

BOARD OF COUNTY COMMISSIONERS

**OF
FRANKLIN COUNTY, KANSAS**

RESOLUTION NO. 08-031

A RESOLUTION OF THE FRANKLIN COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING AMENDMENTS TO ARTICLE 2 (DEFINITIONS), SECTION 2-1.01; ARTICLE 3 (GENERAL REGULATIONS) SECTION 3-3.01.T; ARTICLE 4 (AGRICULTURAL DISTRICT) SECTION 4 2 (PERMITTED USES) AND SECTION 4-3 (SPECIAL USES); ARTICLE 5 (TRANSITIONAL AGRICULTURE) SECTION 5-3 (SPECIAL USES); AND ARTICLE 6 (RESIDENTIAL ESTATE DISTRICT) SECTION 6-3 (SPECIAL USES) OF THE FRANKLIN COUNTY ZONING REGULATIONS FOR THE UNINCORPORATED AREAS OF THE COUNTY IN ACCORDANCE WITH THE PROVISIONS OF K.S.A. 12-757

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to Kansas Statutes K.S.A. 19-101; and

WHEREAS, the Franklin County Board of County Commissioners did by Resolution #23-91 create the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Board of County Commissioners did adopt the Zoning Regulations of Franklin County, Kansas on August 4, 2002 as provided in K.S.A. 12-757; and

WHEREAS, the Franklin County Planning Commission published a notice on March 26, 2008, that a public hearing would be held to consider said revision of the Franklin County, Kansas Zoning Regulations, as required by K.S.A. 12-757; and

WHEREAS, the Franklin County Planning Commission did, on April 17, 2008, hold a Public Hearing for the consideration of adopting an amendment to the County Zoning Regulations as prescribed by K.S.A. 12-757; and

WHEREAS, the Franklin County Planning Commission has reviewed in detail the Amendment to Article 2 (Definitions), Section 2-1.01; Article 3 (General Regulations) Section 3-3.01.T; Article 4 (Agricultural District) Sections 4-2.01.14 and 4-3.01.15; Article 5 (Transitional Agriculture District) Section 5-2.01.14 and 5-3.01-15; and Article 6 (Residential Estate District) Section 6-2.01.9 and 6-3.01.11 and Article 7 (Single Family Residential Three Acre) Section 7-3.01.17; and

WHEREAS, after due consideration of all written reports and testimony, the Planning Commission, by unanimous vote of its membership, finds such Amendment to the County Zoning Regulations to be in the public interest and necessary to promote the health, safety, convenience, prosperity and general welfare of the citizens of Franklin County, Kansas; and

NOW, THEREFORE, BE IT RESOLVED, that the Franklin County Board of County Commissioners does hereby approve the adoption of an Amendment to the County Zoning Regulations as follows:

1. Amend Article 2, Definitions, Section 2-1.01 to include:

a. WIND ENERGY CONVERSION FACILITY (COMMERCIAL)

Commercial: A single wind energy conversion system consisting of a wind turbine, tower and associated control or conversion electronics which has a rated output capacity of 100 KW or more or is more than 150 feet in height or is intended to be distributed to an off-site customer or customers.

b. WIND ENERGY CONVERSION FACILITY (PRIVATE)

Private: A Single wind energy conversion system consisting of a wind turbine, tower and associated control or conversion electronics which has a rated output capacity of less than 100 KW and is intended to primarily reduce the on-site consumption of utility power.

2. Amend Article 3, General Regulations Section 3-3 Miscellaneous Regulation Governing All Zoning Districts to add: Section 3-3.01.T.

T. WIND ENERGY CONVERSION FACILITIES

1. The purpose of this section is to provide for the construction and operation of wind energy conversion systems in the unincorporated areas of Franklin County.

