



Los Angeles County  
Department of Regional Planning



*Planning for the Challenges Ahead*

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Director of Planning

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TO: DRP Staff

FROM: Bruce W. McClendon, FAICP  
Director of Planning

A handwritten signature in black ink, appearing to read "Bruce W. McClendon".

**SUBJECT: Clarification of WECS-N Ordinance**

Attached are several clarifications for policy issues that have arisen relating to the Wind Energy Conversion System – Noncommercial (WECS-N) Ordinance as cases have been filed and processed. These guidelines should help facilitate your intake and processing of these cases. In addition, these procedures are consistent with our Green Building concept by encouraging people to use alternative energy sources.

**1. Definition of Noncommercial**

Although the intent on the WECS-N Ordinance is that the “N” describes the noncommercial use of the turbine, it has been interpreted to describe the use of the land. The Ordinance states WECS-N shall be permitted “on agriculturally and residentially zoned lots in unincorporated areas of Los Angeles County to encourage the generation of electricity for on-site use.” The definition of “on-site” use is to be interpreted that the electricity will be used on the subject property and not sold for use elsewhere. If the property is to be used for agriculture use a single-family residence is not required on the subject property. However, the applicant should provide the function of the turbine, i.e. powering a generator for landscaping, etc.

**2. Environmental review of WECS-N**

The environmental determination of all WECS-N will not be determined at the time of submittal; the case shall be taken in for processing without an environmental determination. The case planner shall determine if the case is categorically exempt, or if an initial study is required. If an initial study is required the initial study fee shall be collected before the case processing can be completed.

In reviewing the WECS-N application, the case planner shall consider Section 15303 of the CEQA Guidelines which allows for a Class 3 Categorical Exemption for “...construction and

location of limited numbers of new, small facilities or structures...” An example of such an exemption includes but is not limited to: “...Accessory (appurtenant) structures...” This exemption has qualifications or exceptions which are described in Section 15300.2 and include such things as impacts on particularly sensitive environments, scenic highways and historic resources. The exemption may not be appropriate if the tower is proposed in an SEA, adjacent to a scenic highway, etc. In most instances the “small scale” wind turbines, 35 feet in height or less, shall qualify for a Class 3 Categorical Exemption.

### **3. Permit processing fees**

Currently an applicant is required to pay \$967 for a minor conditional use permit to obtain approval for a WECS-N. The Department of Regional Planning sends out notices to property owners within 300 feet (1,000 feet in the Fifth District). If fewer than two requests for public hearing are received, the Director can approve the minor CUP if it complies with the findings of 22.56.090 and the standards of Part 15 of Chapter 22.52. However, for a decision to be made on the project where two or more requests for a public hearing have been received, an additional \$4,402 must be submitted by the applicant if he or she wants to have the CUP considered at a public hearing.

Section 22.60.120.B of the County Code, relating to refunding of fees or deposits, can be applied here. If the applicant wants to withdraw the application after being notified that there were two or more requests for public hearing, a partial refund could be given to the applicant. Section 22.60.120.B states “one-half of the fee shall be refunded if the case is withdrawn after the preparation and mailing of the notice of completeness, but prior to publication of the notice of hearing or prior to ex parte action by the hearing officer.” If the applicant withdraws the application after they are notified a public hearing is required they would qualify for one-half refund, or \$483.50.

### **4. Definition of “safe clearance”**

Section 22.52.1620.A.3.c. of the Ordinance requires safe clearance be provided between a WECS-N or Temp Met Tower and all structures and trees. The safe clearance is further clarified as:

- The required distance between the WECS-N or Temp Met Tower and any residential structure shall be the distance which is equivalent to the height of the facility, including any wind turbine generator, wind-measuring devices, and the highest vertical extent of any blades, provided that the required distance shall also comply with any applicable fire setback requirements pursuant to section 4290 of the Public Resources Code.
- The safe clearance between a WECS-N or Temp Met Tower and any structure (other than a residential structure) shall be a minimum of six feet.
- The safe clearance between a WECS-N or Temp Met Tower and any trees shall only be as required by the Fire Department.

### **5. Climbing apparatus**

Section 22.52.1620.A.4.c. of the Ordinance requires all climbing apparatus to be located at least 12 feet above ground, and the tower must be designed to prevent climbing within the first 12 feet. If the tower is constructed so that it can be climbed within the first 12 feet, fencing is required around the tower. The fence shall be a minimum of five feet in height and can be constructed of cement block, woven or welded wire, chain link, wrought iron, metallic panels or similar materials approved by the Director. A barb wire fence or barb wire wrapped around the base of the tower is not permitted.

### **6. Certificate of Compliance**

Although a Certificate of Compliance (COC) is not directly related to a WECS-N approval, applicants are often notified a COC is required on the property and adds to the length of the project. It is the property owner's responsibility to discover if a certificate of compliance is required. If the parcel is depicted with dashed lines on the assessor's map, it is indicative that a COC is required. If the Land Development Coordinating Center (LDCC) already has this information on the property they should relay the COC number to the applicant. However, in some cases it is unclear if a COC is required after LDCC has researched the property. If this is the case, it is the applicant's responsibility to do a preliminary title search on their own to determine if a COC is required. If a COC has already been obtained, the applicant should submit that information along with their application.

An alternative is that the applicant files a COC with the Land Development Research Center and they will do the title search upon submittal of the \$1,520.00 filing fee. However, if the search reveals a COC was previously issued on the subject property, the applicant would only receive a partial refund as significant research has already been completed on the case.

If a COC is required on the property, it can be done concurrently as the processing of the WECS-N case. However, the COC needs to be completed before the approval of the Exhibit "A" approving the project.

BWM:RH:KMS