ORDINANCE NO. 10073 (NEW SERIES)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO SMALL, MEDIUM AND LARGE WIND TURBINE SYSTEMS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that wind power is an important renewable source of energy and the Zoning Ordinance should be amended to revise references to State law, allow additional turbines under the Medium Wind Turbine System regulations and add findings that for approving Medium Wind Turbine Systems. The ordinance is consistent with existing State laws that encourage the construction of wind energy systems to conserve energy. The amendments made by this ordinance are intended to set forth reasonable standards and procedures for the installation and operation of Wind Turbine Systems to improve and enhance public welfare and safety, and to implement the Energy Element of the San Diego County General Plan.

Section 2. Section 1110, DEFINITIONS (W), of the Zoning Ordinance is amended to revise the definitions of Wind Turbine System, Medium, and Wind Turbine System, Large, to read as follows:

Wind Turbine System, Medium: An installation consisting of one to five wind turbines in which the sum of the blade swept area of the turbines is no more than 850 square feet. This area shall be measured in the vertical plane perpendicular to the wind direction. (A 850 square foot blade swept area corresponds approximately with a blade diameter of 33 feet for one conventional horizontal axis wind turbine).

Wind Turbine System, Large: An installation consisting of one or more wind turbines in which the sum of the blade swept area of all turbines is greater than 850 square feet. This area shall be measured in the vertical plane perpendicular to wind direction. No individual wind turbine shall have a blade swept area greater than 6400 square feet. The "Wind Turbine System, Large" shall be classified as a Major Impact Services and Utilities use type.

Section 3. Section 1380, WIND TURBINE SYSTEM, MEDIUM of the Zoning Ordinance is amended to read as follows:

1380 WIND TURBINE SYSTEM, MEDIUM.
The wind turbine system (medium sized) use type refers to the production of electric power by up to five wind turbines, or systems in which the total blade swept area is no more than 850 square feet. The blade swept area shall be measured in the vertical plane perpendicular to the wind direction. This use type is permitted in all zones (except those having the S81 Ecological Resource Area Use Regulations) upon issuance of an administrative permit. This use type does not include uses classified as Major Impact Services and Utilities. Typical uses include wind turbine installation of medium size for residential or small scale commercial use.

Section 4. Subsection z. of Section 6156, RESIDENTIAL AND AGRICULTURAL USE TYPES of the Zoning Ordinance is amended to read as follows:

z. Wind Turbine Systems, Small. A small wind turbine system shall be permitted on a parcel of at least one acre and in compliance with the following conditions:

1. Setback. The system shall be set back from property lines and roads at least two times the height of the wind system (to the top of the blade in vertical position) and shall meet the applicable setback requirements of the zone. No part of the system, including guy wire anchors, shall extend closer than 30 feet to the property boundary. The system must also meet fire setback requirements.

2. Fencing. Public access to the wind turbines shall be restricted through the use of a fence with locked gates, non-climbable towers or other suitable methods.

3. Signs. Suitable warning signs containing a telephone number for emergency calls shall face all approaches to the system. Individual signs shall be between 5 and 16 square feet.

4. Noise. The wind turbine shall be operated in such manner that it does not exceed the sound level limits of Title 3, Division 6, Chapter 4 of the San Diego County Code (Noise Abatement and Control).

5. Height. For the purposes of calculating height, the height of the wind turbines shall mean the distance from ground to the top of the blade in vertical position. Height of a small wind turbine system shall not exceed 60 feet.

6. Any non-operational wind turbines shall be removed within 12 months after becoming non-operational.

Any waiver or modification of the above requirements shall be allowed only in accordance with the Variance Procedure commencing at Section 7100.

Section 5. Section 6950, WIND TURBINE SYSTEM, MEDIUM of the Zoning Ordinance is amended to read as follows:

6950 WIND TURBINE SYSTEM, MEDIUM.
A medium wind turbine system, shall be permitted on a parcel of at least one acre and require an Administrative Permit approved in accordance with the Administrative Permit Procedure commencing at Section 7050 and the following requirements:

a. The following findings must be made prior to approval of an Administrative Permit:

1. That the location, size, design, and operating characteristics of the proposed use will be compatible with adjacent uses, residents, buildings, or structures, with consideration given to:

i. Harmony in scale, bulk, coverage and density;

ii. The availability of public facilities, services and utilities;

iii. The harmful effect, if any, upon desirable neighborhood character;

iv. The generation of traffic and the capacity and physical character of surrounding streets;

v. The suitability of the site for the type and intensity of use or development which is proposed; and to

vi. Any other relevant impact of the proposed use; and

2. That the impacts, as described in paragraph "a.1." of this section, and the location of the proposed use will be consistent with the San Diego County General Plan; and

3. That the requirements of the California Environmental Quality Act have been complied with.

b. Notification. Notification shall be in accordance with paragraph c of Section 7060.

c. Setback. The wind turbines shall be set back from property lines and roads at least three times the height of the wind turbine (to the top of blade in vertical position) and shall meet the applicable setback requirements of the zone. The system must also meet fire setback requirements.

d. Fencing. Public access shall be restricted through the use of a fence with locked gates, non-climbable towers or other suitable methods.

