

Inyo County Code

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Chapter 18.79 REGULATION OF SMALL WIND ENERGY CONVERSION SYSTEMS

18.79.010 Findings.

In enacting the ordinance codified in this chapter, the board of supervisors finds that:

A. The scenic beauty of Inyo County is a resource that benefits both those who reside in the county as well as those who visit it, and that aesthetic beauty and the benefits it provides can and will be diminished by the unregulated placement of small wind energy conversion systems in the county.

B. The unregulated placement of small wind energy conversion systems in the unincorporated part of the county may result in incompatible land uses and may cause a threat to the health, safety, and welfare of county residents.

C. The unregulated placement of small wind energy conversion systems in the unincorporated part of Inyo County may impede and pose a hazard to general aviation airports in the county as well as to the missions of the various United States Department of Defense facilities within and adjacent to the county; specifically, the United States Air Force's Flight Test Center at Edwards Air Force Base, the Department of the Navy's Naval Air Warfare Center Weapons Division at China Lake, and the Army's Bicycle Lake Army Airfield at Fort Irwin, as well as to those of the California Institute of Technology's Owens Valley Radio Observatory.

D. Small wind energy conversion systems may be beneficial to the residents of Inyo County by providing alternative sources of energy for those residents.

E. For these reasons, the addition of this chapter to the Inyo County Code is necessary to establish and provide county policies, procedures, and standards to govern the location, construction, appearance, modification, and removal of small wind energy conversion systems in the unincorporated part of Inyo County. (Ord. 1101 § 1 (part), 2005.)

18.79.020 Purpose and authority.

A. The purpose of this chapter is to provide a uniform, comprehensive set of standards, conditions, and procedures for the placement of noncommercial small wind energy conversion systems, and temporary meteorological towers needed prior to the installation of small wind energy conversion systems, on property within Inyo County. Such facilities are to be used for the production of electricity to be used on-site, as a means of supplementing electrical power supplied by more traditional sources, such as utility companies.

B. This chapter is enacted pursuant to the authority given the board of supervisors by Section 7 of Article XI of the California Constitution, California Government Code § 65892.13 (Wind Energy), California Government Code § 65000 et seq., and, with respect to lands owned by the United States, by the authority of local governments to apply and enforce environmental laws thereon as recognized by the United States Supreme Court in *California Coastal Commission v. Granite Rock Company*, 480 U.S. 572 (1987). (Ord. 1101 § 1 (part), 2005.)

18.79.030 Scope and applicability.

A. Any person or entity, including local, state and federal government agencies, who proposes to construct, install, establish, modify, or expand a small wind energy conversion system in the unincorporated part of Inyo County shall be subject to and comply with all applicable provisions of this chapter.

B. The provisions of this chapter shall apply to, and be met by, the proponent of any application or proposal for the modification, expansion, installation, or construction of a small wind energy conversion system on land in the unincorporated part of the county owned by the United States but, by such declaration of applicability, Inyo County asserts only environmental-review authority, and not land-use authority, over such lands. (Ord. 1101 § 1 (part), 2005.)

18.79.040 Definition of terms.

The following terms have the following meanings in this chapter:

“Applicant” means any person or entity, including local, state and federal government agencies, who seeks or who has applied for issuance of any permit or approval required by this chapter, regardless of whether that person has already received a permit or approval pursuant to this chapter.

“Guy wires” means wire or cable used to support a tower.

“Meteorological tower” means a facility consisting of a tower and related wind-measuring devices, which is used solely to measure winds preliminary to construction of a noncommercial wind energy conversion system. Towers shall not be allowed for time periods in excess of a year, and shall be removed prior to installation of the wind energy conversion system for which they are measuring. A request to install a meteorological tower shall be included in the application to install a small wind energy conversion system.

“Small wind energy conversion system” means a facility consisting of a tower, wind turbine generator with blades, guy wires and anchors, and associated control and conversion electronic equipment to convert wind movement into electricity, and that is incidental and subordinate to another use on the same parcel. A facility shall be considered a small wind energy conversion system only if it supplies electrical power solely for on-site use. However, when a parcel on which a small wind energy conversion system is installed also receives electrical power supplied by a utility company, any excess electrical power generated by the small wind energy conversion system, and not then needed for on-site use, may be used by the utility company in exchange for a reduction in the cost of electrical power supplied by that company to the parcel for on-site use. No net revenue to the owners shall be produced by such excess electrical power generation.

