

**OLIVER COUNTY, NORTH DAKOTA**  
**AMENDMENT TO ZONING ORDINANCE – CHAPTER 30 (WIND ENERGY FACILITIES)**  
**One-Mile Setback from Non-Participating Occupied Dwellings**

**WHEREAS**, Oliver County is authorized to adopt and amend zoning regulations to promote the public health, safety, morals, and general welfare pursuant to N.D.C.C. ch. 11-33; and

**WHEREAS**, Oliver County has adopted zoning standards for Wind Energy Facilities in Chapter 30 of the Oliver County Zoning Ordinance; and

**WHEREAS**, the County desires to update turbine setback standards to reduce and mitigate land use conflicts and protect rural residential use and enjoyment in areas outside of proposed project boundaries;

**NOW, THEREFORE**, BE IT ORDAINED by the Oliver County Board of County Commissioners that Chapter 30 is amended as follows:

**SECTION 1. ADD NEW SUBSECTION 30.1.2 (DEFINITIONS).**

Add the following new subsection 30.1.2 immediately after subsection 30.1.1:

**30.1.2 Definitions**

**Facility Site Boundary.** The outer boundary line of the parcels included in a Wind Energy Facility application as depicted on the site plan and maps submitted with the conditional use permit (CUP) application, as approved (or approved as modified) by the County as part of the CUP.

**Occupied Dwelling.** A lawfully constructed residential dwelling unit designed for human habitation, including a manufactured home, that is occupied as a residence. For purposes of this Chapter, a dwelling is considered occupied if it is used for residential purposes for at least thirty (30) days in the preceding twelve (12) months.

**Participating Parcel.** A parcel that is subject to a valid written lease, easement, option, or other agreement granting the project owner wind energy rights, or a parcel for which the owner has executed a written setback waiver or agreement in favor of the project owner related to turbine siting.

**Non-Participating Occupied Dwelling.** An Occupied Dwelling that is (i) located outside the Facility Site Boundary, and (ii) not located on a Participating Parcel.

**SECTION 2. AMEND SUBSECTION 30.2.5(1) (TURBINE SETBACK STANDARDS).**

Subsection 30.2.5(1) is hereby amended and replaced in its entirety to read as follows:

**30.2.5 Turbine Setback Standards**

Setbacks shall be measured as the horizontal distance between the turbine monopole and any object:

**1. Dwelling Setbacks.**

**a. Non-Participating Occupied Dwelling Setback (Outside Facility Site Boundary).** Each wind turbine shall be set back from the nearest Non-Participating Occupied Dwelling a distance not less than one (1) mile (5,280 feet).

**b. Occupied Dwellings Within Facility Site Boundary / Participating Parcels.** For an Occupied Dwelling that is located within the Facility Site Boundary or on a Participating Parcel, each wind turbine shall be set back a distance not less than one and one-quarter (1.25) times the height of the turbine or 1,320 feet, whichever is greater, unless a lesser setback is authorized by a written waiver executed by the owner(s) of the dwelling and recorded with the Oliver County Recorder. Any requested waiver shall be submitted with the CUP application (or CUP amendment request), and may be approved or denied by the Board of County Commissioners as a condition of the CUP to ensure protection of public health and safety.

**SECTION 3. APPLICABILITY; GRANDFATHERING.**

A. This amendment applies prospectively to any CUP application for a Wind Energy Facility that is determined complete by the Land Use Administrator on or after the effective date of this amendment.

B. Wind Energy Facilities that have obtained a CUP prior to the effective date of this amendment, and CUP applications determined complete prior to the effective date, may be processed, constructed, operated, and maintained in accordance with the regulations and permit conditions in effect at the time such CUP was issued or application was deemed complete, subject to any applicable enforcement authority of the County.

**SECTION 4. SEVERABILITY.**

If any provision of this amendment, or its application to any person or circumstance, is held invalid, the remainder of the amendment and its application to other persons or circumstances shall not be affected.

**SECTION 5. EFFECTIVE DATE.**

This amendment shall take effect upon adoption and publication as required by North Dakota law.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2026.

**OLIVER COUNTY BOARD OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_  
Chair

Attest: \_\_\_\_\_  
County Auditor

DRAFT