



**COUNTY OF VENTURA
RESOURCE MANAGEMENT AGENCY
PLANNING DIVISION**

M E M O R A N D U M

DATE: October 15, 2008

TO: Planning Staff

FROM: Kim Rodriguez, Planning Director

SUBJECT: Regulation of Small Wind Turbines

The purpose of this memo is to inform staff how to apply the Ventura County Non-Coastal and Coastal Zoning Ordinances to requests for installation of small wind turbines intended for on-site use. While the County's Ordinances do not directly address small wind turbines, there are references to similar and related uses that allow their installation.

Ventura County General Plan Goal 1.9.1.2 specifically encourages "the use of renewable sources of energy..." As one of the County's Energy Resource Goals, this goal serves to promote the use of renewable energy sources such as wind turbines. The use of wind turbines does not conflict with existing General Plan goals and policies and is, in fact, encouraged by the goal cited above.

The VC Non-Coastal Zoning Ordinance allows "Energy Production from Renewable Sources" with a Conditional Use Permit (CUP) in Open Space (OS), Agricultural Exclusive (AE), and Rural Agriculture (RA) zones. However, the definition of this use reads "...to produce energy from natural forces... for off-site use." Therefore, if the facility produces energy for on-site use, it does not meet this definition and would not necessarily trip the need for a CUP. Adhering to this interpretation assures that the County wouldn't require a CUP for every residential roof-top solar panel (which has not been the practice in the Planning Division), while also assuring that a commercial wind farm, etc. would trigger the CUP process.

Windmills/turbines are not specifically addressed anywhere else in the Zoning Ordinance. Therefore, they should be treated as any other structure (e.g. building, water tank, flag pole, light standard, etc.) and be subject to the "building envelope" elements of building height, floor area, setback, etc. as prescribed for the applicable zone. As such, a Zone Clearance (ZC) would be the appropriate permit for a wind turbine that does not exceed the allowable building height, meets required setbacks, and is not producing energy for off-site use.

To further support this position, the County has for years issued ZCs for Agriculture-related (Ag) wind machines under 35-feet in height (the maximum height allowed for the zone) by considering them to be Ag Accessory Structures under 2,000 square feet. Also in keeping with Zoning Ordinance requirements, the code allows for installation of ground mounted antennas up to 40 feet with a Zone Clearance. The code specifically states that this is for "*Non-Commercial*" antennas. This is very akin to, and serves the same purpose as, the "*off-site*" reference in the Energy Facilities definition. The remaining defining element of the facility is that it must be accessory (i.e., "customarily incidental, appropriate and subordinate to the principal use"). The simplest way to determine this is to rely on existing code standards (i.e., height, setback, etc.) while the next step would be to look at the principal use and its energy needs. Again, in short, as long as the proposed facility met existing code standards and was incidental, appropriate and subordinate to the principal use, a ZC would be appropriate. It is understood that net metering is typically employed with the installation of small wind energy sources and would not be prohibited by this interpretation, though it would be subject to appropriate electrical regulations not governed by the Zoning Ordinance.

The County Coastal Zoning Ordinance allows "Energy Facilities, Including Energy Production from Renewable Sources" in the Coastal Open Space (COS) and Coastal Industrial (CM) zones with a Planning Commission CUP. Section 8174-6, Minor Developments of the Coastal Zoning Ordinance identifies types of developments that are considered minor developments and only require approval through a Planning Director Planned Development Permit (PD) in the COS, Coastal Agricultural (CA) and Coastal Rural (CR) zones. Section 8174-6(j) exempts accessory structures to agriculture on lots with a single-family dwelling. A small wind turbine would fall into this category and could be approved provided it could meet all other development standards.

Upon reviewing the California Environmental Quality Act (CEQA) and the California Planning and Zoning Laws, there are no specific exemptions for wind energy facilities. Typically, as an "accessory use/structure" a single wind turbine would potentially be exempt per sections 15303 or 15311 of the State CEQA Guidelines. The CEQA visual impact issue would be addressed in the Initial Study Assessment Guidelines under Community Character, Agricultural Resources – Land Use Incompatibility, and Scenic Highways. However, in the case where there might be 20 wind turbines on a 20 acre site, this could be significant. This issue will be discussed in the on-going County Initial Study Assessment Guidelines update. In the meantime, in the unlikely event such a request is submitted, it should be considered on a case-by-case basis.

In summary, under the Non-Coastal Zoning Ordinance, small wind turbines are allowable in the OS, AE and RA zones with a Zone Clearance provided they meet all of the development standards and can be determined to be an accessory use. The Coastal Zoning Ordinance would require a Planning Commission CUP in the COS and CM zones; however, as an accessory structure to Agriculture one could be allowed with a Planning Director PD permit in the COS, CA, and CR zones. If the wind turbine is determined to be accessory to any other use it would be allowed under the same permit as the principal use. If you have any further questions regarding this issue, please do not hesitate to contact me at 654-2481. Thank you.