

ZONING ORDINANCE NO. 09- 03

AMENDING THE COCHISE COUNTY ZONING REGULATIONS TO PERMIT WIND ENERGY SYSTEMS AND WIND ENERGY POWER PLANTS AS PERMITTED ACCESSORY AND SPECIAL USES AND ESTABLISHING SITE DEVELOPMENT STANDARDS AND CERTAIN EXEMPTIONS FOR THOSE USES

WHEREAS, it is the purpose of this Ordinance to promote the safe, effective and efficient use of wind energy systems and wind energy power plans to reduce on-site consumption of utility-supplied electricity; and

WHEREAS, the Cochise County Board of Supervisors recognizes that:

1. Wind energy is an abundant, renewable and non-polluting energy resource; and
2. Converting wind energy to electricity will reduce our dependence on non-renewable energy resources and decrease air and water pollution resulting from the use of conventional energy resources; and
3. Distributed wind energy development will help diversify the County's energy supply portfolio and help the County participate in achieving State-mandated renewable portfolio strategies; and
4. Facilitating distributed wind energy development will encourage grid-connected and off-the-grid property owners in achieving energy independence; and
5. Establishing development standards to facilitate permitting, installation, construction and operation of residential-scale and utility-scale wind energy facilities, subject to reasonable restrictions, are intended to preserve public health, safety, and environmental quality; and

WHEREAS, Arizona's Renewable Portfolio Standards (RPS) require each supplier/provider that sells retail electricity in Arizona to increase their supplies of retail electricity from renewable power sources to a minimum of 15% by 2025; and

WHEREAS, electric energy producers in Cochise County will seek new sources for wind energy power generating facilities which are not currently well-defined by the County Zoning Regulations; and

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WHEREAS, on August 12, 2009 the Planning and Zoning Commission held a duly-noticed public hearing on the proposed amendments to the Zoning Regulations, hereby known as Docket R-09-03, and attached hereto as Exhibit A, which will facilitate the development of wind resources for residential and commercial use; and

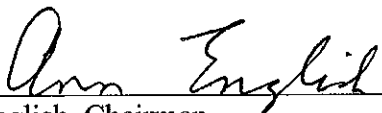
WHEREAS, existing local zoning regulations do not effectively address residential- and utility-scale wind energy development; and

WHEREAS, the Board of Supervisors finds that it is necessary to standardize and clarify the requirements for wind energy systems and wind energy power plants so that this renewable energy resource can be utilized in a cost-effective, timely, and safe manner in Cochise County,

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Cochise County Zoning Regulations be amended to define wind energy systems and wind energy power plants as distinctive land use categories.

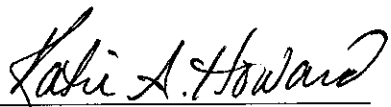
IT IS FINALLY RESOLVED that said regulations be amended to establish regulations as to where wind energy systems and wind energy power plants shall be permitted, as either principal, accessory or special uses, and to establish site development standards and certain exemptions for those uses as described in Exhibit A.

PASSED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona, this 10th day of October, 2009.




Ann English, Chairman 10-20-09
Cochise County Board of Supervisors

ATTEST:



Katie A. Howard,
Clerk of the Board

APPROVED AS TO FORM:



Adam Ambrose,
Civil Deputy County Attorney

ORDINANCE 09- EXHIBIT A: RECOMMENDED AMENDMENTS TO THE ZONING REGULATIONS

ARTICLE 2 (DEFINITIONS):

Add the following language to the definition for Anemometer:

"Anemometers are exempt from Zoning District height limits (see Section 2002.03)"

~~**Wind Turbines**— A wind energy system that uses the wind to turn a set of aerodynamic blades attached to an electric generator or turbine. This does not include small, battery-recharging wind turbines with blades that are 6' or less in diameter. Wind turbines generating less than or equal to 100 kilowatts per unit may be permitted in any zoning district with a minimum lot size of 2 acres as an accessory structure to a principal dwelling, for private residential use, not to exceed one wind turbine unit per principal dwelling.~~

"Wind Energy System" means a system which uses one or more wind turbines, batteries, power inverters and other associated components to convert the kinetic energy of the wind into electricity for use by consumers. Wind energy systems consisting of one or more Wind Turbines may provide power to one or more residences, well pumps, or accessory structures on the same parcel on which they are sited. Site Development Standards for Wind Energy Systems are found in Section 18.22.

