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ORDINANCE NO. 19598

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., amending City of Topeka Code § 18.265.010, 18.265.020, 18.265.030 and 18.265.040 concerning wind energy regulations and specifically repealing said original section.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA:

Section 1. That section 18.265.010, Statement of purpose, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Statement of purpose.

The purpose of these regulations is to allow the effective and efficient use of wind energy systems in nonresidential areas to reduce the on-site consumption of utility supplied electricity, and 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~~of wind energy systems to avoid potential damage to adjacent properties.

Section 2. That section 18.265.020, Definitions, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Definitions.

"Administrator" means the city of Topeka planning director or designee.

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

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

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

"Rotor diameter" means the cross-sectional dimension of the circle swept by the rotating blades.

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

"Total height" means the vertical distance from ground level <u>or point of attachment to a building</u> to the tip of a wind generator blade when the tip is at its highest point.

"Tower" means the structure that supports a wind generator.

"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.

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

Section 3. That section 18.265.030, Standards, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Standards.

~~(a) Nonresidential Small Wind Energy.~~

~~(1) Acreage: no minimum.~~

~~(2) Setback: 100 percent of tower height.~~

~~(3) Max tower height: 62 feet~~

~~(4) Wattage: maximum 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~~All 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.~~

(a) Allowable Districts for Wind Energy Systems. Wind energy systems are allowed in all nonresidential districts and in residential districts with nonresidential uses. There is no minimum acreage requirement.

(b) Setback.

(1) Setback standards are as follows:

(i) 100 percent of tower height.

(ii) 100 percent of any combination of setback and dedicated irrevocable fall zone easement onto an adjacent property.

(2) Additional Setback Regulations.

(i) No wind energy system shall be placed within any required zoning setback within any zoning district.

(ii) No Horizontal Axis Wind Turbine (HAWT) tower shall be placed on any property such that any portion of the rotor diameter extends into or over a public right-of-way, or dedicated access easement.

(3) Exceptions to Setback Requirements. All 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.

(c) Max tower height.

(1) Max tower height shall be as follows:

Less than one acre	62 feet
1-3 acres	100 feet
More than 3 acres	175 feet

(2) Exceptions.

(i) The maximum height of all wind energy systems mounted on a permanent building will be determined in association with the approval of a conditional use permit within C-5 Commercial and D-1, D-2, D-3 Downtown Districts.

(ii) The maximum height of all wind energy systems will be determined in association with the approval of a conditional use permit within the I-1 and I-2 districts, as well as PUD districts with permitted uses designated I-1 or I-2.

(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 except in districts zoned industrial and PUD districts with permitted uses designated I-1 or I-2.

(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 eight feet above the ground.

(g) Electrical Wires. All electrical wires associated with ~~a small~~ wind energy system<u>s</u> 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 nonreflective 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.

(j) Compliance with All Applicable Codes. A ~~small~~ wind energy system including tower shall comply with all applicable building <u>and property</u> codes currently in force in the city.

(k) Utility Notification and Interconnection. ~~Small~~<u>All</u> wind energy systems that connect to the facilities of an electrical utility company ~~shall be UL certified and~~ shall comply with all applicable local, state and federal regulations governing such connections. The applicant or property owner must supply the development services

division with written consent from the applicable electric utility company to connect to the grid at the time of application for a building permit.

(l) Signage.

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

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

(m) Wind generators or towers shall not be artificially lighted, except as may be required by ~~the Federal Aviation Administration~~federal or state law.

(n) Removal of Abandoned Wind Energy Systems. Any wind energy system that is not operated for a period of 12 continuous months or which was operated under a conditional use permit which has expired and has not been renewed shall be considered abandoned, and the owner of such wind energy system shall remove the same within 90 days of a receipt of notice from the planning director notifying the owner of such required renewal. If such wind energy system is not removed within said 90 days, the city council may cause the removal of such wind energy system at the owner's expense. If there are two or more users of a wind energy system, then this provision shall not become effective until all users have ceased using the system for a period of 12 continuous months.

Section 4. That section 18.265.040, Permit requirements, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Permit requirements.

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

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

(1) Property lines and physical dimensions of the property.

(2) Location, dimensions and types of existing major structures on the property.

(3) Location of the proposed wind system tower.

(4) The right-of-way of any public road or alley that is contiguous with the property as well as any platted setback.

(5) Any overhead utility lines and location of nearest utility pole.

(6) The location(s) at which ~~the~~any electrical and telephone utilities are connected to the principal structures on the property.

(7) Wind system specifications, including manufacturer and model, rotor diameter, tower height and tower type.

(8) Tower foundation blueprints or drawings.

(9) Tower blueprint or drawing.

(10) Any easements that may be located on the property.

(11) Color of the wind generator and tower.

Section 5. That original § 18.265.010, § 18.265.020, 18.264.030 and § 18.265.040 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 5. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 6. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 7. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the Governing Body June 28, 2011.

CITY OF TOPEKA, KANSAS

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William W. Bunten, Mayor

ATTEST:

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Brenda Younger, City Clerk