“System height” means the total height of the small wind energy conversion system, including the wind turbine blades.

“Tower height” means the height above grade of the fixed portion of the tower, excluding the wind turbine blades.

“Wind turbine generator” means the component of a small wind energy conversion system that transforms mechanical energy from wind into electrical energy. (Ord. 1101 § 1 (part), 2005.)

18.79.050 Conditional use permits.

Any person or entity, including local, state and federal government agencies, desiring to modify, install or construct a small wind energy conversion system in the unincorporated portion of Inyo County shall first procure a conditional use permit in accordance with this chapter and Chapter 18.81 of the Inyo County Code. (Ord. 1101 § 1 (part), 2005.)

18.79.060 Application requirements.

The applicant shall provide the following materials to the planning department as part of any conditional use permit application for a small wind energy conversion system:

- A. Standard Inyo County planning application, to include owner information, site information, fees, and

mailing labels for public noticing purposes.

B. Scaled drawings of the proposed system, to include the tower, base, generator, blades, guy wires, and any associated equipment.

C. Copies of the proposed site plan, along with elevation drawings and other materials as required by the planning director, to include information on security fencing, guy wires, and whether a temporary meteorological tower will be constructed preliminary to constructing the small wind energy conversion system.

D. Standard drawings and an engineering analysis of the system's tower, showing compliance with the Uniform Building Code or the California Building Standards Code and certification by a professional mechanical, structural, or civil engineer licensed by the state of California. However, a wet stamp shall not be required, provided that application demonstrates that the system is designed to meet the most stringent wind requirements (Uniform Building Code, Wind Exposure D), the requirements for the worst seismic class (Seismic 4), and the weakest soil class, with a soil strength of not more than one thousand pounds per square foot, or other relevant conditions normally required by a local agency.

E. Evidence satisfactory to the planning director that the proposed system meets the following standards:

1. The wind turbine generator design and operation is certified by a qualified licensed engineer as meeting the requirements of wind turbine-specific safety and performance standards adopted by a national or international standards-setting body including, but not limited to, IEC (International Electric Code) standard 61400-2.

2. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code.

3. The wind turbine generator has a manufacturer's warranty with at least five years remaining from the date the application is filed.

4. The model/design of equipment proposed has a documented record of at least one year of reliable operation at a site with average wind speeds of at least twelve miles per hour.

F. Information demonstrating that the system will be used primarily to reduce onsite consumption of electricity.

G. Where modification of any development standards specified is requested, the applicant shall identify the requested modifications and provide substantiation to the satisfaction of the planning director that strict compliance with all required development standards would substantially and unreasonably interfere with establishment of the proposed system/tower on the proposed site.

H. Any materials otherwise required by Chapter 18.81 of this code to obtained a conditional use permit. (Ord. 1101 § 1 (part), 2005.)

18.79.070 Notice of hearing.

Notice of the public hearing on the conditional use permit for the small wind energy conversion system shall be mailed to all property owners within three hundred feet of the project site property and affected government agencies and shall be noticed in the local newspaper, all at least ten days prior to the hearing. (Ord. 1101 § 1 (part), 2005.)

18.79.080 Review and approval factors.

A. Site Restrictions/Visual Effects. Any system shall be assessed specifically for its visual effects and those systems which unreasonably detract from surrounding view sheds may be prohibited or conditioned due to their negative visual impacts. Negative visual impacts in themselves may cause detriment to the public welfare and

mitigate against the desirability and necessity of the system. The planning commission shall consider the following factors in determining whether to approve an application for a conditional use permit:

1. The height of the proposed facility, and its proportionality to and compatibility with the existing structures;
2. The proximity of the proposed facility to any residences and/or residential district boundaries;
3. The zoning and nature of existing uses on adjacent and nearby properties;
4. The nature, type, and extent of surrounding tree coverage, foliage, and other landscape features;
5. The design of the facility, with particular regard for design characteristics that will reduce or eliminate its conspicuousness and/or obtrusiveness;
6. The proposed ingress and egress to the site of the facility;
7. The availability and suitability of alternative sites which are available to the applicant as well as efforts made by the applicant to mitigate any negative visual impact from the system;
8. Whether the small wind energy conversion system will create a silhouette against the skyline above surrounding mountain ridgelines;
9. The proximity of the system to an existing transportation corridor, whereby view sheds would be affected by the system/tower;
10. The proximity of the system to an existing ecological, historical, or cultural resource, whereby view sheds would be affected by the system/tower.

