

Final Reading  
# 1320

The City of Wyandotte Zoning Ordinance has been amended as follows:

**AN ORDINANCE ENTITLED**  
**AN ORDINANCE TO AMEND THE**  
**ZONING ORDINANCE OF THE CITY OF WYANDOTTE BY**  
**AMENDING SUBPARAGRAPH (8) OF PARAGRAPH (S) – “OUTDOOR CAFÉ”**  
**OF SECTION 2200, BY AMENDING ARTICLE II – DEFINITIONS**  
**(PARAGRAPH 210 – “SPECIFIC TERMS”) BY ADDING PARAGRAPH 155A**  
**“WIND ENERGY SYSTEM” AND BY ADDING ARTICLE XXVIII A**  
**“CONDITIONAL REZONING”**

Section 1. Amendment of Sections 2200 Special Land Uses by Amending Subparagraph (8) of Paragraph S “Outdoor Café”

Section 2200 Special Land Uses.

S. Outdoor Café.

8. No sign or any other form of advertising is permitted in the dining area nor on fences or railings of such area with the exception of an identification or menu sign. The name of the establishment may appear on the valance of an umbrella.

Section 2. Adoption of A New Article XXVIII A. Conditional Rezoning.

Article XXVIII A. CONDITIONAL REZONING

It is recognized that there are certain instances where it would be in the best interests of the City, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405, Michigan Zoning Enabling Act 110 of 2006 (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

**2800A. Application and Offer of Conditions.**

- A. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed, or may be made at a later time during the rezoning process.
- B. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
- C. The owner’s offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

- D. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- E. Any use of development proposed as part of an offer of conditions that would require a special land use permit under the terms of the ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this ordinance.
- F. Any use or development proposed as part of an offer of conditions that require variance under the terms of this ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this ordinance.
- G. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this ordinance.
- H. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

**2800A1. PLANNING COMMISSION REVIEW:** Planning Commission, after public hearing and consideration of the factors for rezoning, recommend approval, approval with recommended changes or denial of the rezoning, provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

**2800A2. CITY COUNCIL REVIEW.** After receipt of the Planning Commission's recommendations, the City Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. This City Council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning of this ordinance. Should the City Council consider amendments to the proposed conditional rezoning advisable and if such a contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council shall, in accordance with Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405), refer such amendments to the Planning Commission for a report thereon within a time specified by the City Council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

**2800A3. APPROVAL.**

- A. If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Council to accomplish the requested zoning.
- B. The Statement of Conditions shall:
1. Be in a form recordable with the Register of Deeds of the County or, in the alternative, be accompanied by a recordable Affidavit, or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the City Council.
  2. Contain a legal description of the land to which it pertains.
  3. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  4. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the documents may be examined.
  5. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the City with the Register of Deeds of the County.
  6. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- C. Upon rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The City Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
- D. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the City with the Register of Deeds of the County. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the City or to any subsequent owner of the land.

- E. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

**2800A4. COMPLIANCE WITH CONDITIONS.**

- A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set for in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
- B. No permit or approval shall be granted under this ordinance for any uses or development that is contrary to an applicable Statement of Conditions.

**2008A5. TIME PERIOD FOR ESTABLISHING DEVELOPMENT OR USE.**

Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the City Council if (1) it is demonstrated to the City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the City Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

**2008A6. REVERSION OF ZONING.**

If approved development and/or use of the rezoned land do not occur within the time frame specified under Subsection 2008A5 above, then the land shall revert to its former zoning classification as set forth in the Michigan Zoning Enabling Act (MCL 125.3405). The reversion process shall be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

**2008A7. SUBSEQUENT REZONING OF LAND.**

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different

or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to the Subsection 6 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the City Clerk shall record with the Register of Deeds of the County that the Statement of Conditions is no longer in effect.

#### **2008A8. AMENDMENT OF CONDITIONS.**

During the time period for commencement of an approved development or use specified pursuant to Subsection 2008A5 above or during any extension thereof granted by the City Council, the City shall not add to or alter the conditions in the Statement of Conditions.

#### **2008A9. CITY RIGHT TO REZONE.**

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the Michigan Zoning Enabling Act (MCL 125.3405).

#### **2008A10. FAILURE TO OFFER CONDITIONS.**

The City shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect the owner's rights under this ordinance.

