

**Original Questions:**

1. Is it legal for a township to have no zoning? [See response below.](#)
2. Since it is going to be a wind farm, should it be treated as a “farm” or an industrial park? (Farms are totally different than an industrial setting and there should be regulations in place to address this.) [Project specific/Needs more clarification](#)
3. At what point would land zoned as agriculture become commercial/industrial and be taxed as such? [See response below.](#)
4. Accommodate in zoning for wind. Can/cannot be zoned out. [Needs more clarification](#)
5. Wind turbines are very different from other industrial equipment in a township. Should a wind ordinance be written to stand alone or should it be tied (reference) to other zoning ordinance sections? [See response below.](#)
6. In its final report, the MWERZB stated that grid scale wind power may not be an appropriate land use in all communities. In his testimony before MPSC, the chair of the MWERZB reiterated the same assertion: that wind power is a community decision and that it may not be an appropriate land use in all communities. The final report of the MPSC again reiterated that statement and, additionally, did not include the Manistee/Benzie or Leelanau areas as high potential wind resource zones, even though they were included in the MWERZB report to the MPSC. Given these statements, would a decision that wind power is not an appropriate land use is their community and ordinance language prohibiting the use be “exclusionary zoning?” [See response below.](#)

---

**Questions and Responses**

*These questions may have been recategorized and reorganized. Some may have been sent to another “theme” area (this will have been explained in red under the “Original Questions” section). In other cases two or more questions will be answered with one response.*

- R1. [Is it legal for a township to have no zoning?](#)

**Response:** Yes. Local governments, including counties and townships, are permitted but not required to adopt a zoning ordinance. If a township adopts a zoning ordinance, then the township is generally not subject to County zoning ordinances. However, in the absence of township zoning, any zoning ordinances that are adopted by the County would apply to townships within the County. Local governments, whether it is a township or County, are subject to more or less the same requirements under the Michigan Zoning Enabling Act, so the County’s authority to adopt and enforce a zoning ordinance is similar to that of a township.

- R3. [At what point would land zoned as agriculture become commercial / industrial and be taxed as such?](#)

**Response:** The question pinpoints an issue of interpretation in the State's property tax code. Local assessors classify assessable property by the first Monday in March each year. The definition of agricultural property under the Michigan General Property Tax Act is "parcels used partially or wholly for agricultural operations, with or without buildings." Agricultural operations are defined broadly to include all sorts of farming and livestock.

Industrial property under the same statute includes parcels used as sites for generating plants and substations, among other things. Machinery and equipment not exempt by law, transmission and distribution systems, and substation equipment are all classified as personal property.

The issue requiring interpretation is that a property used partially for farming operations and partially for wind generation meets both the definition of agricultural property and the definition of industrial property. The Michigan Tax Tribunal has yet to issue an opinion in a tax appeal that addresses this issue.

- R5. Wind turbines are very different from other industrial equipment in a township. Should a wind ordinance be written to stand alone or should it be tied (reference) to other zoning ordinance sections?

**Response:** Assuming this question is referencing a zoning ordinance, any provision addressing wind turbines in a zoning ordinance will likely be tied to the rest of the zoning ordinance because there are certain procedures and standards in a zoning ordinance that will apply across the board. For example, if wind turbines are permitted as a “special use” and require the submission of a “site plan” for approval, then the wind turbines would be subject to those same procedures and standards that apply to other site plans and special uses. However, in addition to the broadly applicable procedures and standards, the Township could adopt additional regulations that apply to wind turbines. For an example, see the model wind energy zoning ordinances discussed in Question D4. This is permissible as long as the additional restrictions are reasonable, rationally related to legitimate zoning purpose, and do not treat wind turbines differently than other similar uses without a reasonable basis for doing so.

- R6. In its final report, the MWERZB stated that grid scale wind power may not be an appropriate land use in all communities. In his testimony before MPSC, the chair of the MWERZB reiterated the same assertion: that wind power is a community decision and that it may not be an appropriate land use in all communities. The final report of the MPSC again reiterated that statement and, additionally, did not include the Manistee/Benzie or Leelanau areas as high potential wind resource zones, even though they were included in the MWERZB report to the MPSC. Given these statements, would a decision that wind power is not an appropriate land use in their community and ordinance language prohibiting the use be “exclusionary zoning?”

**Response:** It could still be considered exclusionary zoning, and the cited evidence would be largely irrelevant to this determination. Under the state exclusionary zoning statute, a Township cannot totally prohibit a certain land use from a Township, or adopt regulations that have the effect of totally prohibiting a land use, if there is a demonstrated need for that land use in the Township or the surrounding area. The only exceptions are if there is no location in the Township where the use can be appropriately located or the use is unlawful. It is unlikely that the exceptions would apply here because whether an area is the most efficient location for a use is not the same question as whether the use is “appropriate” in that area.

Therefore, the main question is probably whether there is a “demonstrated need” for wind power in the surrounding area. In general, the “demonstrated need” must be a public need, not the private economic need of the landowner, and whether there is a need for the use will be evaluated in the context of the surrounding area, including nearby local governments, and not only the immediate Township. Courts have held that there is not a demonstrated need if there is a lack of need for the land use, in general, or an overabundance of similar existing uses in the surrounding area.

There is no clear guidance on how Michigan courts would apply the statute in this context. Regardless, evaluating an exclusionary zoning claim would require location- and fact-specific analysis that would not be established one way or the other by broad statements about the extent to which there may or may not be a need across the state as a whole.