

**ORDINANCE NO. 2010-13**

**ORDINANCE AMENDING THE PLANNING AND LAND USE CODE; TITLE 17, CHAPTER 108 OF THE SOUTH JORDAN MUNICIPAL CODE PERTAINING TO WIND ENERGY CONVERSION SYSTEMS.**

**WHEREAS**, the South Jordan City Council has previously adopted Chapter 108 of Title 17 of the South Jordan City Municipal Code, which authorizes the regulation of uses in the City zones; and

**WHEREAS**, the South Jordan Planning Commission, after holding a public hearing, has reviewed the proposed text amendment to Sections 17.108.020, 17.108.025 and 17.108.040; and

**WHEREAS**, the City Council has held a public hearing and has reviewed the proposed amendment and considered the recommendation of the Planning Commission regarding the proposed amendment; and

**WHEREAS**, in accordance with principles of sound municipal planning, the City Staff, the City Planning Commission, and the City Council have taken into account the impact the proposed amendment will or may have on existing or future development projects, and to the extent legally permissible or practical, the City Staff, Planning Commission and Council have taken reasonable steps to ensure that the proposed amendment meets the purposes and objectives of the Development Code and the Planning and Land Use Code; and

**WHEREAS**, the City Council desires to amend the Development Code and the Planning and Land Use Code as proposed; and

**WHEREAS**, the City Council has found and determined that the proposed amendment to Sections 17.108.020, 17.108.025 and 17.108.040; of the South Jordan Municipal Code will support the best interests of the City and will promote the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SOUTH JORDAN CITY, STATE OF UTAH, AS FOLLOWS:**

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**Section 1. Amendment.** Chapter 17.108.020 of Title 17, "Planning and Land Use", of the South Jordan Municipal Code is hereby amended as follows:

**17.108.020: APPROVAL OF WECS:**

Wind energy conversion systems, hereinafter referred to as "WECS", may be approved by the Planning Commission as a conditional use in **all zoning districts, except the P-C Zone (for P-C Zone requirements see section 17.108.025)**, the A-1, A-5, R-1.8 and C-I zones if all of the following conditions are met:

- A. A site plan shall be submitted to the **Community Development planning Department**. Such site plan shall be drawn to a scale of not less than one inch equals **thirty ten** feet (1" = **30' 10'**) and shall show all property lines, structures on the applicant's property and adjacent properties, overhead utilities and easements and rights of way on or adjacent to the applicant's

property, and any other information deemed necessary by the eCommunity dDevelopment dDirector.

**B. A building permit shall be required for all WECS. The building permit application shall include plans that have been reviewed and stamped by a State of Utah certified engineer and meet all relevant International Building Code requirements.**

~~B.~~ **C. Height of a WECS shall not exceed ninety feet (90'). Height shall be the distance from the highest point of the WECS to the top of curb or crown of road where no curb exists. Height shall be measured from the highest point of the WECS to the top of adjacent finished grade.**

~~C.~~ **D. A WECS shall not be closer to any property line than its total height plus five ~~ten~~ feet (5') (10'). The pPlanning eCommission may permit a WECS to be placed at a distance less than that mentioned above upon receiving an agreement signed by all property owners within a distance equal to the height plus five ~~ten~~ feet (5') (10'). Such agreement shall be in a form approved by the city attorney. At no time shall a WECS be permitted closer than its height plus five ~~ten~~ feet (5') (10') from any dedicated public right of way.**

**E. A WECS may be roof-mounted on any structure if meeting all safety and building requirements. In commercial applications, such as on roof-tops of office or retail buildings, a WECS may not exceed 35' in height as measured from the base to the peak of the apparatus. In residential applications a WECS may not exceed 5' in height, as measured from the highest point of WECS to the top of ridgline of roof or parapet or top of any architectural element mounted on roof.**

~~D.~~ **F. The applicant shall submit proof of continuing liability insurance covering any WECS that may be located on the applicant's property.**