2. Private Wind Energy Conversion facilities shall be a permitted use in the Agriculture and Residential Estate Zoning Districts on all legal parcels or tracts 10 acres or larger. Private facilities must be approved by a small wind certification program recognized by the American Wind Energy Association and comply with the following criteria and standards:

- a). One (1) wind energy conversion facility may be constructed for all legal tracts of 10 acres or larger. Additional facilities may be allowed at a rate of one (1) facility per each additional 10 acres.
- b). Private Wind Energy Conversion Facilities on parcels smaller than 10 acres shall be subject to a Special Use Permit.
- c). Installation of more than one (1) Wind Energy Conversion Facility per each 10 acre tract shall require a Special Use Permit.
- d). Installation of Wind Energy Conversion Systems shall comply with all requirements of the Franklin County Building Code. Plans shall include an analysis and certificate by a licensed engineer. The design analysis may be provided by the manufacturer.
- e). Total height of any private Wind Energy Conversion Facility shall not exceed 80 feet. Total height shall be measured from the ground grade at the base to the highest point reached by the turbine rotor blades.
- f). The lowest point of the turbine rotor blades shall be at least 20 feet above the ground as measured at the base of the facility.
- g). The minimum setback distance for any Wind Energy Conversion System shall be one and one-half (1½) times the total height of the system from any property line, public utility, access easement or any residential structure or accessory structure.
- h). That private Wind Energy Conversion Facilities shall be mounted on monopole type structures. Guyed structures shall not be permitted.
- i). All Wind Energy Conversion Facilities shall maintain a galvanized finish or be painted either white, gray, pale blue or pale green in conformance with the surrounding environment.
- j). Noise levels shall not exceed 55 dba as measured at the property line or nearest residential structure, whichever is closer.
- k). No Wind Energy Conversion Facility shall be installed and building permits shall not be granted until evidence has been presented that an interconnection agreement with the affected utility company has been approved.
- l). Any Wind Energy Conversion Facility that is non-functional shall be repaired. Any Wind Energy Conversion Facility that is no longer in operation or has not been repaired within six (6) months shall be removed by the owner.
- m). That private Wind Energy Conversion Facilities used exclusively for Agricultural purposes, such as pumping water, electrical fencing and similar uses, are exempt from these regulations provided such facilities do not exceed thirty (30) feet in height.

3. Amend Article 4, Agricultural District, Section 4-2, Permitted Uses to add the following subsection:

4-2.01.14 Wind Energy Conversion Facilities subject to the standards set forth in Section 3-3.01.T of these Regulations.

4. Amend Article 4, Agricultural District, Section 4-3, Special Uses to add the following subsection:

4-3.01.16 More than one (1) Wind Energy Conversion Facilities per each 10 acres subject to the standards set forth in Section 3-3.01.T of these Regulations.

5. Amend Article 5, Transitional Agricultural District, Section 5-2, Permitted Uses to add the following subsection:

5-2.01.14 One (1) Wind Energy Conversion Facility per each 10 acres subject to the standards set forth in Section 3-3.01.T of these Regulations.

6. Amend Article 5, Transitional Agricultural District, Section 5-3, Special Uses to add the following subsection:

5-3.01.15 More than one (1) Wind Energy Conversion Facilities per each 10 acres subject to the standards set forth in Section 3-3.01.T of these Regulations.

7. Amend Article 6, Residential Estate District, Section 6-2, Permitted Uses to add the following subsection:

6-2.0.9.1 One (1) Wind Energy Conversion Facility per each 10 acres subject to the standards set forth in Section 3-3.01.T of these Regulations.

8. Amend Article 6, Residential Estate District, Section 6-3, Special Uses to add the following subsection:

6-3.01.11 One (1) Wind Energy Conversion Facilities per each tract less than 10 acres subject to the standards set forth in Section 3-3.01.T of these Regulations.

9. Amend Article 7, Single Family Residential Three Acres District, Special Uses to add the following subsection:

7-3.01.7 One (1) Wind Energy Conversion Facility subject to the standards set forth in Section 3-3.01.T of these Regulations.

PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 9th day of July 2008. This action shall become effective upon publication in the official county newspaper.

/s/ Karen S Farrell
Karen S. Farrell
Commissioner District 1

/s/ John E Taylor
John E. Taylor
Commissioner District 2

/s/ Roy C Dunn
Roy C. Dunn
Commissioner District 3

/s/ Donald C Hay
Donald C. Hay
Commissioner District 4

/s/ Donald R Stottlemire
Donald R. Stottlemire
Commissioner District 5

Received and recorded this the 9th day of July 2008.

Shari Perry

/s/ Shari Perry

County Clerk