"Wind Turbine" refers to that portion of a Wind Energy System that converts the kinetic energy of the wind into electricity. Wind Turbines may be freestanding or mounted onto a structure. Wind Turbines are the main components of a Wind Energy System, which may include more than one turbine.

"Wind Energy Power Plant" is a utility-scale Wind Energy System, the primary purpose of which is to supply electricity to off-site consumers, consisting of a network of Wind Turbines and accessory structures and buildings, including substations, anemometers, and associated electrical infrastructure. The term does not include stand-alone, small-scale Wind Energy Systems for on-site residential or agricultural use which feed residual power into the electrical grid, as defined by the Arizona Corporation Commission. Wind Energy Power Plants are allowed in Rural, Light Industry and Heavy Industry Districts by Special Use Permit only (See Section 1822.10).

ARTICLE 6 (RU DISTRICT):

Permitted Uses:

~~603.14 Anemometers (Temporary Use Permit not to exceed one year)~~

603.14 Anemometers (Temporary Use Permit not to exceed three years).

~~607.47 Wind Turbines (greater than 6 feet in diameter)~~

Accessory Uses:

605.06 Wind Energy Systems (Subject to the site development standards in Section 18.22).

Special Uses:

~~607.47 Wind Turbines (greater than 6 feet in diameter)~~

607.47 Wind Energy Power Plants.

ARTICLE 7 (R DISTRICT):

Accessory Uses:

705.03 Wind Energy Systems (Subject to the site development standards in Section 18.22).

ARTICLE 8 (SM DISTRICT):

Accessory Uses:

805.06 Wind Energy Systems (Subject to the site development standards in Section 18.22).

ARTICLE 9 (SR DISTRICT):

Accessory Uses:

905.06 Wind Energy Systems (Subject to the site development standards in Section 18.22).

ARTICLE 10 (MR DISTRICT):

Accessory Uses:

1005.06 Wind Energy Systems (Subject to the site development standards in Section 18.22).

ARTICLE 11 (NB DISTRICT):

Accessory Uses:

1104.05 Wind Energy Systems (Subject to the site development standards in Section 18.22).

ARTICLE 12 (GB DISTRICT):

Accessory Uses:

1204.03 Wind Energy Systems (Subject to the site development standards in Section 18.22).

ARTICLE 13 (LI DISTRICT):

Permitted Uses:

1302.39 Anemometer.

1302.39 Anemometers (Temporary Use Permit not to exceed three years).

Accessory Uses:

1304.04 Wind Energy Systems (Subject to the site development standards in Section 18.22).

Special Uses:

1305.11 Wind Turbines (greater than 6 feet in diameter)

1305.11 Wind Energy Power Plants.

ARTICLE 14 (HI DISTRICT):

Permitted Uses:

1402.28 Anemometer.

1402.28 Anemometers (Temporary Use Permit not to exceed three years).

Accessory Uses:

1404.04 Wind Energy Systems (Subject to the site development standards in Section 18.22).

Special Uses:

1405.10 Wind Turbines (greater than 6 feet in diameter)

1405.10 Wind Energy Power Plants.

ARTICLE 15 (PD DISTRICT):

Maximum Structure Height:

1503.11.D. Accessory Wind Energy Systems in the PD Zoning District shall be subject to height limits and other site development standards as found in Section 1822.

ARTICLE 18 (SITE DEVELOPMENT STANDARDS):

18.22 Wind Energy Systems

Purpose:

The purpose of this Section is:

To establish site development standards for the permitting, construction, operation and decommissioning of Wind Energy Systems;

To assist grid-connected and off-the-grid property owners in achieving energy independence; and

To help Cochise County participate in achieving renewable energy targets as mandated by the Arizona Corporation Commission's Renewable Energy Standards.*

** In 2006, the Arizona Corporation Commission voted to require that utilities under its jurisdiction obtain 15% of their electricity from renewable energy sources by 2025.*

1822.01 Zoning Districts:

Wind Energy Systems are permitted in any Zoning District, subject to applicable site development standards listed below. Wind Energy Power Plants are allowed by Special Use Permit in Rural, Light Industry and Heavy Industry Zoning Districts.

1822.02 Density Limits:

One Wind Turbine shall be permitted on any parcel, or on contiguous parcels under the same ownership, of up to 4 acres in size.