~~E.~~ **G. The WECS shall not cause any interference to any existing or future microwave transmitters and/or receivers.**

~~F.~~ **H. The WECS shall not cause a sound that could be considered a nuisance as determined by the community development director. No wind turbine or combination of wind machines on a single parcel shall create noise that exceeds a maximum of 45 decibels (dBA) at any property line. Measurements of sound levels shall not be adjusted for, or averaged with, non-operating periods. Any wind turbine(s) exceeding these levels shall immediately cease operation upon notification by City and may not resume operation until the noise levels have been reduced and verified by an independent third party inspector, approved by City, at the property owner's expense. Upon review and acceptance of the third party noise level report, City will allow operation of the affected wind turbine(s). Wind Energy Conversion System(s) unable to comply with these noise level restrictions shall be shut down immediately and removed upon notification by City, after a period established by the Community Development Department.**

~~G.~~ **I. A WECS shall not be placed on any easement, right of way or common area.**

~~H.~~ **J. All property owners within three hundred feet (300') of the applicant's property lines shall be notified by certified ~~return~~ mail of the date and location of the planning commission meeting that will consider a WECS application. Such notification shall be made not less than fifteen (15) days prior to any such meeting and shall be at the expense of the applicant.**

~~I. K.~~ For applications in recorded subdivisions, written approval by the subdivision architectural committee, or other authorized persons either living in or being involved in the development of the subdivision, shall be furnished by the applicant.

~~J. L.~~ The applicant shall furnish elevation drawings and/or photographs of the proposed WECS.

~~K. M.~~ The applicant shall furnish any ~~other~~ **additional** information required by the ~~Planning~~ Commission or the **Community Development Director** ~~of the BIPZ~~.

~~L. N.~~ A minimum 1/2-~~one~~-acre lot is required for the installation of a WECS.

**O. A minimum required ground clearance between the bottom on the blade/s and the finished grade is to be a minimum of 12' if the blades present a risk of injury to the general public.**

**Section 2. Amendment.** Chapter 17.108.025 of Title 17, "Planning and Land Use", of the South Jordan Municipal Code is hereby enacted as follows:

**17.108.025: APPROVAL OF WECS IN PC-ZONE:**

**Wind energy conversion systems, hereinafter referred to as "WECS", are a permitted use in the PC Zone when all of the following conditions are met:**

**A. A Founder or Association approved and stamped site plan and approval letter shall be submitted to the Community Development Department. Such site plan shall be drawn to a scale of not less than one inch equals thirty feet (1" = 30' ) and shall show all property lines, structures on the applicant's property and adjacent properties, overhead utilities and easements and rights of way on or adjacent to the applicant's property, and any other information deemed necessary by the community development director.**

**B. A building permit shall be required for all WECS. The building permit application shall include plans that have been reviewed and stamped by a State of Utah certified engineer and meet all relevant International Building Code requirements.**

**C. The applicant shall furnish elevation drawings and/or photographs of the proposed WECS.**

**D. The applicant shall furnish any additional information required by the City.**

**E. Height of a WECS in the PC Zone shall not exceed:**

**Ninety feet (90') in designated Open Space unless mounted to existing power pole structures or forty feet (40') if roof mounted. Height shall be measured from the highest point of the WECS to the top of adjacent finished grade or ridgeline of roof, parapet or roofline architectural element of roof to which it is mounted.**

**Forty feet (40') in designated Neighborhoods if ground mounted or five feet (5') if roof mounted. Height shall be measured from the highest point of the WECS to the top of adjacent finished grade. If roof mounted, height shall be measured from the highest point of WECS to the top of ridgeline of roof, parapet or top of any architectural element mounted on roof.**

Forty feet (40') in designated Village and Town Centers if apparatus is structure/building mounted. Height shall be measured from the highest point of the WECS to the top of rooflines, parapets or architectural elements of the structure to which the apparatus is mounted.