Section 3. Amendment of Article II –Definitions, Paragraph 201 “Specific Terms’ by Adding Subparagraph 155A “Wind Energy System” to replace wind turbines.

#### 155A. Wind Energy System

Wind energy system means a wind conversion system which converts wind energy into electricity through use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment.

Section 4. Amendment of Article XXII “Special Land Uses” by Adopting Paragraph JJ “Wind Energy Systems” to Section 2202 “Special Land Use Designated”

### **ARTICLE XXII – SPECIAL LAND USES**

#### **2202. SPECIAL LAND USE DESIGNATED**

##### JJ. Wind Energy Systems

1. Height and type.
  - a. Only monopole construction shall be permitted.
  - b. The total height of a wind energy system tower, including maximum

extension of the top of the blade, shall not exceed the maximum height for structures permitted in the zoning district.

2. Setback. A wind energy systems tower shall be set back a distance equal to one and one half (1 ½) times its' total height from:
  - a. Any public road right-of-way, unless written permission is granted by the governmental entity having jurisdiction over the road.
  - b. Any overhead utility lines, unless written permission is granted by the affected utility.
  - c. All property lines, unless written permission is granted from the affected landowner or neighbor.
  - d. Support cables, if provided, shall be anchored to the ground no closer than ten (10) feet to any property line.
  - e. In instances where such wind energy system is located abutting the Detroit River a setback of one hundred (100) feet shall be required.
3. Access.
  - a. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
  - b. The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground.
4. Speed controls. Each wind turbine system shall be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. The application shall include a statement by a registered professional engineer certifying that the rotor and over speed controls have been designed and fabricated for the proposed use in accordance with good engineering practices. The engineer shall certify the structural compatibility of towers with rotors and equipment.
5. Sound Pressure Level. Wind energy systems shall not exceed 55 dB(A) at the property line closest to the wind energy systems. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the ambient sound pressure level exceeds 55dB(A), the standard shall be ambient dB(A) plus 5 dB(A).
6. Electrical Wires. All electrical wires associated with a wind energy system, other than those necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground.
7. Code compliance. Wind energy systems including towers shall comply with all of the applicable construction codes, electrical codes, and the National Electric Code.
8. Discontinued use. Any wind energy system that is discontinued for a period of twelve (12) consecutive months shall be considered abandoned, and the owner of such tower shall remove same within ninety (90) days

from receipt of notice from the City. The City may remove the tower at the Owner's expense.

Section 5. Severability

All Ordinances or parts of Ordinances in conflict herein are hereby repealed, only to the extent necessary to give this Ordinance full force and effect.

Section 6. Effective date

This ordinance shall take effect fifteen (15) days from the date of its passage by the Wyandotte City Council and this ordinance or a summary shall be published in a newspaper generally circulated in the City of Wyandotte within ten (10) days after adoption.

On the question, "SHALL THIS ORDINANCE NOW PASS?", the following vote was recorded:

YEAS	COUNCILMEN	NAYS
✓ _____	Browning	_____
✓ _____	DeSana	_____
✓ _____	Fricke	_____
✓ _____	Galeski	_____
_____	Sabuda	_____
✓ _____	Stec	_____

Absent: Councilman Sabuda

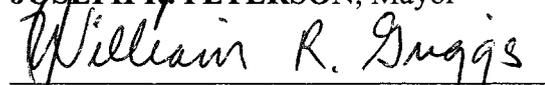
I hereby approve the adoption of the foregoing ordinance this 25 day of January, 2010.

The effective date of this Ordinance is February 9, 2010. A copy of this Ordinance may be purchased or inspected at the City of Wyandotte Clerk's Office, 3131 Biddle Avenue, Wyandotte, Michigan, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

**CERTIFICATE**

We, the undersigned, JOSEPH R. PETERSON and WILLIAM R. GRIGGS, respectively the Mayor and City Clerk of the City of Wyandotte, do hereby certify that the foregoing Ordinance was duly passed by the Council of the City of Wyandotte, at a regular session thereof on Monday, the 25 day of January, 2010.

Dated January 26th, 2010

  
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JOSEPH R. PETERSON, Mayor  
  
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WILLIAM R. GRIGGS, City Clerk