- A. Two Wind Turbines shall be permitted on parcels larger than 4 acres.
- B. Proposals for more than two Wind Turbines on parcels larger than 4 acres shall be allowed by Special Use Permit only. Roof-mounted vertical-axis systems featuring more than one Wind Turbine mounted on the same pole (axis) shall be counted as one turbine (see diagram).

1822.03 Height Limits:

- A. Wind Turbines up to 45 feet in height are allowed as accessory structures on any parcel, provided that the all site development standards can be met.
- B. Wind Turbines greater than 45 feet in height shall be allowed as follows: Prior to issuance of a permit for the system, the Applicant shall submit a permit application to County staff, along with the appropriate fees. The County will notify property owners of the application. The notification will include a site plan reflecting the height and location of the turbine, and the procedure and requirements for submitting support or protest forms. The procedure for determining which property owners to notify shall be the same as in the Citizen Review process, per Section 2203. The County shall provide a 15 day comment period for responses. If the County receives no objection from any notified property owner, the Application shall proceed in the manner applicable to a permitted accessory use application. Any written protest shall include the name and address of the person submitting the protest and reasons why the Application should not be approved. Any protested Application shall require Special Use Permit authorization by the Planning and Zoning Commission. In such cases, the initial application materials submitted by the Applicant, as well as any responses from neighbors, shall serve as the Citizen Review Report for the Special Use Application. If, in response to protesting neighbors, an Applicant decides to redesign the project, the Applicant shall submit a new Citizen Review report, and the Application shall proceed as a Special Use Application.

1822.04 Setbacks:

Setbacks shall be equal to the height of the structure with turbine blades fully extended for free-standing Wind Turbine, plus 10 feet. Setbacks for roof-mounted Wind Turbines shall follow the Zoning District setback requirements or the fully-extended height of the turbine, whichever distance is greater. This site development standard (or "fall zone") is intended to promote safety and minimize damage to property in the event that a turbine falls; it is not subject to Variances, administrative or Commission modification.

1822.05 Distance Between Structures:

The distance between structures shall be equal to the fully-extended height of the structure, plus 10 feet, for freestanding Wind Turbines. The distance shall be equal to the Zoning District minimum structure separation distance for roof-mounted Wind Turbines or the fully-extended height of the turbine, whichever distance is greater.

1822.06 Construction:

Building permits are required for all Wind Energy System installations.

1822.07 Noise Impacts:

Noise generated by residential Wind Energy Systems system shall not exceed fifty decibels (50 dBA), as measured from the nearest property line, except during short-term events including utility outages and severe wind storms.

1822.08 Lighting:

Light fixtures or illumination of any kind shall not be allowed on Wind Energy Systems except as required by the Federal Aviation Administration.

1822.09 Signage:

Signs of any type may not be attached to Wind Energy Systems. This does not include manufacturer's logos which may be part of the system when purchased.

1822.10 Wind Energy Power Plants:

Wind Energy Systems constructed for the primary purpose of providing electricity to off-site consumers shall be considered Wind Energy Power Plants, and shall be allowed only in Rural, Light Industry and/or Heavy Industry Zoning Districts by Special Use. This does not include residual power returning to the grid provided by small scale systems which primarily provide on-site power, subject to Arizona Corporation Commission regulations. Site-specific conditions and/or project scope may require that Applicants provide drainage and soil reports, environmental impact statements, visual impact analyses and/or cultural resource assessments with their Application.

ARTICLE 19 (SIGNS):

1905.19 No sign, other than the manufacturer's name and logo, shall be attached to any Wind Energy System or Anemometer as defined in Article 2.

ARTICLE 20 (EXEMPTIONS, EXCEPTIONS AND NONCONFORMANCES):**2002.03 Height Exceptions**

Height regulations established elsewhere in these Regulations shall not apply to the following in any district, provided, however, overlay district height limitations shall apply regardless of these exceptions: chimneys, flagpoles (but not higher than 10 feet above the height limitation for that zoning district), parapet walls extending not more than 4 feet above the height limit of the building, amateur radio and residential antennas and related structures, private windmills, ~~private, residential wind turbines (but not higher than 10 feet above the height limitation for that zoning District),~~ Wind Energy Systems (See Section 1822.03 for Wind Turbine height limits), anemometers, church spires, belfries, residential satellite dishes, cooling towers, water tanks, substation line-support towers and solar energy equipment.