

**ARTICLE 5  
WIND ENERGY CONVERSION SYSTEMS**

11-501. DEFINITIONS; APPLICABILITY

Whenever used in the Article, the terms defined in the following sections shall bear the meaning given them in those sections.

11-502. WIND ENERGY CONVERSION SYSTEM; WECS

The term "wind energy conversion system" means a machine that converts kinetic energy in wind into a different, usable form of energy, including a machine commonly known as a wind turbine or windmill. Unless the context clearly indicates otherwise, the term refers to all components of such a system, including, but not limited to, the tower and transmission equipment. For convenience, the term usually is abbreviated "WECS."

11-503. WECS; SITE

The term "site" means the lot or tract of land upon which a WECS is placed. It includes such a lot or tract of land whether privately or publicly owned, and regardless of whether the WECS is owned by, in possession or control of, or operated by the same person who owns or is in possession of the lot or tract of land.

11-504. WECS; SWEPT AREA

The term "swept area" means the largest area of the WECS which extracts energy from the wind stream.

11-505. WECS; TOTAL HEIGHT

The term "total height" means the aggregate height of the tower and the furthest vertical extension of any other component of the WECS.

11-506. FINDINGS; CITY COUNCIL

It is found and declared that:

- (1) Wind energy is an abundant, renewable and nonpolluting energy resource, and its conversion to electricity will reduce dependence on nonrenewable energy sources and decrease air and water pollution which may result from use of conventional energy;
- (2) Wind turbines which convert wind energy to electricity are currently available on a commercial basis from many manufacturers; and
- (3) The generation of electricity by properly sited wind turbines can be cost effective, and in many instances existing power distribution systems can be used to transmit electricity from wind generating stations to utilities or other users.

11-507. ARTICLE; PURPOSE

The purpose of this Article is to regulate the occupancy and use of lands by wind energy conversion systems for protection of the public health, safety and general welfare - including, but not limited to, that of owners and occupants of adjacent lands - in a manner that will facilitate the effective and efficient use of such systems.

11-508. HEIGHTS

The total height of a WECS shall not exceed eighty (80) feet, or the maximum height permitted by regulations of the State or the Federal Government, whichever is lesser. The minimum distance of any blade above the ground shall be fifteen (15) feet; provided, if there shall exist within a two-hundred-fifty (250) foot radius of the center point of the tower any building, structure (not including electrical transmission or distribution lines, antennas, slender or open lattice towers or open fences) or tree in excess of thirty-five (35) feet in height, the minimum distance of any blade above the ground shall be the greater of:

- (1) The sum of thirty (30) feet and the height, in feet, of the tallest of such building(s), structure(s) or tree(s); or
- (2) Such distance above the ground as the manufacturer shall recommend to assure sufficient air flow for adequate operation of the WECS.

#### 11-509. SETBACK

The tower support base of the WECS shall be located a distance from the boundary lines of the lot or tract of land, and from all aboveground utility lines, that is not less than one and one-fourth (1 1/4) times the total height of the WECS.

#### 11-510. CONDITIONAL USE PERMIT

The Planning Commission may issue a conditional use permit authorizing the erection, maintenance and operation of WECS in any zone, and modifying as to such system, as provided in this Article, zoning regulations pertaining to height, setback and other provisions of this Chapter which otherwise would apply to the system, if the Commission determines that the requirements of this Article, and of Article 6 of this Chapter, have been met.

#### 11-511. CONDITIONAL USE PERMIT APPLICATION

An application for a conditional use permit to erect, maintain and operate a WECS shall comply with the requirements for an application for a conditional use permit as described elsewhere in the municipal code and, in addition, shall include the following information:

- (1) Address and telephone number of the owner of the lot or tract of land and, if the WECS is to be erected, maintained or operated by some other person, the name, address and telephone number of such other person;
- (2) A plot plan and development plan drawn in sufficient scale and detail to clearly describe:
  - a. the property lines and physical dimensions of the proposed site, including all public streets and alleys abutting the site;
  - b. the location and total height of the WECS;
  - c. the location, dimensions and types of all major existing structures and uses of the site;
  - d. the location of all aboveground utility lines and other WECS's on the site or within a radius from the center of the tower which is equal to one and one-half (1 1/2) times the total height of the proposed WECS;
  - e. the location and size of all buildings, structures and trees exceeding thirty-five (35) feet in height within a five-hundred (500) foot radius of the proposed WECS (for purposes of this requirement, electrical transmission and distribution lines, antennas, slender or open lattice towers and open fences are not considered structures); where applicable, the location of all transmission facilities proposed for installation;
  - f. where applicable, the location of all road and other service structures proposed as part of the installation; and

- g. the zoning districts within which are situated the lot or tract of land and adjacent lots and tracts of land.

There also shall be submitted with the application a copy of a proposed policy of liability insurance to cover loss or damage to persons and property in a minimum amount of \$1,000,000 per event and \$2,000,000 aggregate coverage. If the WECS is to be erected, maintained or operated by a person other than the owner of the lot or tract of land, the application shall be signed, also, by such other person.

#### 11-512. CONDITIONAL USE PERMIT; ARTICLE 6 REQUIREMENTS

All of the other requirements and provisions of Article 6 of this Chapter concerning proceedings on applications for a conditional use permit, the terms of such a permit, the issuance of building permits and certificates of occupancy, and the transfer of conditional use permits shall apply to a conditional use permit issued under this Article.

#### 11-513. CONDITIONAL USE PERMIT; FINDINGS; PLANNING COMMISSION; ADDITIONAL

The Planning Commission may approve a conditional use permit for a WECS if it finds, in addition to the findings required for the issuance of a conditional use permit, that the proposed use will not be detrimental to the public health, safety and general welfare.

#### 11-514. ABANDONMENT

A WECS shall be deemed abandoned if not in continuous use, except during maintenance and repair or during the temporary absence of the operator. If the Zoning Administrator shall determine that a WECS has been abandoned within the meaning of this section, he or she shall cause to be delivered or mailed to the owner of the lot or tract of land and, if the WECS was in the possession of or operated by some other person, to such other person, a written notice of such determination and that the WECS, including the tower, shall be removed within thirty (30) days after delivery or mailing of the notice. If the notice is mailed, it shall be addressed to the person being notified at the latter's last known residence address. If the WECS is not removed within the thirty (30) days after the notice is given, the City of Kimball may proceed under the nuisance or unsafe structure codes within the municipal code.