

ORDINANCE 14-06

WHEREAS, on January 6, 1994, the Hyrum City Council passed and posted an ordinance adopting the "Hyrum City Municipal Code", a recodification of municipal ordinances encompassing the "Revised Ordinances of Hyrum City" and ordinances adopted through July 15, 1993; and

WHEREAS, Title 17 of the Hyrum City Municipal Code is known as the Zoning Ordinance of Hyrum City and sets forth regulations governing land use within the municipal limits; and

WHEREAS, wind energy conversion systems are becoming increasingly popular for individual home use in residential neighborhoods; and

WHEREAS, due to noise and safety issues associated with wind energy conversion systems it is necessary to set regulations and restrictions to protect the health, safety, and welfare of the residents of Hyrum City; and

WHEREAS, upon recommendation of the Planning Commission the City Council has determined there is a need to amend Title 17 to add Chapter 17.90 Wind Energy Conversion Systems to the Hyrum City Municipal Code.

NOW, THEREFORE, following a public hearing held by the Planning Commission as required by Section 17.08.150, the Hyrum City Council hereby adopts, passes, and publishes the following:

AN ORDINANCE ADDING CHAPTER 17.90 (WIND ENERGY CONVERSION SYSTEMS) TO THE HYRUM CITY MUNICIPAL CODE TO REGULATE AND IMPOSE CONDITIONS AND REQUIREMENTS WITH RESPECT TO THE LOCATION AND CONSTRUCTION OF WIND ENERGY CONVERSION SYSTEMS WITHIN THE CITY IN ORDER TO PROMOTE THE GENERAL WELFARE AND SAFETY OF RESIDENTS OF THE CITY.

BE IT ORDAINED, by the City Council of Hyrum City, Cache County, State of Utah, as follows:

1. Chapter 17.90 is hereby added to Title 17 of the Hyrum City Municipal Code as follows:

Chapter 17.90
WIND ENERGY CONVERSION SYSTEMS

Sections:

- 17.90.010 Purpose and objective.
- 17.90.020 Approval of WECS.
- 17.90.030 Permit issuance required.
- 17.90.040 Additional review for any WECS.
- 17.90.050 Fencing requirements.
- 17.90.060 Connection to a public utility.

17.90.010 Purpose and objective.

The wind energy conversion system regulations are intended to impose conditions and requirements with respect to the location and construction of wind energy conversion systems within the city in order to promote the general welfare and safety of residents of the city.

17.09.020 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, if all of the following conditions are met:

- A. A site plan shall be submitted to the City. 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 City Staff.
- 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. Height of a WECS shall not exceed 45'. Height shall be measured from the highest point of the WECS to the top of adjacent finished grade. Heights greater than 45' may be allowed in Commercial Zones, Industrial Zones and Residential Zones (only when the residential lot is larger than 1 acre) as approved by the Planning Commission.
- D. A WECS shall not be closer to any property line than its total height plus 15%.
- E. A WECS may be roof mounted on any structure if meeting all safety and building requirements. In commercial/industrial applications, such as on rooftops of office or retail buildings, a WECS may not

exceed thirty five feet (35') in height as measured from the base to the peak of the apparatus. In residential applications a WECS may not exceed five feet (5') in height, as measured from the highest point of WECS to the top of ridge-line of roof or parapet or top of any architectural element mounted on roof.

- F. The applicant shall submit proof of continuing liability insurance covering any WECS that may be located on the applicant's property.
- G. The WECS shall not cause any interference to any existing or future microwave transmitters and/or receivers.
- H. The WECS shall not cause a sound that could be considered a nuisance. No wind turbine or combination of wind machines on a single parcel shall create noise that exceeds a maximum of forty five (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 Zoning Administrator.
- I. A WECS shall not be placed on any easement, right of way or common area.
- J. All property owners within three hundred feet (300') of the applicant's property lines shall be notified by 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 ten (10) days prior to any such meeting and shall be at the expense of the applicant.
- K. For application in recorded subdivisions, written approval by the subdivision architectural committee, HOA, or other authorized persons either living in or being involved into the development of the subdivision, shall be furnished by the applicant.
- L. The applicant shall furnish elevation drawings and/or

photographs of the proposed WECS.

- M. The applicant shall furnish any additional information required by the planning commission or the City Staff.
- N. A minimum one-half (½) 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 twelve feet (12') if the blades present a risk of injury to the general public.
- P. WECS shall not be located in the front yard area unless approved by the Planning Commission.

17.90.030 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 city, contrary to any provision of this chapter, without first complying with the approval requirements specified herein.

17.90.040 Additional review for any WECS.

A WECS application including two (2) or more WECS may be required to follow procedures and requirements of 17.08.100 "Site Plan Approval", of this code, in commercial and certain residential applications regardless of the zone as deemed necessary by the Zoning Administrator or Planning Commission.

17.90.050 Fencing requirement.

Access to any WECS shall be limited to either a non-accessible wall or fence not less than six feet (6') in height, or the climbing apparatus shall not be less than twelve feet (12') above the base of the structure.

17.90.060 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.

2. REPEALER. All ordinances, resolutions, and zoning maps of the city, or parts thereof inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.

3. DECLARATION OF SEVERABILITY. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity

shall not affect the other provisions or applications of this ordinance, the zoning map, or the Hyrum City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.

4. EFFECTIVE DATE. This ordinance shall become effective upon posting three (3) copies in three (3) public places within Hyrum City.

5. ADOPTION. This ordinance is hereby adopted and passed by the Hyrum City Council this 19th day of June, 2014.

HYRUM CITY

Stephanie Miller
Mayor

ATTEST:

Stephanie Fricke
City Recorder

Posted: _____