

JUL 06 2009

J. Ronald Colyer
City Clerk

**AN ORDINANCE TO ALLOW AERATION WINDMILLS
FOR LAKE AND POND AERATION AS AN ACCESSORY
PERMITTED USE IN RESIDENTIAL AND AGRICULTURAL
ZONED DISTRICTS IN THE CITY OF COLUMBIA,
ILLINOIS**

WHEREAS, the City Council of the City of Columbia, Illinois (the "City") has found and determined and does hereby declare that aeration is an important ingredient for clean water in ponds and lakes in the City and that pond and lake aeration windmills can: (i) reduce algae, bacteria & odor in lake and pond water, (ii) add oxygen to lake and pond water, (iii) circulate lake and pond water, (iv) minimize lake and pond freezing, and (v) hinder West Nile Virus in lakes and ponds;

WHEREAS, the City Council of the City has therefore determined that it is necessary and appropriate and in the public interest, safety and welfare that aeration windmills should be allowed as an accessory permitted use in the residential and agricultural zoned districts in the City, subject to specific restrictions and regulations to control the construction and operation thereof, but should not be allowed in the other zoning districts in the City at the current time;

WHEREAS, Section 11-30-4 of the Illinois Municipal Code authorizes and provides that the corporate authorities of each municipality in the State of Illinois may prescribe the strength and manner of construction for all buildings, structures and their accessories (65 ILCS 5/11-30-4);

WHEREAS, Section 11-13-1 of the Illinois Municipal Code provides, in pertinent part, that the City Council of the City has the powers, among others, to fix standards to which buildings or structures in the City shall conform and to prohibit buildings or structures incompatible with the character of the zoned district they are in (65 ILCS 5/11-13-1);

WHEREAS, Section 17.02.050 of the City of Columbia Zoning Code provides and requires that regulations or restrictions contained in the City's Zoning Code may be changed and amended from time to time on motion of the City's City Council provided the proposed change or amendment is first referred to the City's Planning Commission for its recommendation and then a public hearing regarding the same is held before the City's Zoning Board of Appeals following publication of a notice of said hearing in a newspaper published in the City; and,

WHEREAS, the proposed change or amendment of the City's Zoning Code accomplished by this ordinance was presented to the City's Planning Commission on the 13th day of April, 2009 and a public hearing regarding the same was held before the City's Zoning Board of Appeals on June 10, 2009 following publication of the notice of said public hearing in the Suburban Journal Newspaper (being a newspaper published

in the City) and both the Planning Commission and the Zoning Board of Appeals have unanimously recommended that the change and amendment of the City's Zoning Code created by this ordinance be made and that this ordinance be enacted to accomplish the same.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. Section 17.04.030 (Definitions) of Chapter 17.04 (DEFINITIONS AND RULES OF CONSTRUCTION) of Title 17 (ZONING) of the City of Columbia, Illinois Municipal Code is hereby changed and amended to add to the definition of "Accessory building or use" subparagraph number "9", to read as follows:

"9. Wind Driven Aeration Systems (also know as "Aeration Windmills") which do not generate electric power and which pump oxygen into air lines located in ponds or lakes to air diffusers located at the bottom of the lake or pond, which air diffusers turn the compressed air into oxygen bubbles which rise through the water and remove pollutants in the water that stagnate and deplete the oxygen from the pond or lake, and which Aeration Windmills are accessory to the main building or use of the premises on which they are to be located."

Section 3. Section 17.10.020 (Permitted uses) of Chapter 17.10 (A-1 AGRICULTURAL DISTRICT); Section 17.12.020 (Permitted uses) of Chapter 17.12 (R-1 ONE-FAMILY DWELLING DISTRICT); Section 17.14.020 (Permitted uses) of Chapter 17.14 (R-2 ONE-FAMILY DWELLING DISTRICT); Section 17.16.020 (Permitted uses) of Chapter 17.16 (R-3 ONE-FAMILY DWELLING DISTRICT), Section 17.18.020 (Permitted uses) of Chapter 17.18 (R-4 ONE-FAMILY DWELLING DISTRICT); Section 17.20.020 (Permitted uses) of Chapter 17.20 (R-5 ONE-FAMILY DWELLING DISTRICT); Section 17.22.020 (Permitted uses) of Chapter 17.22 (R-6 ONE-FAMILY DWELLING DISTRICT); and, Section 17.24.020 (Permitted uses) of Chapter 17.24 (R-7 MULTIPLE-FAMILY DWELLING DISTRICT) of Title 17 (ZONING) of the City of Columbia, Illinois Municipal Code are hereby changed and amended to add thereto as a permitted use in each of those zoned districts "Aeration Windmill Systems for aeration of ponds and lakes as an accessory use incidental and subordinate to the principal use of the property on which they are located".

