small wind energy system that has been abandoned may be abated as a public nuisance.
10. Signage
No signs, other than appropriate warning signs, or standard manufacturer's or installer's identification signage, shall be displayed on a wind generator, tower, building, or other structure associated with a small wind energy system, subject to local sign regulation if any.
11. Lighting
No illumination of the turbine or tower shall be allowed unless required by the FAA.

B. Large Wind Energy Systems

The purpose of this regulation is to promote the safe, effective, and efficient use of large wind energy systems. Butler County finds that wind energy is an abundant, renewable, and non-polluting energy resource and that its conversion to electricity will reduce our dependence on non-renewable energy resources and decrease the air and water pollution that results from the use of non-renewable energy sources.

Large wind energy systems will help diversify the state's energy portfolio. Large wind energy systems also make the electricity supply market more competitive by promoting customer choice. Large wind energy systems shall be a permitted use in an Agriculture zoning classification provided a conditional use permit is issued in conformance with and subject to certain requirements as set forth below. Butler County shall require the installer of the large wind energy system, or the owner of the property upon which the system will be installed, to obtain a building permit for the system.

1. **Tower Height and setback.**
The base of the large wind energy system tower shall be set back from all property lines, public right of ways, and above-ground public utility lines at a distance of not less than 115% of the total extended height of the tower. Towers shall be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission, provided that the tower installation complies with the other applicable setbacks herein provided. As long as the total extended height meets the setback requirements, there shall be no specific height limitation, except as imposed by the Federal Aviation Administration regulations as stated in Section XX (C) of Butler County Ordinance VI No.7.
2. **Requirements for engineered drawings/approval and soil studies.**
For all large wind energy systems, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the large wind energy system is within accepted professional standards, given local soil and climate conditions.
3. **Compliance with Federal Aviation Administration Regulations (FAA)**
No large wind energy system shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.
4. **Safety**
Any climbing foot pegs or rungs below 12 feet of a free-standing tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood may be fastened to the bottom tower section such that it cannot readily be climbed.
5. **Sound**
Sound produced by the large wind energy system under normal operating conditions, as measured at the property line, shall: a) not produce sound at a level that would constitute a nuisance; b) shall comply with any local ordinance regulating the volume of sound as a nuisance, if applicable. Sound levels, however, may be exceeded during short-term events out of anyone's control, such as utility outages and/or severe wind storms.
6. **Compliance with National Electric Code**
Building permit applications for large wind energy systems shall be accompanied by a line drawing of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the design and manner of installation conforms to the state National Electric Code.
7. **Insurance**
A person or company seeking a building permit to erect a large wind energy system shall provide evidence, in the form of a certificate of insurance satisfactory to Butler County, showing general

liability insurance coverage for the installation and operation of the system under a standard homeowner's or standard business owner's policy, separate and distinct from any insurance requirements of a public utility.

8. Abandonment

If a wind turbine is inoperable for six consecutive months, the owner shall be notified that they must, within six months of receiving the notice, restore the large wind energy system to operating condition. If the owner fails to restore the system to operating condition within the six month time frame, it shall be considered abandoned and the owner shall be required, at the owner's expense, to remove the large wind energy system. A large wind energy system that has been abandoned may be abated as a public nuisance.

9. Signage

No signs, other than appropriate warning signs, or standard manufacturer's or installer's identification signage, shall be displayed on a wind generator, tower, building, or other structure associated with a large wind energy system, subject to local sign regulation if any.

10. Lighting

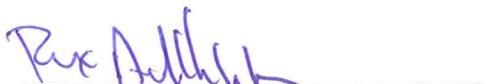
No illumination of the turbine or tower shall be allowed unless required by the FAA.

Approved and adopted this 14 day of May, 2013.

BUTLER COUNTY BOARD OF SUPERVISORS


Mark V. Reiher, Chair


Tom Heidenwirth, Member


Rex Ackerman, Member

ATTEST:


Butler County Auditor

Read First Time: May 14, 2013

Read Second Time: Waived, 2013

Read Third Time: Waived, 2013

Approved and adopted this 14th day of May, 2013.

STATE OF IOWA

COUNTY OF BUTLER

On this 14th day of May, 2013, before me the undersigned, a Notary Public in and for said County and State, personally appeared **Mark V. Reiher** and **Lizbeth Williams**, to me personally known, who, being duly sworn, did say that they are the Chairperson of the Board of Supervisors and County Auditor of Butler County, Iowa, respectively; that the seal affixed hereto is the seal of said County; that said instrument was signed and sealed on behalf of the said Butler County, Iowa, by authority of its Board of Supervisors and pursuant to Ordinance I, No. 1, of said Board; and that said **Mark V. Reiher** and **Lizbeth Williams** as such officers, acknowledge the execution of said instrument to be the voluntary act and deed of said County, it and by them voluntarily executed.



Lisa Beadle
Notary Public In and For Said County
And State of Iowa