

APPLICATION FOR **TEXT AMENDMENT** UNDER THE REGULATIONS OF THE McLEAN COUNTY ZONING ORDINANCE

<p align="center">APPLICANT</p> <p>NAME: McLean County Zoning Board of Appeals ADDRESS: 115 E Washington Street, Room M102 Bloomington, IL 61701 PHONE: - home: work: 309-888-5160</p>	<p align="center">FOR OFFICIAL USE ONLY</p> <p align="center">CASE NO.: ZA - 20 - 01</p>	
<p align="center">ATTORNEY</p> <p>NAME: ADDRESS: PHONE:- home: work:</p>	<p>FILING FEE \$ <u>0.00</u></p> <p>RECEIPT NO. _____</p> <p>PUB. COSTS \$<u>129.56 2/15/20</u> <u>\$199.08 7/3/20</u></p> <p>RECEIPT NO. _____</p> <p>HEARING DATE <u>3-3-20</u> <u>7-20-20</u> 7:30 p.m. 3/3/20</p> <p>HEARING TIME <u>7:15 p.m. 7/20/20</u></p> <p>DECISION DATE <u>8/18/20</u></p>	<p align="center">RECEIVED</p> <p align="center">FEB 10 2020</p> <p align="center">ZONING</p>

Application is hereby made to amend Section **350-21, 26, 42 and 43** of the text of the McLean County Code as attached.

(Please attach amendment in exact language proposed.)

Section 350-21. Amendments

Section 350-26. Definitions

Section 350-42. Use Table

Section 350-43. Use Standards

Text Amendment

Chapter 350 of the McLean County Code

The McLean County Zoning Ordinance

(Additions are indicated by text and stricken material by ~~text~~)

Section 350-21 Amendments.

- B. Amendments may be proposed by the County Board, the Land Use and Development Committee of the County Board, Regional Planning Commission, Zoning Board of Appeals, any property owner, or a person or organization with a property interest in the subject property.

Section 350-26. Definitions.

BOAT SALES & SERVICE FACILITY – An establishment that is engaged in the retail or wholesale sale or rental, from the premises, of boats and boat trailers along with service, storage or maintenance activities.

350-42 Use Table.

The use table provides a tabular summary of the land use types allowed within each base zoning district. The table is intended for reference and does not necessarily reflect all of the regulations that may apply to particular uses or districts. In the event of conflict between the use regulations listed within this article and the zoning district regulations of Article V, the text of the zoning district regulations shall prevail.

- A. Permitted (by right). Uses identified in a zoning district column of the Use Table with a "P" are "permitted by right" and shall be permitted in such zoning district. Permitted uses shall also be subject to the standards and regulations as may be indicated in the "Use Standards" column and all other requirements of this chapter.
- B. Special uses. Uses identified in a zoning district column of the Use Table with an "S" are "special uses" and shall be permitted in such zoning district if reviewed and approved in accordance with the standards of Article VIII. Special uses shall be subject to the standards and regulations as may be indicated in the "Use Standards" column and all other requirements of this chapter.
- C. Not permitted. Uses not identified in a zoning district column of the Use Table as permitted by right or by special use are not allowed in such zoning district unless otherwise expressly permitted by other regulations of this chapter.
- D. Use standards. A letter in the "Use Standards" column of the Use Table refers to standards and regulations applicable to the particular use in one or more of the districts in which such use is allowed. The referenced standards appear as subsections in § 350-43 of this article.

ZONING DISTRICTS

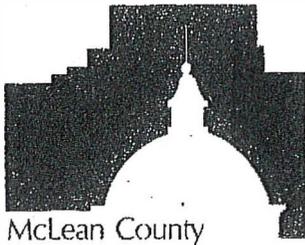
Use Type	A	R-1	R-2	C	M-1	M-2	Use Standards
<u>Boat Sales & Service Facility</u>	<u>S</u>						<u>EEE</u>

350-43 Use Standards.

The use standards of this section shall apply to permitted uses, special uses and accessory uses as noted.

EEE Boat Sales & Service Facility. Shall be located within 1.5 miles of a lake or water impoundment of at least 40 acres in area. New buildings shall meet building code requirements. No property shall be used as a boat sales & service facility unless first receiving approval from the applicable road authority. Boats and trailers on display for sale are not required to be screened. All storage of other materials, products or equipment shall be within a fully enclosed building or in an open yard so screened in accordance with a site plan approved by the Director of Building and Zoning that the materials stored are not clearly visible from the public road. At least one handicap space shall be provided, with the remainder of the parking not required to be paved.

