

ORDINANCE NO. 10261 (NEW SERIES)

**AN ORDINANCE AMENDING THE
SAN DIEGO COUNTY ZONING ORDINANCE
RELATED TO SMALL WIND ENERGY TURBINES**

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 update and streamline the provisions that regulate small wind energy systems. This ordinance is consistent with State laws that encourage the construction of small wind energy turbines. The amendments made by this ordinance are intended to set forth reasonable standards and procedures for the installation and operation of small wind turbines 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 (M), of the Zoning Ordinance is amended to add a definition for Military Operating Area, to read as follows:

Military Operating Area. A three dimensional airspace designated for military training and transport activities that has a defined floor (minimum altitude) and ceiling (maximum altitude) above mean sea level.

Section 3. Section 1110, DEFINITIONS (N) of the Zoning Ordinance is amended to add a definition for Nacelle to read as follows;

Nacelle. Wind turbine component which typically houses internal mechanical and electrical parts, such as generators, gearboxes, drive trains, and brake assembly.

Section 4. Section 1110, DEFINITIONS (R), of the Zoning Ordinance is amended to add a definition for Residual Background Sound Criterion, and Ridgeline, to read as follows:

Ridgeline. The plateau or maximum elevation which extends along the top of Steep Slope Lands. A Ridgeline may increase or decrease in elevation as it extends along the top of Steep Slope Lands.

Section 5. Section 1110, DEFINITIONS (T), of the Zoning Ordinance is amended to add a definition for Trellis Tower, to read as follows:

Trellis Tower: A structure made of interwoven pieces of wood, metal or synthetic material to support an object, such as a wind turbine or antenna array.

Section 6. Section 1110, DEFINITIONS (W), of the Zoning Ordinance is amended to delete the definition of Wind Turbine System, Medium, add definitions for Wind Turbine Height, and Wind Turbine Tower Height, and to revise the definitions of Wind Turbine System, Small; Wind Turbine System, Large; and Wind Turbine, Non Operational to read as follows:

Wind Turbine: A device which converts the kinetic energy of wind into a usable form of electric energy. A wind turbine may consist of a tower, turbine, support structures, electrical wires, guy wires and other related equipment.

Wind Turbine Height: The distance from existing grade at the base of the tower to the highest point of the turbine blade when in use.

Wind Turbine Tower Height: The distance from existing grade at the base of the wind turbine tower to the top of the tower excluding the nacelle and turbine blades.

Small Wind Turbine: A wind turbine with or without a tower, which has a rated capacity of not more than 50 kilowatts that generates electricity primarily for use on the same lot on which the wind turbine is located.

Large Wind Turbine: 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. "Large Wind Turbine" shall be classified as a Major Impact Services and Utilities use type.

Wind Turbine, Non-Operational: A wind turbine that is mechanically inoperable or otherwise no longer converting the kinetic energy of wind into a usable form of electric energy.

Section 7. Section 1110, DEFINITIONS (Z), of the Zoning Ordinance is amended to add a definition for Zoning Verification Permit, to read as follows:

Zoning Verification Permit. A ministerial permit issued by the Department of Planning and Development Services for purposes of verifying that a particular use or structure complies with all applicable Zoning Ordinance regulations.

Section 8. Section 6123 of the Zoning Ordinance is amended to read as follows:

6123 METEOROLOGICAL TESTING FACILITY

A Meteorological Testing (MET) Facility is permitted as a temporary use if the following requirements are met:

- a. An Administrative Permit must be obtained in accordance with the Administrative Permit Procedure commencing at Section 7050 except as specified in subsection 6123.l below. The following findings must be made prior to approval of an Administrative Permit:
 1. 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. 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. The requirements of the California Environmental Quality Act have been complied with.
- b. Location. A MET Facility is prohibited on property subject to the S81 Use Regulations.
- c. Notification. Notice shall be provided pursuant to Section 7060c.
- d. Setback. The MET Facility shall be set back from all property lines and roads by a minimum of the distance equal to the height of structure (tower, equipment, etc.) or the applicable setback requirements of the zone, whichever is greater. The setback requirements of the zone shall apply to all components of the MET Facility including, but not limited to, a tower, guy wires, guy wire anchors and any other related equipment.
- e. Minimum Spacing. The MET Facility shall be located at least 500 feet ~~apart~~ from any other MET Facility.
- f. Area of Disturbance. The MET Facility shall not disturb an area more than is necessary for the base of a tower, the guy wire anchors, other authorized equipment for the Facility and/or an access road. The equipment may include sonar equipment. The entire area of disturbance shall be clearly shown on the plans.
- g. Size. The MET Facility may include one temporary structure other than a tower or a sonar equipment trailer. The temporary structure is limited to 120 square feet in size including fencing and noise attenuation walls and may be used to store equipment for the MET Facility.
- h. Illumination. No exterior lights are allowed on a MET Facility except as required by the Director, the Federal Aviation Administration or other government agency.
- i. Height. The MET Facility shall be less than 200 feet in height.
- j. Duration. The MET Facility shall not operate for more than three years from the date of approval of the Administrative Permit unless the Director grants an extension. The Director may grant an extension of time upon the applicant submitting written justification for the continued use of the facility

and filing for a modification of the Administrative Permit pursuant to Section 7072. A MET Facility is approved by a Use Permit may operate for the time period specified in the Use Permit. The MET Facility shall be removed within 30 days of the expiration of the three-year period specified in the Administrative Permit or the time period specified in the Use Permit.

- k. Security. The operator shall provide a security in the form and amount determined by the Director to ensure removal of the MET Facility. The security shall be provided to DPLU prior to building permit issuance. Once the MET Facility has been removed from the property pursuant to a demolition permit to the satisfaction of the Director, the security may be released to the operator of the MET Facility.
- l. A MET Facility that complies with the height designator in the height schedule of the zone in which the facility is located, is allowed with a Zoning Verification Permit if the facility meets the requirements of subsections b, d, e, f, g, h, and k of this section. The MET Facility shall be removed within three years of the Zoning Verification Permit approval date.
- m. A MET Facility shall comply with all applicable fire code requirements. If a provision of section 6123 is inconsistent with an applicable fire code requirement, the fire code requirement shall take precedence.

Section 9. Subsection z of Section 6156 of the Zoning Ordinance is amended to read as follows:

- z. Small Wind Turbine. A small wind turbine shall be allowed in accordance with the Renewable Energy Regulations commencing at Section 6951

Section 10. Subsection b of Section 6158 of the Zoning Ordinance is amended to read as follows:

- b. Small Wind Turbine. A small wind turbine shall be allowed in accordance with the Renewable Energy Regulations commencing at Section 6951.

Section 11. Section 6862 of the Zoning Ordinance is amended to read as follows:

6862 NONCONFORMING WIND TURBINES.

- a. A nonconforming wind turbine, or a series of wind turbines, which meets the definition of "Wind Turbine, Non-Operational" in Section 1110 shall be removed within 60 days of becoming non-operational at the property owner's expense, and the site shall be restored to a condition compatible with surrounding properties as determined by the Director. Upon written request by the Department of Planning and Development Services, the owner of a property on which a nonconforming wind turbine is located shall provide documentation to the satisfaction of the Director that the Director may use to determine the operational status of the wind turbine.

Section 12. Section 6950 of the Zoning Ordinance is amended to read as follows:

6950 RENEWABLE ENERGY

The provisions of Section 6950 thru 6959 shall be known as the Renewable Energy Regulations. The purpose of these provisions is to prescribe reasonable standards and procedures for the installation and operation of Solar Energy Systems and Wind Turbines.

Section 13. Section 6951 of the Zoning Ordinance is amended to read as follows:

6951 SMALL WIND TURBINE

Small wind turbines shall comply with the following provisions:

- a. A maximum of three small wind turbines is allowed on a legal lot as an accessory use to the primary use of the lot in accordance with the following requirements:
 1. Setbacks. The following setback requirements apply:
 - i. A small wind turbine shall be setback from all private road easements and public roads by a minimum of the distance equal to the wind turbine height or the applicable setback requirements of the zone, whichever is greater. The wind turbine shall also be setback from all property lines by a minimum of the distance equal to the wind turbine height, the applicable setback requirement of the zone or 30 feet, whichever is greater. The wind turbine shall also meet the fire code setback requirements.
 - ii. No part of the wind turbine shall be closer than 300 feet or five times the turbine height, whichever is greater, from the following:
 - a. Electric power transmission towers and lines.
 - b. Blue line watercourse(s) or water bodies as identified on the current United States Geological Survey Topographic Map as posted on the United States Geological Survey website
 - c. Significant roost sites for bat species as identified on the Small Wind Turbine Constraints map dated October 12, 2012 on file with the department of Planning and Development Services based on data from the California Natural Diversity Database and San Diego Natural History Museum Maps.
 - d. Recorded open space easements and designated preserve areas.
 - e. Riparian vegetation as identified on the County Wetland Vegetation Map dated October 12, 2012.
 - iii. No part of a wind turbine shall be closer than 4,000 feet from a known golden eagle nest site. Parcels within 4,000 feet of known golden eagle nest sites are identified on the Small Wind Turbine Constraints Map dated October 12,

2012 on file with the Department of Planning and Development Services and based on data provided by the U.S. Fish and Wildlife Service.

2. Area of Disturbance. A small wind turbine shall not result in an area of ground disturbance (including grading, clearing, brushing, or grubbing) during installation that is larger than a 25 foot radius around the base of a tower, and an access path to the tower that is a maximum of four feet wide. The entire area of disturbance shall be clearly defined on the plans submitted for Zoning Verification Permit review.
3. Barriers. Public access to a small wind turbine shall be restricted through the use of a fence with locked gates or non-climbable towers.
4. Noise. A small wind turbine shall comply with the applicable sound level limits in the Noise Ordinance, County Code section 36.401 et seq.
5. Height. The wind turbine height may exceed the height limit of the zone in accordance with section 4620.j, but shall not exceed 80 feet.
6. Lighting. A small wind turbine shall not include any exterior lights unless required by law.
7. Turbine Certification. A small wind turbine shall be listed on the May 23, 2012, California Energy Commission, List of Eligible Small Turbines. A small wind turbine that is not on this list may be used only if the Director determines that the turbine will generate the amount of energy stated in the manufacturer's specifications (i.e., the rated capacity is accurate).
8. Historic Resources. A small wind turbine shall not be located on a parcel listed in the National Register of Historic Places or the California Register of Historical Resources.
9. Ridgelines. A small wind turbine tower shall not be located on a ridgeline, and the turbine blades shall not exceed the height of the ridgeline in an area within 150 feet of the ridgeline.
10. Design. A small wind turbine shall meet the following design criteria:
 - i. Trellis. Use of trellis style towers is prohibited.
 - ii. Guy -Wires. Use of guy-wires is prohibited; turbine towers shall be self supporting.
 - iii. Tower Base. The entire area within 10 feet of the base of a turbine tower shall be cleared of all vegetation and shall be covered with gravel, mulch or other similar material to prevent the growth of vegetation.
 - iv. Power lines. All power lines connecting turbine towers and/or generators to a structure(s) shall be installed underground.

- v. Safety. A small wind turbine shall be equipped with manual and automatic over speed controls.
 - vi. Non-Operational. Except for periods of maintenance, a small wind turbine that meets the definition of "Wind Turbine, Non-Operational" in Section 1110 shall be removed from the site within 180 days from the date of becoming non-operational. Upon written request by the Department of Planning and Development Services, the owner of the property on which a turbine is located shall provide documentation to the satisfaction of the Director that the Director may use to determine the operational status of the small turbine.
11. Military Operating Areas. The Department of Planning and Development Services shall provide written notice to the appropriate branch of the United States military prior to the issuance of a Zoning Verification Permit for a small wind turbine located in a Military Operating Area. The notice shall include a description of the location and height of the proposed small wind turbine.
 12. Pre-Approved Mitigation Area. A small turbine is allowed on a legal lot designated as Pre-Approved Mitigation Area within the boundaries of the Multiple Species Conservation Program Subarea Plan only with an Administrative Permit. An Administrative Permit may be approved for a maximum of three small wind turbines if all of the requirements of subsection "a" of this section are met and the cumulative rated capacity of the turbine(s) does not exceed 50 kilowatts. Subsections 6951.b and 6951.c below do not apply to lots designated as Pre-Approved Mitigation Area within the boundaries of the Multiple Species Conservation Program Subarea Plan.
 - b. Up to two additional small wind turbines (five total) are allowed when all wind turbines comply with the requirements of subsection "a" above and all turbines:
 1. Meet the height limit of the zone; and
 2. Are mounted on an existing permitted structure, such as an accessory structure, allowed pursuant to the Accessory Use Regulations in section 6150.
 - c. An Administrative Permit may be approved for more than three tower-mounted small wind turbines or more than five roof-mounted small wind turbines if all of the requirements of subsection "a" of this section are met and the cumulative rated capacity of all of the turbines does not exceed 50 kilowatts.
 - d. The cumulative rated capacity of all small wind turbines on a single legal lot shall not exceed 50 kilowatts.
 - e. Before a building permit is issued for a small wind turbine, the applicant shall obtain a Zoning Verification Permit to verify that each small wind turbine complies with the requirements listed in Section 6951.
 - f. A small wind turbine shall comply with all applicable fire code requirements. If a provision of subsection 6951.a is inconsistent with an applicable fire code requirement, the fire code requirement shall take precedence.

