

ORDINANCE NUMBER 08-09

Adopted December 8, 2008

WIND ENERGY ORDINANCE

**BE IT ORDAINED BY THE BOARD OF JEFFERSON COUNTY COMMISSIONERS OF
JEFFERSON COUNTY, IDAHO:**

Section 1 Title.

This ordinance may be referred to as the Wind Energy System Ordinance.

Section 2 Authority.

This ordinance is adopted pursuant to authority granted to Jefferson County by Title 67, Chapter 65 of Idaho Code and Article 12, Section 2 of the Idaho Constitution.

Section 3 Purpose.

The purpose of this ordinance is to:

1. Oversee the permitting of wind energy systems.
2. Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a wind energy system.
3. Ensure that the important environmental features of Jefferson County are protected.

Section 4 Definitions.

In this ordinance:

1. "Administrator" means the Jefferson County Planning and Zoning Administrator.
2. "Board" means the Jefferson County Board of Commissioners.
3. "Building Official" means the Jefferson County Building Official.
4. "Large wind energy system" means a wind energy system that:
 - (a) Is used to generate electricity for one or multiple off site customer(s);
 - (b) Has a tower height of more than one hundred feet (100').

5. "Meteorological tower" (met tower) is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind indicators), wind direction vanes, booms to hold equipment anemometer and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
6. "Owner" shall mean the individual or entity that intends to own and operate the wind energy system in accordance with this ordinance.
7. "Rotor diameter" means the cross section dimension of the circle swept by the rotating blades.
8. "Small wind energy system" means a wind energy system that:
 - (a) Is used to generate electricity for private use;
 - (b) Has a maximum tower height of one hundred feet (100').
9. "Total height" means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
10. "Tower" means the monopole, freestanding, or guyed structure that supports a wind generator.
11. "Wind energy facilities" is defined as an electricity-generating facility consisting of one or more large energy systems under common ownership or operating control that includes substations, met towers, cable/wires and other building accessories to such facility, whose main purpose is to supply electricity to off-site customer(s).
12. "Wind generator" means blades and associated mechanical and electrical conversion components mounted on top of the towers.

Section 5 Standards

- A. Large Wind Energy System or Wind Energy Facilities** shall be permitted in an Agricultural Forty Zone (Ag-40) on parcels of land that contain forty (40) acres or more subject to the following requirements:
 1. Approval of a Conditional Use Permit.
 - (a) The following issues may be considered for a Wind Energy System or Wind Energy Facility:
 - The environment.
 - The floodplain.
 - Wildlife, wildlife corridors, bird migration patterns, and bats.

Endangered species of animals and vegetation.

2. Setbacks. The tower shall be set back a minimum distance equal to its total height from :
 - (a) Any public road right of way.
 - (b) Any overhead utility lines.
 - (c) All property lines.
 3. Access
 - (a) All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
 - (b) 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 (8') above the ground.
 4. Electrical Wires. All electrical wires associated with Large Wind Energy Systems , other than wires necessary to connect the wind generator to the tower wiring, the tower to the disconnect junction box, and the grounding wires shall be located underground.
 5. Lighting. A Large Wind Energy System shall be artificially light.
 6. Appearance, Color, and Finish. The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer.
 7. Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building or other structure associated with a wind energy system visible from any public road shall be prohibited.
 8. Code Compliance. A large wind energy system including the tower shall comply with all applicable local construction codes and state / National electrical codes.
 9. Utility notification and interconnection. Large Wind Energy Systems that connect to the electric utility shall comply with rules for interconnecting distribution generation facilities. No Wind Energy System shall be installed without a written statement with signature and date from the utility company indicating they have been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
 10. Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a Large Wind Energy System.
- B. Small Wind Energy Systems** shall be a permitted use in all zoning districts with parcels containing one-half (1/2) acre or larger subject to the following:

1. One Small wind energy system may be installed for the first half (1/2) acre and one for each additional two (2) acres per parcel.
2. Setbacks. The tower shall be set back a distance equal to its total height (see Section 4 “Definitions”, 7) from:
 - (a) Any public road right of ways.
 - (b) Any overhead utility lines.
 - (c) All property lines.
3. Access.
 - (a) All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
 - (b) The tower shall be designed and installed so as not to provide step bolts of a ladder readily accessible to the public for a minimum height of eight feet (8’) above the ground.
4. Electrical Wires. All electrical wires associated with a small wind energy system, other than wires necessary to connect wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
5. Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
6. Appearance, Color, and Finish. The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless other colors or finishes (Colors that blend with the natural landscape or background) approved by the Jefferson County Planning and Zoning Administrator.
7. Signs. All signs, other than the manufacturer’s or installer’s identification, appropriate with a small wind energy system visible from any public road shall be prohibited.
8. Code Compliance. A small wind energy system including the tower shall comply with all applicable local construction codes and state / National electrical codes.
9. Utility notification and interconnection. Small Wind Energy Systems that connect to the electric utility shall comply with rules for interconnecting distribution generation facilities. No Wind Energy System shall be installed without a written statement with signature and date from the utility company indicating they have been informed of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
10. Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a Small Wind Energy System.

