

(Published in the Topeka Metro News September 28, 2009)

**ORDINANCE NO. 19310**

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code Comprehensive Zoning Regulations concerning wind energy creating Division 3 of Article XXVI in City of Topeka Code Chapter 48.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That Article XXVI, Additional Regulations, of Appendix C (Chapter 48), Comprehensive Zoning Regulations, of the Code of the City of Topeka, Kansas, is hereby amended to read as follows:

DIVISION 3. WIND ENERGY

Section 2. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 48-26.31, which said section reads as follows:

**Statement of purpose.**

The purpose of these regulations is to establish reasonable restrictions for the general placement of small wind energy systems, otherwise known as wind turbines and their related equipment in order to accommodate the growth of personal and commercial electric power generating systems, while protecting against adverse noise, aesthetic and safety impacts and protecting the general public welfare. To balance the technological advances in off-grid energy production while protecting the public health, safety and welfare, these regulations establish minimum standards for construction and placement of facilities to minimize adverse impacts of towers through careful design and placement and to avoid potential damage to adjacent properties.

Section 3. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 48-26.32, which said section reads as follows:

30           **Definitions.**

31           Administrator means the City of Topeka Planning Director or designee.

32           Non-residential small wind energy system means systems capable of generating  
33           not more than 100 kW of electricity, for the sole purpose of providing electrical  
34           generating capacity to an institutional, office, commercial or industrial use, and is  
35           contained within the same lot of real estate.

36           Owner shall mean the individual or entity that intends to own and operate the  
37           small wind energy system in accordance with this ordinance.

38           Rotor diameter means the cross sectional dimension of the circle swept by the  
39           rotating blades.

40           Residential small wind energy system means systems capable of generating 10  
41           kW of electricity or less for the purpose of providing electrical generating capacity to a  
42           single or multiple-family residence and is contained within the same lot of real estate.

43           Small wind energy system means a wind energy system that is used to generate  
44           electricity for use on the premises and not for commercial wholesale production.

45           Total height means the vertical distance from ground level to the tip of a wind  
46           generator blade when the tip is at its highest point.

47           Tower means the structure that supports a wind generator.

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

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

Section 4. That the Code of the City of Topeka, Kansas, is hereby amended by adding a section to be numbered 48-26.33, which said section reads as follows:

**Standards.**

(a) Non-Residential Small Wind Energy

Acreage: No minimum

Setback: 100% of tower height

Max Tower Height: 62 feet

Wattage: Max 50 kW

(b) Additional Setback Regulations.

1. No wind energy system shall be placed within the required front-yard setback within any zoning district.

2. No tower shall be placed on any property such that any portion of the rotor diameter extends into or over a public right-of-way.

(c) Exceptions to setback requirements. Small wind systems specifically designed to be mounted to a permanent building must comply with all manufacturer specifications, provided that any portion of a tower above the point at which it is anchored does not exceed the distance to the nearest adjacent property line. All mounting and electrical specifications must be provided to the development services division at the time of application for a building permit to install or erect a wind energy system.

- (d) Rotor Diameter. Maximum rotor diameter shall not exceed manufacturer recommendations for wattage and tower specifications.
- (e) Towers. All small wind energy systems shall be mounted on mono-pole towers or attached to a permanent building. No lattice or guyed wire towers shall be permitted.
- (f) Access.
1. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
  2. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.
- (g) Electrical wires. All electrical wires associated with a small wind energy systems shall be located underground with the following exceptions:
1. All wires necessary to connect the wind generator to the tower wiring.
  2. All wires necessary to connect the tower wiring to the disconnect junction box.
  3. All wires necessary to connect the grounding wires.
- (h) Color and Finish. The generator and tower shall be painted a non-reflective and neutral color.
- (i) Decibel levels for the system shall not exceed 55 decibels (dBA) measured at any property line, except during short-term events such as utility outages and severe windstorms.

97 (j) Compliance with all applicable codes. A small wind energy system  
98 including tower shall comply with all applicable building codes currently in  
99 force in the city.

100 (k) Utility notification and interconnection. Small wind energy systems that  
101 connect to the facilities of an electrical utility company shall be UL  
102 Certified and shall comply with all applicable local, state and federal  
103 regulations governing such connections. The applicant or property owner  
104 must supply the development services division with written consent from  
105 the applicable electric utility company to connect to the grid at the time of  
106 application for a building permit.

107 (l) Signage.

108 1. Brand names shall not be visible from any public right-of-way or  
109 place.

110 2. No advertising shall be placed on the wind generator or tower.

111 (m) Wind generators or towers shall not be artificially lighted, except as may  
112 be required by the Federal Aviation Administration.

113 (n) Removal of abandoned wind energy systems. Any wind energy system  
114 that is not operated for a period of 12 continuous months or which was  
115 operated under a conditional use permit which has expired and has not  
116 been renewed shall be considered abandoned, and the owner of such  
117 wind energy system shall remove the same within 90 days of a receipt of  
118 notice from the planning director notifying the owner of such required  
119 renewal. If such wind energy system is not removed within said 90 days,

120 the city council may cause the removal of such wind energy system at the  
121 owner's expense. If there are two or more users of a wind energy system,  
122 then this provision shall not become effective until all users have ceased  
123 using the system for a period of 12 continuous months.

124 Section 5. That the Code of the City of Topeka, Kansas, is hereby amended  
125 by adding a section to be numbered 48-26.34, which said section reads as follows:

126 **Permit requirements.**

127 (a) Building Permit. A building permit shall be required for the installation of  
128 any wind energy system.

129 (b) Documents: The building permit application shall be accompanied by a  
130 site plan which includes the following:

- 131 1. Property lines and physical dimensions of the property.
- 132 2. Location, dimensions and types of existing major structures on the  
133 property.
- 134 3. Location of the proposed wind system tower.
- 135 4. The right-of-way of any public road or alley that is contiguous with  
136 the property as well as any platted setback.
- 137 5. Any overhead utility lines and location of nearest utility pole.
- 138 6. The location(s) at which the electrical and telephone utilities are  
139 connected to the principle structure on the property.
- 140 7. Wind system specifications, including manufacturer and model,  
141 rotor diameter, tower height and tower type.
- 142 8. Tower foundation blueprints or drawings.

143                    9.      Tower blueprint or drawing.

144                    10.     Any easements that may be located on the property.

145                    11.     Color of the wind generator and tower.

146                    Section 6.      This ordinance shall take effect and be in force from and after its  
147                    passage, approval and publication in the official City newspaper.

148                    PASSED AND APPROVED by the City Council September 22, 2009.

149                    CITY OF TOPEKA, KANSAS

150                    \_\_\_\_\_  
151                    William W. Bunten, Mayor

152                    ATTEST:

153                    \_\_\_\_\_  
154                    Brenda Younger, City Clerk