B. A small wind energy conversion system shall not be allowed where otherwise prohibited by any of the following:

1. The Alquist-Priolo Earthquake Fault Zoning Act;
2. A local agency to protect the scenic appearance of a scenic highway corridor designated pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code;
3. The listing of the proposed site in the National Register of Historic Places or the California Register of Historical Resources;
4. A comprehensive land use plan and any implementing regulations adopted by an airport land use commission pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9 of Part 1 of the Public Utilities Code;
5. Any restricted military airspace without first coordinating with the governing authority of that airspace;
6. The terms of any conservation, open space, or agricultural easement;
7. The terms of a contract entered into pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code). (Ord. 1101 § 1 (part), 2005.)

18.79.090 Required findings.

To approve an application for a conditional use permit for a small wind energy conversion system, and if necessary a temporary meteorological tower, the commission shall make the following findings:

- A. The proposed use is consistent with the Inyo County general plan.
- B. All requirements of the California Environmental Quality Act have been met.
- C. The proposed small wind energy conversion system complies with all applicable development standards specified in this chapter.
- D. The small wind energy conversion system is a desirable and necessary use, particularly considering the

review and approval factors of this chapter.

E. The proposed use is properly related to other uses and transportation and service facilities in the vicinity.

F. The proposed use would not, under all the circumstances of this case, affect adversely the health or safety of persons living or working in the vicinity, or be materially or detrimental to the public welfare. (Ord. 1101 § 1 (part), 2005.)

18.79.100 General requirements.

The following standards, as they may be deemed applicable by the planning department, shall be met with respect to any small wind energy conversion system that is modified, expanded, installed, operated, or constructed in the unincorporated part of Inyo County, and shall be conditions of approval in any permit issued by the county with respect to any such facility:

A. Allowable Zones. Small wind energy conversion systems are allowed as a conditional use in all zones.

B. Minimum Lot Size. One acre.

C. Maximum allowed tower height:

1. Parcel size of five acres or less: sixty-five feet

2. Parcel size of more than five acres: eighty feet

3. Tower heights shall not exceed the height recommendations of the manufacturer or distributor of the system.

D. Setback Requirements From Lot Lines. Equal to the system height or fire setback requirements pursuant to Public Resources Code Section 4290, whichever is greater.

E. Aesthetic design requirements:

1. Color. Colors of all surfaces shall be muted neutral or earth tones, compatible with the surrounding environment, with surfaces to be matte and not highly reflective.

2. Noise. Any noise resulting from the system shall not exceed sixty dBA at, but outside of, the closest neighboring inhabited dwelling. Noise limits may exceed these limits during temporary, short-term events such as wind storms and utility outages.

3. Lighting. No lighting is permitted on any structure unless required by FAA or other statutory or regulatory standards. Any such required lighting shall be downward-facing and shielded from adjacent properties when those standards allow. Emergency lighting shall be manually operated, to be operated only for specific emergency situations.

4. Signage. Signage is prohibited, except for a single sign (two feet x two feet maximum) which may warn of high voltage, prohibit trespassing, and provide emergency contact information.

F. Engineering Design Requirements. The system's turbine must have been approved by the California Energy Commission as qualifying under the Emerging Renewables Fund of the Commission's renewables investment plan or certified by a national program recognized and approved by the Energy Commission.

G. The system shall comply with all applicable Federal Aviation Administration requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports, and the State Aeronautics Act (Part 1 (commencing with Section 21001) of Division 9 of the Public Utilities Code). (Ord. 1101 § 1 (part), 2005.)

18.79.110 Abandoned facilities.

Any small wind energy conversion system that is not operated on a functional basis for a period of six

consecutive months shall be deemed abandoned and the applicant, owner or other person responsible for the facility shall remove same within ninety days of receipt of notification of the planning department's determination that the facility has been abandoned. Failure to remove equipment will constitute a public nuisance, and the county may cause the system to be removed, with costs borne by the property owner. (Ord. 1101 § 1 (part), 2005.)

18.79.120 Responsibility for inspection costs.

The applicant or subsequent owner of the system shall be responsible for the payment of all reasonable costs associated with necessary inspections associated with the conditional use permit, including cost incurred by the Inyo County planning department, Inyo County public works department, or any other county department. (Ord. 1101 § 1 (part), 2005.)