

Item 20
E-1

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Proposed by Mayor Stearley Zoning Ordinance amendment Section 33. Conditional Use Permit Wind Energy Systems (WECs)

There is hereby adopted a new section to the Town of Edgewood Zoning Ordinance, designated Section 33. Conditional Use Permits, WECs, which shall read as follows:

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Purpose.

The purpose of this section is to:

- (1) Oversee the permitting of small wind energy systems
- (2) Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system

Definitions.

In this section:

- (1) "Administrator" means the Town of Edgewood Administrator or his/her designee.
- (2) "Meteorological tower" (met tower) is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- (3) Non-Commercial wind energy system means a wind energy conversion system that is incidental and subordinate to another use on the same parcel and supplies electrical power solely for applicant's on-site energy generation and consumption with an aggregate generating capacity of 10 kw or less and generate less than 40 dba at the property line.
- (4) "Owner" shall mean the individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance.
- (5) "Rotor diameter" means the cross sectional dimension of the circle swept by the rotating blades.
- (6) "Small wind energy system" means a wind energy system that
 - (a) is used to generate electricity;
 - (b) has a nameplate capacity of 10 kilowatts or less; and
 - (c) has a total height of 85 feet or less.
- (6) "Total height" means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
- (7) "Tower" means the monopole, freestanding, or guyed structure that supports a wind generator.

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30 ft Building
30 ft Clearance
24 ft Blade Diam.

(8) "Wind energy system" means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.

(9) "Wind generator" means blades and associated mechanical and electrical conversion components mounted on top of the tower.

Standards.

A non-commercial WECS shall be a conditional use in all zoning districts subject to the following requirements:

(1) Setbacks. A wind tower for a small wind system shall be set back a distance equal to a distance of 1.10 its total height from:

- (a) any public road, right of way, unless written permission is granted by the governmental entity with 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 land owner or neighbor.

See weight of turbine on page 12

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(2) Maintenance.

Applicant or his/her agent shall take all reasonable measures to insure that the tower and its' various appurtenances are not allowed to become an un-attractive nuisance. These measures may include but are not limited to limited access ladders, fencing or no-climb design.

(3) Electrical Wires. All electrical wires associated with a small wind energy system, other than

wires 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.

(4) Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

(5) Appearance, Color, and Finish. The wind generator and tower shall remain painted or finished

the color or finish (in a white or other neutral color (not yellow, red, or other bright color) and not a reflective finish) that was originally applied by the manufacturer, unless approved in the building permit.

(6) Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning

signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.

(7) Code Compliance. A WECS including tower shall comply with all applicable state construction and electrical codes.

(8) Utility notification and interconnection. Small wind energy systems that connect to the electric

utility shall comply with the Public Regulatory Commission of New Mexico

(9) Met towers (*Meteorological towers*) shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a WECS.

(10) Multiple WECS. Multiple Non-Commercial WECS are not allowed on a single

(11) The property must be at least 5 acres in size.

(12) The tower shall be at least 4 times closer to the owner's house than to the nearest neighbor's house, and its visibility must not be greater to the neighbor's house than to the owner's house (like in the owner's back yard, but in front of the neighbor's front yard), and it is not prominently in view of the neighbor's living room or other living space.

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Permit Requirements.

(1) Building Permit. An application for a building permit shall be required for the installation of a WECS.

(2) Documents: The building permit application shall be accompanied by a plot plan which includes the following:

- (a) Property lines and physical dimensions of the property and adjoining properties
- (b) Location, dimensions, and types of existing major structures on the property, as well as on the adjoining properties.
- (c) Location of the proposed wind system tower
- (d) The right-of-way of any public road that is contiguous with the property;
- (e) Any overhead utility lines;
- (f) Wind system specifications, including manufacturer and model, rotor diameter, tower height,
tower type (freestanding or guyed)
- (g) Tower foundation blueprints or drawings
- (h) Tower blueprint or drawing, showing whether it is a monopole or lattice, and whether guy wires are used.

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(3) Fees. The application for a building permit for a WECS must be accompanied by the fee required for a building permit and for a Conditional Use Permit.

(4) Expiration. A permit issued pursuant to this ordinance shall expire if:

(a) The WECS is not installed and functioning within 12-months from the date the permit is issued; or,

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(b) The WECS is out of service or otherwise unused for a continuous 12-month period.

Abandonment.

(1) A WECS that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Administrator may issue a Notice of Abandonment to the owner of a WECS that is deemed to have been abandoned. The Owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. The Administrator shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the WECS has not been abandoned.

(2) If the WECS is determined to be abandoned, the owner of a WECS system shall remove the wind generator from the tower at the Owner's sole expense within 3 months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Administrator may pursue a legal action to have the wind generator removed at the Owner's expense.

Building Permit Application Procedure.

- (1) An Owner shall submit an application to the Administrator for a building permit for a small wind energy system. The application must be on a form approved by the Administrator and must be accompanied by two copies of the plot plan identified above.
- (2) The Administrator shall schedule the public hearing on the application within one month of the date on which the application is received.
- (3) If the application is approved, the Administrator will return one signed copy of the application with the permit and retain the other copy with the application.
- (5) If the application is rejected, the Administrator will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may appeal the Administrator's decision pursuant to New Mexico Statutes. The applicant may reapply if the deficiencies specified by the Administrator are resolved.

(6) The Owner shall conspicuously post an approved development application/building permit on the premises so as to be visible to the public at all times until construction or installation of the small wind energy system is complete.

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Violations.

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt.

Administration and Enforcement.

- (1) This section shall be administered by the Administrator or other official as designated.
- (2) The Administrator may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met.
- (3) The Administrator may issue orders to abate any violation of this ordinance.
- (4) The Administrator may issue a citation for any violation of this ordinance.
- (5) The Administrator may refer any violation of this ordinance to legal counsel for enforcement.

Penalties.

- (1) Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as stipulated in the zoning code.

(2) Nothing in this section shall be construed to prevent the Town of Edgewood from using any other lawful means to enforce this section.

Severability.

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.