11. Sound. Residential wind energy systems shall not exceed 60 DBA, as measured at the property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

Section 6 Permit Requirements

- A. Building Permit. A building permit shall be required for the installation for the installation of a Wind Energy System.

Documentation to be submitted for a building permit.

1. Two Plot Plans which include the following:
 - (a) Property lines and dimensions of the property.
 - (b) Location, dimensions, and types of existing structures on the property.
 - (c) Location of the proposed wind system tower.
 - (d) Public roads contiguous with the property.
 - (e) Any overhead utility lines.
 - (f) Septic, well, drain field, and replacement area.
2. Engineered wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed).
3. Two sets of engineered foundation blueprints or drawings (cross section).
4. Two sets of engineered Tower blueprints or drawings.
5. Recorded warranty deed showing ownership of property (or a letter of approval / lease agreement from the property owner if different than the applicant).
6. Fees. The application for a building permit for a Large or Small Wind Energy System must be accompanied by the proper fees.
7. Expiration. A permit issued pursuant to this ordinance shall expire if:
 - (a) The wind energy system is not installed and functioning within 24-months from the date the permit is issued; or,
 - (b) The wind energy system is out of service or otherwise unused for a continuous 12-month period.

Section 7 Building Permit Procedure

1. An owner or applicant shall submit the required documentation to the Building Official when applying for a wind energy system.
2. The Building Official shall approve and issue the permit within ten (10) business days of the date the application was submitted to the building department unless additional information is requested by the Building Official to complete the plan review process; and the wind energy system materials meet the requirements of this ordinance.
3. When the building permit is issued the Building Official will return a copy of the stamped / signed sets of the plot plan, and engineered foundation and tower drawings.
4. The owner / applicant shall conspicuously post the building permit number on the premises so as to be visible to the public at all times until construction or installation or the wind energy system is complete and the final building inspection has been approved.

Section 8 Abandonment

1. A wind energy system that is out of service for a continuous 12-month period will be deemed to have been abandoned. The administrator may issue a notice of abandonment to the owner of the wind energy system that is deemed to have been abandoned. The owner shall have the right to respond to the notice of abandonment within 30 days from the notice date. The administrator shall withdraw the notice of abandonment and notify the owner that the notice of abandonment has been withdrawn if the owner provides information that demonstrates the wind energy system has not been abandoned.
2. If the wind energy system is determined to be abandoned, the owner shall remove the wind energy system at the owner's sole expense within three (3) months of the notice date of the notice of abandonment. If the owner fails to remove the wind energy system, the administrator may pursue a legal action to the wind energy system removed at the owner's expense.

Section 9 Violations

It is unlawful for any person to construct, install, or operate a wind energy system or wind energy facility that is not in compliance with:

1. This ordinance.
2. Other County Ordinances / Building Codes, or State and Federal requirements.
3. Any condition contained in a building permit issued pursuant to this ordinance.
4. Wind energy systems installed prior to the adoption of this ordinance are exempt from the requirements of this ordinance, except for the provisions of Section 8 of this ordinance regarding abandonment.

Section 10 Administration and Enforcement

1. This ordinance shall be administered by the Administrator, Building Official, or designee.
2. The Administrator, Building Official or designee may enter any property for which a building permit has been issued under this ordinance to conduct inspections to determine whether the conditions stated in the permit or this ordinance have been met.
3. The Administrator or Building Official may issue orders to abate any violation of this ordinance.
4. The Administrator or Building Official may issue a citation for any violation of this ordinance, other County Ordinances or Building Codes.
5. The Administrator or Building Official may refer any violation of this ordinance to legal counsel for enforcement.

Section 11 Penalties and Severability

1. Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as stipulated in 3.16.2 or the Jefferson County Zoning Ordinance.
2. Nothing in this section shall be construed to prevent the Jefferson County Board of Commissioners from using any other lawful means to enforce this ordinance.
3. The provisions of this ordinance are severable, and the invalidity of any section or other part of this ordinance shall not affect the validity or effectiveness of the remainder of this ordinance.