															SPECIAL PURPOSE		
S80*																A	S80* Open Space
S81																	S81 Ecological Resource Area
S82																	S82 Extractive
S86																	S86 Parking
S88+																	S88+ Specific Plan Area
S90+	M																S90+ Holding Area
S92	M																S92 General Rural
S94+																	S94+ Transportation & Utility Corridor
SWF																	SWF Solid Waste Facility

MATRIX LEGEND	<ul style="list-style-type: none"> ● Permitted A Permitted by Administrative Permit S Permitted by Site Plan m Permitted by Minor Use Permit M Permitted by Major Use Permit P Permitted Only Within Planned Developments of 20 Acres or Larger 	<ul style="list-style-type: none"> 1-22 Subject to Limitations (See Section 2980) * May Be Subject to Site Plan Approval + Other Uses Not Shown on Matrix May Be Permitted (See Text of Use Regulations) O Subject to Limitations (See Sections 2812 and 2818) E Exceptions to Enclosure Matrix (See Section 6814)
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 DPLFORMS\ZONING ORDINANCE MTRX-1

THE ZONING ORDINANCE - COUNTY OF SAN DIEGO																	Page 1 of 6								
USE & ENCLOSURE MATRIX																									
SUMMARY PREPARED PURSUANT TO SECTIONS 2990 AND 6816																									
<p><i>NOTE: This matrix is a summary only. For complete regulations see appropriate sections of The Zoning Ordinance. In case of conflict between the provisions graphically represented in this matrix and the provisions set forth in the text of The Zoning Ordinance, the provisions of The Zoning Ordinance shall apply.</i></p>																									
USE TYPES RESIDENTIAL Family Residential Group Residential Mobilehome Residential CIVIC Enclosed Open Drive-in Administrative Services Ambulance Services Clinic Services Community Recreation Cultural Exhibits and Library Services Child Care Center Emergency Shelters Essential Services Fire Protection Services Group Care Law Enforcement Services Civic, Fraternal or Religious Assembly Major Impact Services Minor Impact Services Parking Services Postal Services Small Schools	1250	1260	1265	1280	1300	See Section 6816	1310	1315	1320	1325	1330	1332	1334	1335	1340	1345	1346	1348	1350	1355	1360	1365	1375	Use Regulations	
	RESIDENTIAL																								
RS	●						●	●	M	M	M	M	M	●	S	M	M	M	m	M	M	m	M	M	RS Single-Family Residential
RD	●						●	●	M	M	M	M	M	●	S	M	M	M	m	M	M	m	M	M	RD Duplex/Two-Family Residential
RM	●						●	●	M	M	M	M	M	●	S	M	M	M	m	M	M	m	M	M	RM Multi-Family Residential
RV	●						●	●	M	M	M	M	M	●	S	M	M	M	m	M	M	m	M	M	RV Variable Family Residential
RU	●	●					●	●	M	M	M	M	M	●	S	M	M	M	m	M	M	m	M	M	RU Urban Residential
RMH							●	●	M	M	M	M	M	●	S	M	M	M	m	M	M	m	M	M	RMH Mobilehome Residential
RR	●	M					●	●	m	M	M	M	M	●	S	M	M	M	m	M	M	m	M	M	RR Rural Residential
RRO	●	M					●	●	m	M	M	M	M	●	S		M	M	m	M	M	m	M	M	RRO* Recreation-Oriented Residential
RC	●	●					●	●	M	M	●	M	●	●	S	●	●	M	m	M	M	M	M	●	RC Residential-Commercial