Fifty-five feet (55') in designated Village and Town Centers if apparatus is ground mounted. Height shall be measured from the highest point of the WECS to the top of adjacent finished grade.

**F. A WECS shall not be closer than:**

Fifty-five feet (55') to the property line if ground mounted in designated Open Space or five feet (5') if roof mounted.

Fifteen feet (15') to the property line if ground mounted in designated Neighborhoods or five feet (5') to the property line if roof mounted.

However, at no time shall a WECS be located in a front yard area.

Five feet (5') to the property line if roof mounted in designated Village and Town Centers unless the WECS is integrated into the structure of the architecture.

Fifteen feet (15') to the property line if ground mounted in designated Village and Town Centers.

**G. The applicant shall submit proof of continuing liability insurance covering any WECS that may be located on the applicant's property including potential human and property damage to adjacent properties.**

**H. The WECS shall not cause any interference to any existing or future microwave transmitters and/or receivers.**

**I. The WECS shall not cause a sound that could be considered a nuisance. No wind turbine or combination of wind turbines on a single parcel shall create noise that exceeds a maximum of 45 decibels (dBA) at the property line of the nearest designated Neighborhood Area parcel. A wind turbine or combination of wind turbines may create noise of up to 60 dBA when measured at the property line if the said property line belongs to a parcel designated for use other than a Neighborhood Area. Measurements of sound levels shall not be adjusted for, or averaged with, non-operating periods. Any wind turbine(s) exceeding these levels shall immediately cease operation upon notification by City and may not resume operation until the noise levels have been reduced and verified by an independent third party inspector, approved by City, at the property owner's expense. Upon review and acceptance of the third party noise level report, City will allow operation of the affected wind turbine(s). Wind Energy Conversion System(s) unable to comply with these noise level restrictions shall be shut down immediately and removed upon notification by City, after a period established by the Community Development Department.**

**J. A WECS shall not be placed on any public easement or right of way, or in common areas within designated Neighborhoods.**

**K. A WECS may be approved by the Planning Commission as a conditional use within the**

PC Zone to accommodate setbacks less than, heights more than and/or mounting configurations different than those noted above, and/or to accommodate noise levels greater than 60 decibels (dBA). A Founder or Association approved and stamped site plan and approval letter supporting the proposed conditional use shall be submitted to the Community Development Department. Notice requirements for CUP applications will follow City ordinance.

L. A minimum required ground clearance between the bottom on the blade/s and the finished grade is to be a minimum of 12' if the blades present a risk of injury to the general public.

**Section 3. Amendment.** Chapter 17.108.030 of Title 17, "Planning and Land Use", of the South Jordan Municipal Code is hereby amended as follows:

**17.108.030: PERMIT ISSUANCE REQUIRED:**

It is unlawful for any person, whether acting as owner, occupant or otherwise, to erect, construct, reconstruct, enlarge, locate or install any WECS within the Ceity, contrary to any provision of this chapter, without first complying with the approval requirements specified herein, and obtaining a **required** permit from the **Ceommunity Ddevelopment Department** director. Said permit shall not be issued until such time as a conditional use has been granted by the planning commission.

**Section 4. Amendment.** Chapter 17.108.040 of Title 17, "Planning and Land Use", of the South Jordan Municipal Code is hereby amended as follows:

**17.108.040: WECS PERMIT APPLICATION:**

The application for a WECS permit shall be submitted to the building inspector, which application shall include the following:

- A. Two (2) complete sets of detailed plans and specifications for the WECS, which shall include a structural land and electrical design completed by a registered professional engineer whose seal shall be affixed to all such drawings and plans.
- B. Specific details of an override protection system designed to control blade rotation at such time that wind speed exceeds forty (40) miles per hour.
- C. A soils report prepared by a registered professional engineer.
- D. Any other information requested by the community development director.

