

ORDINANCE NO. 2009-05-19

**An Ordinance Amending Section 8-24(g) of the Benton County Zoning Code
Pertaining to Setbacks for Wind Energy Conversion Systems and
Figure 9 Section A to the Zoning Code Pertainin to Fees**

WHEREAS, the Benton County Advisory Plan Commission has recommended amending Sections 8-24(g) and Figure 9 Section A of the Benton County Zoning Code relating to the setbacks applicable to Wind Energy Conversion Systems (WECS), and their component structures and the fees associated with WECS projects; and

WHEREAS, the Board of Commissioners of Benton County desires to amend Sections 8-24(g) and Figure 9 Section A of the Benton County Zoning Code, to change the setbacks applicable to Wind Energy Conversion Systems (WECS), and their component structures and the fees associated with WECS projects.

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of Benton County, that Sections 8-24(g) and Figure 9 Section A of the Benton County Zoning Code are amended to provide as follows:

Section 8-24:

- g. Setbacks.**
 - 1. No WECS, or any of its components, shall be constructed in any setback, dedicated public easement or dedicated public right-of-way without prior written authorization from the *County*.**
 - 2. Setback distances. Distance shall be measured from the center of the foundation at the base of the Tower.**
 - A. Temporary and Permanent Meteorological Towers and Wind Turbine Towers ("Towers")**
 - i. A setback distance of at least three hundred fifty (350) feet or one and one-tenth (1.1) times the height of the Tower with the blade tip at its highest point, whichever is greatest, from any property line, dedicated roadway, railroad right-of-way or overhead electrical transmission or distribution lines. New *structures* built adjacent to Towers shall maintain these same minimum setback requirements. Participating landowners within the area comprising the wind energy conversion system may waive property line setbacks for Towers with written approval from all landowners sharing such property line.**

- ii. The setback distance for Towers with turbines with a rated capacity of one megawatt (1.0 MW) or less shall be at least one thousand (1,000) feet from any existing residence, occupied structure, place of public gathering (e.g., schools, churches, Benton County Retirement Home, etc.) or *platted* subdivision boundary under the zoning jurisdiction of Benton County. An “occupied structure” means any structure which is occupied at least eight (8) hours per day for more than one-half (½) week on average. However, such Towers may be placed as near as six hundred (600) feet from an occupied structure or residence with the prior written approval of the owner.
 - iii. The setback distance for Meteorological Towers, and Wind Turbine Towers with a rated capacity greater than one megawatt (1.0 MW), shall be at least one thousand (1,000) feet from any existing residence, occupied structure, place of public gathering or *platted* subdivision boundary under the zoning jurisdiction of Benton County, and fifteen hundred (1500) feet from any *platted* community under the zoning jurisdiction of a municipality.
- B. Collector Substations and Switching Stations: The setback distance for the fence which shall surround the Collector Substations and Switching Stations shall be at least one hundred (100) feet from the center of the adjacent road, but shall be no closer than the edge of the road right-of-way.
 - C. Operation and Maintenance Building: The setback distance shall be one hundred (100) feet from the center of any adjacent road(s) and twenty-five feet (25) feet from all property lines.
 - D. Pad-mount transformers: shall be located within a utility easement or right-of-way.

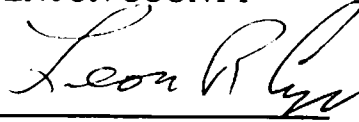
Figure 9, Section A:

Wind Energy Conversion Systems (WECS)	\$250.00 per megawatt (MW) capacity, and \$1,450.00
Improvement Location Permit	per megawatt (MW) capacity to the Wind Energy Fund, which will be prorated for fractional MW capacity.

This Ordinance shall be in full force and effect from and after its adoption by the Benton County Board of Commissioners, and publication as required by law.

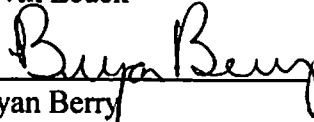
ORDAINED this 19th day of May, 2009.

BOARD OF COMMISSIONERS OF
BENTON COUNTY



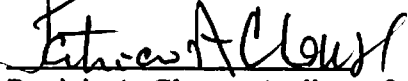
Leon Cyr

Kevin Leuck



Bryan Berry

ATTEST:



Patricia A. Clouse, Auditor of
Benton County