e. Signs. Suitable warning signs containing a telephone number and an address for emergency calls and informational inquiries shall face all approaches to the project. Individual signs shall be between 5 and 16 square feet.

f. Review. Review shall include an assessment of the impact on adjacent property with regard to:

1. Location of installation in its relation to topographic features which would constitute an unusual safety hazard.

2. Sensitivity of adjacent uses to noise and electrical interference and visual impact.

g. Noise. The system shall meet the sound level limits of Title 3, Division 6, Chapter 4 of the San Diego County Code (Noise Abatement and Control).

h. Height. For the purpose of calculating height, the height of the wind turbines shall mean the distance from ground to the top of the blade in vertical position. The system shall not exceed 60 feet.

i. It shall be a condition of the permit that non-operational wind turbines shall be removed within 12 months after becoming non-operational.

Any waiver of modification of the above requirements shall be allowed only in accordance with the Variance Procedure commencing at Section 7100.

Section 6. Section 6951, WIND TURBINE SYSTEM, LARGE of the Zoning Ordinance is amended to read as follows:

6951 WIND TURBINE SYSTEM, LARGE.

Large wind turbine systems, shall be permitted on a parcel of at least five acres and considered a Major Impact Services and Utilities use type requiring a major use permit approved in accordance with the Use Permit Procedure commencing at Section 7350 and the following requirements:

a. Setbacks. The wind turbines shall observe the following setbacks measured from the closest point on the base or support structure. For purposes of calculating setbacks, height of the wind turbines shall mean the distance from ground to the top of blade in vertical position:

   1. From property lines or public road setback 4 times the height.

   2. From all existing residences or buildings occupied by civic use types setback 8 times the height.

   3. From the furthermost property line of adjacent parcels which are vacant setback 9 times the total height.

   4. Setbacks for experimental wind turbines (those which are not produced by an established wind turbine manufacturer on a production basis) may be greater than those specified above based on the discretion of the permit granting authority.

   5. Setbacks may be reduced up to a maximum of 50% with the written consent to the granting of a setback reduction signed by the owner or owners of each lot or parcel affected by the proposed setback reduction.

b. Fencing. Public access shall be restricted through the use of a fence with locked gates, non-climbable towers or other suitable methods.

c. Signs. Suitable warning signs containing a telephone number and an address for emergency calls and informational inquiries shall face all approaches to the project. Individual signs shall be between 5 and 16 square feet.

d. Noise. The project shall meet the sound level limits of Title 3, Division 6, Chapter 4 of the San Diego County Code (Noise Abatement and Control).

e. Height. For the purposes of calculating height, the height of the wind turbines shall mean the distance from ground to the top of the blade in vertical position. The system shall not exceed 80 feet.

f. Visual. The following measures should be followed whenever possible in order to minimize the visual impact of the project:

   1. Removal of existing vegetation should be minimized.

   2. Internal roads should be graded for minimal size and disruption.

3. Any accessory buildings should be painted or otherwise visually treated to blend with the surroundings.

4. The turbines and towers should be painted with non-reflective paint to blend with the surroundings.

g. Turbine Description. The following information shall be specified as part of the permit:

1. The wind turbine manufacturer, model, power rating and blade dimensions.

2. The tower manufacturer and model.

h. Non-Operational Wind Turbines. It shall be a condition of the permit that non-operational wind turbines shall be removed:

1. The project owner shall insure that a copy of all prospectuses shall be placed in the County's permit file.

2. County staff may, at any time in the future, compare the amount of power stated (in kilowatt hours) in the appropriate prospectus with the actual power sold to the utility (as reported in the California Energy Commissions' "Wind Project Performance Reporting System") and determine if any wind turbine systems meet the definition for "wind turbine non-operational."

3. County staff may collect other data as necessary to determine if any wind turbine systems meet the definition for "wind turbine non-operational."

4. Applicant may propose alternate methods to monitor the "non-operational" status of wind turbines.

i. Removal Surety. The project owner shall post a bond, lien contract agreement, cash deposit, or other form of surety acceptable to the Director of Planning and Land Use, sufficient to allow for the removal of non-operational wind turbines. If a bond surety is provided, such bond shall comply with Section 7612, and shall be for a minimum of 10 years (unless the permit is for a shorter period of time). Posting of bond(s) and/or other surety may be phased with the installation of wind turbines.

j. Existing Administrative Permits for Wind Turbine Projects - Modification or Revocation. Administrative permits for wind turbine projects granted pursuant to Section 7060 prior to January 1, 1986, shall be treated for all purposes as if they are major use permits shall be subject to all the provisions of the Zoning Ordinance which apply to Major Use Permits for purpose of modification or revocation.

Section 7. Effective Date. This Ordinance shall take effect and be in force 30 days after the date of its passage, and before the expiration of 15 days after its passage, a summary shall be published once with the names of the members voting for and

against the same in the San Diego Commerce a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 15th day of September, 2010.

PAM SLATER-PRICE
Chairwoman, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Slater-Price, Roberts, Horn

ATTEST my hand and the seal of the Board of Supervisors this 15th day of September, 2010.

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

By _____
Catherine Santos, Deputy

Ordinance No. 10073 (N.S.)
Meeting Date: 9/15/10 (5)