

MAPLE VALLEY TOWNSHIP

ORDINANCE NO. 35

AN ORDINANCE TO AMEND THE ZONING ORDINANCE TO REGULATE WIND ENERGY SYSTEMS IN ACCORDANCE WITH PA 233 OF 2023

The Township of Maple Valley ordains:

Section 1. Purpose

The Township adopts this Ordinance to render certain wind energy zoning regulations compatible with Public Act 233 of 2023 (“PA 233”), while retaining local control over matters of regulation that are not governed by PA 233, and to promote the public health, safety and welfare of Township residents.

Section 2. Amendment of Section 734

Section 734 of the Township Zoning Ordinance is amended to add new subsection (C), entitled “Wind Energy Facilities under PA 233,” which reads as follows in its entirety:

C. Wind Energy Facilities under PA 233.

On or after November 29, 2024, once PA 233 of 2023 is in effect, then the following provisions apply to Wind Energy Facilities with a nameplate capacity of 100 megawatts or more. To the extent these provisions conflict with the provisions in the subsections above, these provisions control as to such Wind Energy Facilities. All provisions in the subsections above that do not conflict with this subsection remain in full force and effect. This subsection does not apply if PA 233 of 2023 is repealed, enjoined, or otherwise not in effect and does not apply to Wind Energy Facilities with a nameplate capacity of less than 100 megawatts.

a. *Setbacks.* Wind Energy Facilities must comply with the following minimum setback requirements, with setback distances measured from the center of the base of the wind tower:

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	2.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Residences and other structures on participating properties	1.1 times the maximum blade tip height to the nearest point on the outside wall of the structure
Nonparticipating property lines	1.1 times the maximum blade tip height
Public road right-of-way	1.1 times the maximum blade tip height to the center line of the public road right-of-way

Overhead communication and electric transmission, not including utility service lines to individual houses or outbuildings	1.1 times the maximum blade tip height to the center line of the easement containing the overhead line
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b. *Shadow Flicker.* Each Wind Energy Facility must be sited such that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions as indicated by industry standard computer modeling.

c. *Height.* Each Wind Energy Facility blade tip must not exceed the height allowed under the Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR part 77.

d. *Noise.* The Wind Energy Facility must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

e. *Lighting.* The Wind Energy Facility must be equipped with a functioning light-mitigating technology. To allow proper conspicuity of a wind turbine at night during construction, a turbine may be lighted with temporary lighting until the permanent lighting configuration, including the light-mitigating technology, is implemented. The Township may grant a temporary exemption from the requirements of this subparagraph if installation of appropriate light-mitigating technology is not feasible. A request for a temporary exemption must be in writing and state all of the following:

- (i) The purpose of the exemption.
- (ii) The proposed length of the exemption.
- (iii) A description of the light-mitigating technologies submitted to the Federal Aviation Administration.
- (iv) The technical or economic reason a light-mitigating technology is not feasible.
- (v) Any other relevant information requested by the Township.

f. *Radar Interference.* The Wind Energy Facility must meet any standards concerning radar interference, lighting (subject to subparagraph (v)), or other relevant issues as determined by the Township.

g. *Environmental Regulations.* The Wind Energy Facilities must comply with applicable state or federal environmental regulations.

h. *Host community agreement.* The applicant shall enter into a host community agreement with the Township. The host community agreement shall require that, upon commencement of any operation, the Wind Energy Facility owner must pay the Township \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the Township for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.

Section 3. Validity and Severability.

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 4. Repealer.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 5. Effective Date. This Ordinance takes effect seven days after publication as provided by law.

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