OO(2)(p)[1][e], Financial assurance, secured by the WECS (Wind Energy Conversion System) owner or wind project operator, for the purpose of adequately performing decommissioning. The applicant shall set up an escrow account or an irrevocable letter of credit as a decommissioning fund in the amount of at least \$35,000 per WECS tower beginning 12 years after the start of the commercial operations, shall remove the project infrastructure, restore the leased premises to its original condition, and remove the foundation pedestal to 40 inches below grade following the project's useful life according to the decommissioning plan as submitted with this application;



Department of Building & Zoning
(309) 888-5160 · www.mcleancountyil.gov
115 East Washington Street, Room M102, P.O. Box 2400,
Bloomington, Illinois 61702-2400

June 19, 2020

Jim Finnigan, Chair
McLean County Zoning Board of Appeals
115 East Washington St., Room M102
Bloomington, IL 61702, and

RE: Public Hearing for Text Amendment in Case ZA-20-01 to allow a Letter of Credit for financial assurance for a Wind Energy Conversion System (WECS)

Dear Mr. Finnigan:

The public hearing for this case was continued at the May 3, 2020 Zoning Board of Appeals (ZBA) meeting until July 7, 2020 at 7:00 PM. However, I request the ZBA continue this case until Monday, July 20, 2020 at 7:00 PM since we have five other cases scheduled for July 7, and we have another request for a text amendment relating to a WECS. The ZBA on July 20th would also hear a request by Geronimo Energy for a text amendment to increase the maximum height of wind turbines.

Background: A public hearing for Case ZA-20-01 began at the March 3, 2020 McLean County ZBA meeting for that part of case ZA-20-01 to allow an irrevocable letter of credit, in addition to an escrow account, as adequate financial assurance in a decommissioning fund for a WECS. This case was previously continued until the June 2, 2020 ZBA meeting and then again to the July 7th ZBA meeting.

Sincerely,

Philip Dick, AICP, Director and
Secretary, McLean County Zoning Board of Appeals

CC: Interested Persons in Decommissioning Fund for a WECS

X:/Bld & Zoning/Letters/ 2020/ZBA RE Text Amendment 6-19-20



A wind farm owned by Lexington Chenoa Wind Farm LLC,
Lexington Chenoa Wind Farm II LLC, and Lexington Chenoa Wind Farm III LLC

Bright Stalk Wind Farm
3001 1/2 Gill Street, Unit A
Bloomington, IL 61704

February 10, 2020

VIA CMRRR AND ELECTRONIC MAIL

Mr. Philip Dick
Director
McLean County Department of Building & Zoning
115 East Washington
Bloomington, Illinois 61702

RE: Establishment of Decommissioning Fund for WECS under The McLean County Zoning Ordinance

Dear Mr. Dick,

McLean County Ordinance Chapter 350 (the "Ordinance") requires a Wind Energy Conversion System project (a "Project") to provide financial assurance for the costs of decommissioning as further described in Section 350-43(OO)(p)(1)(e). Specifically, a Project is required to establish an escrow account beginning twelve years after commercial operations began. Lexington Chenoa Wind Farm LLC ("Bright Stalk"), as an operator of wind farms in McLean County has been working to identify feasible financial security mechanisms to meet the financial assurance obligations. This letter outlines a proposed structure for consideration by the County.

Two types of financial security have been evaluated as options to fulfill the decommissioning fund obligation: (i) a cash escrow account and (ii) a standby letter of credit. A cash escrow is a cash account managed by a third party on behalf of two other parties engaged in a transaction. If the issuing party defaults on its obligation the beneficiary party can access the cash account pursuant to agreed upon terms. A standby letter of credit is a letter from a bank guaranteeing that payment will be made by the issuer to the beneficiary(ies) upon demand in accordance with the terms of the letter of credit. In the event that the issuer is unable to make a payment, the bank will be required to cover the full or remaining amount.

Escrow Account Findings.

Initial conversations with major United States banks have presented several challenges in establishing a cash escrow to meet this obligation for the following reasons:

- The banks are reluctant or unwilling to create and manage an escrow account with so many beneficiaries. An escrow with more than 70 beneficiaries is impractical and creates a great deal of compliance risk for the banks.

- Each landowner would be required to become a customer of the bank. To become a customer, each landowner would be required to submit proof of identity and other personal and business information to the bank acting as the escrow agent due to "Know Your Customer" rules. The customer information would have to be kept up to date throughout the 30-year life of the account.
- The bank may or may not accept each landowner as a customer. If the bank rejects a landowner as a customer, they would not have access to the escrow account. There is also no guarantee that all landowners will be willing to submit the required information and become customers of the bank managing the escrow account.
- Each time a property within a Project is sold, inherited, transferred, or experiences some other change in ownership structure, the new landowner(s) would have to become a customer of the bank. This puts an additional burden on the landowners, the Project, and the bank, and there is again the risk that a new landowner would not be accepted as a customer by the bank.

A letter of credit eliminates many of these concerns. The landowners would have no obligations until and if they need to make a claim on the letter of credit. At that time, the requirements to make a claim under a letter of credit are similar to the requirements to make a claim under an escrow agreement.

Based on our evaluation, Bright Stalk believes that a letter of credit is the best form of financial security to meet the decommissioning fund obligation under the Ordinance. Typical lease agreements allow for various forms of security, including letters of credit. Therefore, the landowners have already approved of this form of financial security. Bright Stalk requests that the Ordinance be amended to specifically authorize a Project to utilize a standby letter of credit, in a form acceptable to the County, to meet the decommissioning fund obligations described in the Ordinance.

For any questions, please contact Dustin Priemer at 713-428-6757 or dustin.priemer@edpr.com.

Sincerely,

High Trail Wind Farm, LLC
Old Trail Wind Farm, LLC



Brian Hayes
Executive Vice President, Asset Operations

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