**17.108.040: ADDITIONAL REVIEW FOR ANY WECS**

A WECS application including two or more WECS may be required to follow procedures and requirements of chapter 16.24 (Site Plan Review) in commercial and certain residential applications regardless of the zone as deemed necessary by the Community Development Director.

**Section 5. Amendment.** Chapter 17.108.060 of Title 17, "Planning and Land Use", of the South Jordan Municipal Code is hereby amended as follows:

**17.108.060: CONNECTION TO A PUBLIC UTILITY:**

Any connection to a public utility shall be made under the supervision **and with the approval** of the authorized representative of such public utility. ~~Written notice of connection by the aforesaid public utility shall be delivered to the community development director prior to making of the final inspection of the WECS.~~

**Section 6. Severability.** If any section, part or provision of this Ordinance is held invalid or unenforceable, such unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

**Section 7. Effective Date.** This Ordinance shall become effective immediately upon publication or posting as required by law.

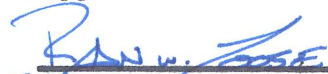
PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH JORDAN CITY, STATE OF UTAH, ON THIS 19<sup>th</sup> DAY OF October, 2010 BY THE FOLLOWING VOTE.

	YES	NO	ABSTAIN	ABSENT
Brian Butters	<u>X</u>	___	___	___
Kathie L. Johnson	<u>X</u>	___	___	___
Larry Short	<u>X</u>	___	___	___
Aleta A. Taylor	<u>X</u>	___	___	___
Leona Winger	<u>X</u>	___	___	___



  
W. Kent Money, Mayor

ATTEST:   
Anna M. West, City Recorder

**Approved as to form:**  
  
ASSISTANT City Attorney

# LEVELS OF NOISE In decibels (dB)

## PAINFUL & DANGEROUS

Use hearing protection or avoid

- |     |   |
|-----|---|
| 140 | <ul style="list-style-type: none"> <li>• Fireworks</li> <li>• Gun shots</li> <li>• Custom car stereos (at full volume)</li> </ul> |
| 130 | <ul style="list-style-type: none"> <li>• Jackhammers</li> <li>• Ambulances</li> </ul>   |

## UNCOMFORTABLE

Dangerous over 30 seconds

- |     |  |
|-----|--|
| 120 | <ul style="list-style-type: none"> <li>• Jet planes (during take off)</li> </ul> |
|-----|--|

## VERY LOUD

Dangerous over 30 minutes

- |     |   |
|-----|---|
| 110 | <ul style="list-style-type: none"> <li>• Concerts (any genre of music)</li> <li>• Car horns</li> <li>• Sporting events</li> </ul> |
| 100 | <ul style="list-style-type: none"> <li>• Snowmobiles</li> <li>• MP3 players (at full volume)</li> </ul>                           |
| 90  | <ul style="list-style-type: none"> <li>• Lawnmowers</li> <li>• Power tools</li> <li>• Blenders</li> <li>• Hair dryers</li> </ul>  |

Over 85 dB for extended periods can cause permanent hearing loss.

## LOUD

- |    |  |
|----|--|
| 80 | <ul style="list-style-type: none"> <li>• Alarm clocks</li> </ul>               |
| 70 | <ul style="list-style-type: none"> <li>• Traffic</li> <li>• Vacuums</li> </ul> |

## MODERATE

- |    |  |
|----|--|
| 60 | <ul style="list-style-type: none"> <li>• Normal conversation</li> <li>• Dishwashers</li> </ul> |
| 50 | <ul style="list-style-type: none"> <li>• Moderate rainfall</li> </ul>                          |

## SOFT

- |    |   |
|----|---|
| 40 | <ul style="list-style-type: none"> <li>• Quiet library</li> </ul> |
| 30 | <ul style="list-style-type: none"> <li>• Whisper</li> </ul>       |

## FAINT

- |    |   |
|----|---|
| 20 | <ul style="list-style-type: none"> <li>• Leaves rustling</li> </ul> |
|----|---|