Section 4. Section 17.10.070 is added to Chapter 17.10 (A-1 AGRICULTURAL DISTRICT); Section 17.12.110 is added to Chapter 17.12 (R-1 ONE-FAMILY DWELLING DISTRICT); Section 17.14.110 is added to Chapter 17.14 (R-2 ONE FAMILY DWELLING DISTRICT); Section 17.16.110 is added to Chapter 17.16 (R-3 ONE-FAMILY DWELLING DISTRICT), Section 17.18.110 is added to Chapter 17.18

(R-4 ONE-FAMILY DWELLING DISTRICT); Section 17.20.110 is added to Chapter 17.20 (R-5 ONE-FAMILY DWELLING DISTRICT); Section 17.22.110 is added to Chapter 17.22 (R-6 ONE-FAMILY DWELLING DISTRICT); and, Section 17.24.110 is added to Chapter 17.24 (R-7 MULTIPLE-FAMILY DWELLING DISTRICT), of Title 17 (ZONING) of the City of Columbia, Illinois Municipal Code, said sections to be entitled "Aeration Windmill Systems for Aeration of Ponds and Lakes - Supplemental Regulations", and shall read as follows:

"Section 17_____. Aeration windmill systems for aeration of ponds and lakes – supplemental regulations.

A. Permitted Windmill Systems. Only wind driven aeration systems ("aeration windmills"), which do not generate electric power and which pump oxygen into air lines located in ponds or lakes to air diffusers located at the bottom of the lake or pond, which air diffusers turn the compressed air into oxygen bubbles which rise through the water and remove pollutants in the water that stagnate and deplete the oxygen from the pond or lake and which aeration windmills are accessory to the primary use of the property on which they are located, are allowed in this zoned district. Windmills that are proposed to be used for any other use or purpose are prohibited, except as shall be otherwise allowed in an agricultural zoned district in the City under this zoning code.

B. Building Permit Required. Any person or party seeking to locate and install an aeration windmill on property located in this zoned district shall be required to make application and pay the fee for and obtain a building permit for the same from the City's building inspector in accordance with the requirements of Chapter 15.04 of this Municipal Code and this section of said Municipal Code. In order to obtain a building permit for installation of an aeration windmill the following shall be required:

(1) Supporting Data. A site plan, construction design plan and other construction information the building inspector shall reasonably require (including the anchoring and grounding of the structure) shall be required to be submitted with the application for the building permit. The same shall be subject to the review and approval of the City Building Inspector before the building permit for the same may be issued by the building inspector.

(2) Height Restriction. The maximum height of the aeration windmill structure and anchoring appurtenances measured from the surrounding surface elevation of the ground where it is located (disregarding fill placed to increase the elevation of the windmill structure) shall not be greater than twenty-five (25) lineal feet.

(3) Setback. No aeration windmill structure shall be located closer than a distance equal to the authorized height of the structure (not to exceed twenty feet lineal feet (25') plus ten additional feet (10') from any boundary or lot line of the property on which the structure is located.

(4) Fencing. All aeration windmills shall be enclosed with fencing that is a minimum of fifty inches (50") in height to avoid the windmill becoming an attractive nuisance for children and for public safety.

(5) Abandonment. In the event the operation and use of the aeration windmill is discontinued for the period of eight (8) consecutive months the structure shall be deemed abandoned and shall no longer be a permitted use in this zoned district. Thereafter, the property owner shall be required to remove the same from this zoned district in the City within thirty (30) days or the owner of the property where the structure is located shall have to obtain another building permit for the same.

(6) Mounting. The aeration windmill structure shall be permanently mounted to the ground and shall not be mounted on a portable or movable structure.

(7) Stability. A permitted aeration windmill shall be designed and installed so as to withstand a wind force of eight-five (85) miles per hour without the use of supporting guy wires.

(8) Grounding. Every permitted aeration windmill shall be properly connected to a grounding rod, being a metal pole permanently positioned in the ground to serve as an electric conductor through which electrical current may safely pass and dissipate.

(9) Number. Generally, only one (1) aeration windmill shall be permitted for a lake or pond in this zoned district.

(10) Screening. Every ground mounted aeration windmill shall be screened so that it is not easily visible between ground level and ten feet (10') above ground level from any public right-of-way or an adjoining lot. Such screening may consist of fencing, dense plantings which constitute an effective visual barrier year-round, earthen berm, or a combination of these."

Section 5. Section 17.04.030 (Definitions) of Chapter 17.04 (DEFINITIONS AND RULES OF CONSTRUCTION) of Title 17(ZONING) of the City of Columbia, Illinois Municipal Code is hereby changed and amended to add thereto after the definition for "Adult use entertainment establishment" and before the definition for "Agriculture", a definition for "Aeration Windmill", to read as follows:

"Aeration Windmill" means a wind driven aeration system which does not generate electric power and which pumps oxygen into air lines located in ponds or lakes to air diffusers located at the bottom of the pond or lake, which air diffusers turn the compressed air into oxygen bubbles which rise through the water and remove pollutants in the water that stagnate and deplete the oxygen from the pond or lake and which aeration windmill is accessory to the primary use of the premises on which it is located. Aeration Windmills are an accessory permitted use in a residential or agricultural zoned district in the City and are not permitted in any other zoned district in the City."

Section 6. All ordinance or resolutions or parts of ordinances or resolutions in conflict herewith, to the extend of such conflict, are hereby changed and amended to read in compliance with the requirements of this ordinance; and, to the extent the same may not be made to conform to the requirements of this ordinance are, to the extent of such conflict, repealed.

Section 7. This ordinance shall be in full force and effect from and after its passage and publication in pamphlet form, as provided by law.

Alderman Ebersohl moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Row, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Niemietz, Row, Hejna, Oberfell, Stumpf and Roessler.

NAYS: None.

ABSENT: Alderman Agne.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor, this 6th day of July, 2009.


KEVIN B. HUTCHINSON, Mayor

ATTEST:


J. RONALD COLYER, City Clerk

(SEAL)