USE & ENCLOSURE MATRIX

SUMMARY PREPARED PURSUANT TO SECTIONS 2990 AND 6816

NOTE: This matrix is a summary only. For complete regulations see appropriate sections of The Zoning Ordinance. In case of conflict between the provisions graphically represented in this matrix and the provisions set forth in the text of The Zoning Ordinance, the provisions of The Zoning Ordinance shall apply.

USE TYPES		RESIDENTIAL																	Use Regulations							
		CIVIC																								
		COMMERCIAL																								
		INDUSTRIAL																								
		AGRICULTURAL																								
		SPECIAL PURPOSE																								
		1250	1260	1265	1280	1300	See Section 6816	1310	1315	1320	1325	1330	1332	1334	1335	1340	1345	1346	1348	1350	1355	1360	1365	1375		
		C30																							C30 Office-Professional	
		C31	●	●																					C31 Residential/Office Professional	
		C32	1					M	M	M	M	M													C32 Convenience Commercial	
		C34*	●	●																					C34* Gen. Commercial/Residential	
		C35	M																						C35 Gen. Comm./Ltd. Residential	
		C36	1	M																					C36 General Commercial	
		C37	1	M																					C37 Heavy Commercial	
		C38	1							M															C38 Service Commercial	
		C40	1																						C40 Rural Commercial	
		C42*	20																						C42* Visitor Serving Commercial	
		C44						M	M	M	M	M													C44 Freeway Commercial	
		C46*						M	M	●	M	M	●												C46* Medical Center	
		M50						M	●	M	●	M	M	●	S		●	M	M	m	●	●	m		M50 Basic Industrial	
		M52						M	●	M	●	M	M	●	S		●	M	M	m	●	●	m		M52 Limited Impact Industrial	
		M54						M	●	M	●	M	M	●	S		●	M	M	m	●	●	m		M54 General Impact Industrial	
		M56+						M	●	M	●	M	M	●	S		●	M	M	m	●	●	m		M56+ Mixed Industrial	
		M58						M	●	M	●	M	M	●	S		●	M	M	m	●	●	m		M58 High Impact Industrial	
		A70	●	M	18			●	●	m	M	M	M	M	M	M	●	S	M	m	M	M	m	M	M	A70 Limited Agriculture
		A72	●	M	18			●	●	m	M	M	M	M	M	M	●	S	M	S	M	M	m	M	M	A72 General Agriculture
		S80*	●					●	●		M	M	M	M	M	M	●	S			M	M	m	M	M	S80* Open Space
		S81																								S81 Ecological Resource Area
		S82						●	●		M	M	M	M	M											S82 Extractive
		S86						●	●																	S86 Parking
		S88+	●					●	●	●																S88+ Specific Plan Area
		S90+	●	M				●	●	m	M	M	M	M	M	M	●	S	M	m	M	M	m	M	M	S90+ Holding Area
		S92	●	M				●	●	m	M	M	M	M	M	M	●	S	M	S	M	M	m	M	M	S92 General Rural
		S94+						●	●	m	M	M	M	M												S94+ Transportation & Utility Corridor
		SWF																			●					SWF Solid Waste Facility

MATRIX LEGEND	● Permitted	1-22 Subject to Limitations (See Section 2980)
A	Permitted by Administrative Permit *	May Be Subject to Site Plan Approval
S	Permitted by Site Plan	+ Other Uses Not Shown on Matrix May Be Permitted (See Text of Use Regulations)
m	Permitted by Minor Use Permit	O Subject to Limitations (See Sections 2812 and 2818)
M	Permitted by Major Use Permit	E Exceptions to Enclosure Matrix (See Section 6814)
P	Permitted Only Within Planned Developments of 20 Acres or Larger	

Section 16. 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 May, 2013.