

INTRODUCED BY: Commissioner Allan Angel
Commissioner Joanne Masten
DATE INTRODUCED: October 25, 2022
PUBLIC HEARING DATE: December 20, 2022
PUBLIC HEARING TIME: 7:00 p.m.
ADOPTION DATE: _____
EFFECTIVE DATE: October 25, 2022

Ordinance LC22-21

**AN ORDINANCE TO AMEND KENT COUNTY CODE, VOL. 1, CHAPTER 158
MORATORIUMS, AS AMENDED, BY ADDING A NEW SUBSECTION RELATING TO
ACCEPTANCE OF CONDITIONAL USE SITE PLAN APPLICATIONS FOR PUBLIC
UTILITY/PUBLIC UTILITY USES - WIND ENERGY SYSTEMS**

WHEREAS, The Kent County Levy Court is entrusted with ensuring the harmonious development of the unincorporated area of Kent County, Delaware and with preserving, protecting, and enhancing the present and future health, safety, order, convenience, prosperity, and general welfare of the citizens of Kent County; and

WEREAS, Kent County is anticipating increased demand for development of wind energy systems with insufficient standards to guide such development; and

WHEREAS, the temporary suspension of the acceptance of Conditional Use Site Plan applications for Public Utility/Public Utility Uses – Wind Energy Systems is necessary and appropriate to permit sufficient time to evaluate regulatory alternatives and consider new standards; and

WHEREAS, Code amendments are being drafted to address permitted locations for Wind Energy Systems.

THE LEVY COURT OF KENT COUNTY, DELAWARE, HEREBY ORDAINS:

Section 1. That the Kent County Code, Vol. I, Chapter 158, Moratoriums is hereby amended by adding the following underlined language as a new subsection as follows:

§158-6. Acceptance Of Conditional Use Site Plan Applications For Public Utility/Public Utility Uses – Wind Energy Systems

A. Purpose. A moratorium is hereby imposed upon the acceptance or consideration of all applications for conditional use site plans for public utilities involving wind energy systems. This moratorium is enacted for the purpose of preventing land use applications for utility scale wind energy systems from being submitted and considered while the County reviews, develops, and considers regulations specific to public utility wind energy systems. This moratorium excludes administrative applications for the installation of wind energy systems on and for the use of individual properties.

- B. Duration. This moratorium shall be imposed to and including June 30, 2023. During this time period no application for a Public Utility/Public Utility Use – Wind Energy Systems requiring approval by the Regional Planning Commission or Levy Court shall be accepted for processing by the Department of Planning Services.
- C. Effective Date. This Ordinance shall become effective *nunc pro tunc* to its date of introduction. Applications for which a pre-application meeting has been conducted prior to the effective date shall be exempt from this ordinance.
- D. Termination Date. This Ordinance shall terminate on June 30, 2023, at 11:59 p.m. unless rescinded sooner by the Levy Court.

Section 2. Severability.

The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of Delaware by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Section 3. Effective Date.

This Ordinance shall be effective *nunc pro tunc* to its date of introduction.

ADOPTED BY THE LEVY COURT OF KENT COUNTY,
DELAWARE

President, Kent County Levy Court

This ____ day of _____, 20__

ATTEST: _____
Clerk of the Peace

Synopsis: The ordinance imposes a moratorium upon the acceptance of new applications for Public Utilities/Public Utility Uses – Wind Energy Systems while the Levy Court considers revised zoning regulations for such uses. The ordinance shall be effective retroactively to the date of introduction through June 30, 2023 unless rescinded sooner by the Levy Court.