

**Banks Township
Ordinance Number ____ of 2009**

An Ordinance to amend the Banks Township Zoning Ordinance pertaining to Wind Turbine Generators.

The Township of Banks Ordains:

Section 1. Amendment of Article III.

The definition of "Wind Turbine Generator, Noncommercial" within Article III of the Banks Township Zoning Ordinance is hereby amended to read its entirety as follows:

Wind Turbine Generator, Noncommercial: A wind turbine generator designed and used primarily to generate electricity or produce mechanical energy to offset the energy used on the property where located or on an abutting property as permitted under Section 4.06 of this Ordinance.

Section 2. Amendment of Section 4.06.

Article IV, Section 4.06 of the Banks Township Zoning Ordinance is hereby amended to read its entirety as follows:

Section 4.06 Noncommercial Wind Turbine Generators

1. Noncommercial wind turbine generators and anemometer towers erected prior to a noncommercial wind turbine generator may be located in any district, provided the WTG or anemometer tower is setback from the property line a distance at least equal to the total height, except as permitted under subsection 4 below.
2. The minimum site area for a noncommercial wind turbine generator or anemometer tower (either an individual lot or two (2) abutting lots as permitted under subsection 4 below) shall be three (3) acres.
3. The maximum height for a Non-Commercial Wind Turbine Generator or associated anemometer tower shall be (150) one hundred fifty feet.
4. The owners of two (2) abutting lots may jointly apply for a permit to construct an anemometer tower or a noncommercial wind turbine generator serving both lots. If the anemometer tower or noncommercial wind turbine generator will not meet the setback requirements of subsection 1 above for the lot on which it will be located, then the owner(s) of the abutting lot and the owner(s) of all other lots directly impacted by the reduced setback requirements shall consent in writing to the reduced setback requirements and agree to impose deed restrictions on their property acknowledging and accepting the potential increased risk of damage to their land as a result of the closer proximity of the wind turbine generator or anemometer tower to their property. These deed restrictions shall run with the land, shall be in a form acceptable to the township attorney, and shall be recorded in the office of the Antrim County Register of Deeds.

Section 3. Amendment of Article VIII, Section 8.03.14, subsection c

Article VIII, Section 8.03.14, subsection c of the Banks Township Zoning Ordinance is hereby amended to read its entirety as follows:

c. Setbacks

- 1) All guy wires/cables and anchors associated with a wind turbine generator or anemometer tower and all structures accessory to the wind turbine generator shall comply with the setback regulations of the zoning district in which located. Except as provided in subsection 2) below, all commercial wind turbine generators and anemometer towers shall be located no less than the height of the wind turbine generator or the height of the anemometer tower from a public or private the road right-of-way and from all lot lines.
- 2) At the request of the applicant the Planning Commission shall reduce the setback for a commercial wind turbine generator or anemometer tower from a public or private road right-of-way to not less than one rotor radius (for a commercial wind turbine generator) and to not less than one-half the height of an anemometer tower, and shall reduce the setback requirement from a lot line for a commercial wind turbine generator or anemometer tower to not less than the applicable district setbacks, if it finds, based on data provided by the applicant and prepared by a qualified professional, that all of the following applicable standards are met:
 - a) For a reduced setback from a public or private road right-of-way, any potential tower/blade failure or ice shedding will be contained on the lot where the wind turbine generator or anemometer tower is located.
 - b) For a reduced setback from a lot line, any potential tower/blade failure or ice shedding will be contained on the lot where the wind turbine generator or anemometer tower is located, or the owner(s) of all abutting lots directly impacted by the reduced setback requirements (regardless of whether the abutting lot(s) is/are under the same ownership as the lot on which the wind turbine generator or anemometer tower will be located) consent in writing to the reduced setback requirements and agree to impose deed restrictions on their properties acknowledging and accepting the potential increased risk of damage to their land as a result of the closer proximity of the wind turbine generator or anemometer tower to their properties. These deed restrictions shall run with the land, shall be in a form acceptable to the township attorney, and shall be recorded in the office of the Antrim County Register of Deeds.
 - c) The reduced setback requirements will not permit the commercial wind turbine generator or anemometer tower to be more visually obtrusive to significant scenic views than the allowable location under the normal setback requirements.

Section 4. Amendment of Article VIII, Section 8.03.14, subsection f

Article VIII, Section 8.03.14, subsection f of the Banks Township Zoning Ordinance is hereby amended to read its entirety as follows:

f. Maximum Noise Levels.

- 1) Except as provided in subsection 2) below, any proposed wind turbine generator shall not result in sound levels in excess of sixty (60) decibels as measured on the dB(A) scale at the property lines of the site in question.
- 2) At the request of the applicant the Planning Commission shall increase the maximum permitted sound levels resulting from a wind turbine generator to no more than seventy (70) decibels as measured on the dB(A) scale at the property lines of the site in question, if it finds, based on data provided by the applicant and prepared by a qualified professional that is specific to the proposed tower in the proposed location and takes into consideration prevailing

winds, topography, existing vegetation, and other relevant factors that all of the following standards are met:

- a) The increased sound levels will not have a substantial negative impact on the use and enjoyment of properties in the immediate area.
- b) The owner(s) of all abutting lots directly impacted by the increased sound levels (regardless of whether the abutting lot(s) is/are under the same ownership as the lot on which the wind turbine generator or anemometer tower will be located) consent in writing to the increased sound levels and agree to impose deed restrictions on their properties acknowledging and accepting the increased noise that will impact their land as a result of the close proximity of the wind turbine generator to their properties. These deed restrictions shall run with the land, shall be in a form acceptable to the township attorney, and shall be recorded in the office of the Antrim County Register of Deeds.

Section 5. Severability.

If any section, clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed each part, section, subsection, phrase, sentence, and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences, or clauses be declared invalid.

Section 6. Conflicts.

If any provision of the Banks Township Zoning Ordinance conflicts with this Zoning Ordinance Amendment, then the provisions of this Zoning Ordinance Amendment shall control.

Section 7. Effective Date.

This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

Township of Banks

By: _____
Thomas Mann, Supervisor

By: _____
Donna L. Heeres, Clerk

Adoption date: _____

Effective date: _____