

## CALIFORNIA COASTAL COMMISSION

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## RECORD PACKET COPY

DATE: November 22, 2002

TO: Coastal Commissioners and Interested Parties

FROM: Peter Douglas, Executive Director  
Charles Lester, Deputy Director  
Chris Kern, North Central Coast Supervisor

SUBJECT: **SONOMA COUNTY LCP AMENDMENT NO. 2-02 – Small Wind Energy Systems** (for public hearing and Commission action on December 11, 2002 in San Francisco)

**Background**

Sonoma County's land use plan (Coastal Plan) was certified by the Coastal Commission in 1981. In 2001, the Commission approved a package of updates to the Coastal Plan, most of which were relatively minor in scope, along with changes in the coastal zoning ordinance and coastal administrative manual, which together make up the County's certified local coastal program (LCP). The County has since embarked on a more comprehensive revision of the LCP, including potentially more significant changes to plan policies to reflect changing conditions and new information. The County expects to submit this revision to the Coastal Commission sometime in the future as an LCP amendment.

In 2001, the Legislature passed and the Governor signed legislation addressing "small wind energy systems" (Government Code Section 65892.13). A small wind energy system is defined in the law as "a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity that does not exceed the allowable rated capacity under the Emerging Renewables Fund of the Renewables Investment Plan administered by the California Energy Commission and which will be used primarily to reduce onsite consumption of utility power." This legislation, known as AB 1207, authorizes cities and counties until July 1, 2005 to provide by ordinance for the installation of small wind energy systems and to establish a process for the issuance of conditional use permits for such systems.

Whether or not a local government adopts such an ordinance, small wind energy systems shall not be allowed where the policies of local coastal programs would not permit them. AB 1207 provides that where local governments opt to adopt an ordinance, small wind energy systems shall not be allowed where otherwise prohibited by, among other things, "a local coastal program and any implementing regulations adopted pursuant to the California Coastal Act." The law provides also that any local agency which has not

adopted an ordinance meeting certain conditions on or before July 1, 2002 shall approve applications for a small wind energy system by right (that is, without the need for a conditional use permit), if certain conditions are met. Those conditions include, among others, that the size of the parcel in question is at least one acre and is located outside an urbanized area and that tower heights on parcels that are less than five acres in size not exceed 80 feet. However, even where a local government has chosen not to adopt an ordinance prior to July 1, 2002, AB 1207 specifically provides that a small wind energy system shall not be allowed where otherwise prohibited by the existing provisions of an LCP.

On May 14, 2002, the Sonoma County Board of Supervisors adopted an ordinance in response to the legislation described above and submitted it to the Coastal Commission as a proposed amendment to the County's certified LCP zoning ordinance, asking for prompt review by the Commission prior to July 1, if possible. It is the Commission staff's position that even absent the proposed ordinance, Sonoma County's LCP contains policies and standards that would regulate and potentially prohibit, in some circumstances, the issuance of a coastal development permit for new small wind energy systems. Even if local governments do not enact conditional use permit standards by July 1, 2002, only wind energy systems which meet existing LCP requirements will be allowed without the need for a conditional use permit until an ordinance is subsequently adopted. Nevertheless, the Commission certified Amendment 1-02 of the Sonoma County LCP on June 13, 2002 as submitted by the County adding standards and procedures for permitting small wind energy systems in the Sonoma County coastal zone.

As amended in June 2002, the County's LCP requires small wind energy systems to conform to the existing policies of the certified LCP that provide for the protection of coastal resources such as environmentally sensitive habitat areas and scenic areas, meet all existing requirements for new development in the coastal zone, and meet additional zoning standards specific to wind energy systems. In some zone districts, wind energy systems would be allowable only if the tower would be no higher than other structures allowed in the zone district, such as a residence or barn. In other zone districts, allowable wind energy systems may exceed the existing height limits for other structures such as houses or barns, but only subject to design review and application of a variety of standards intended to protect visual resources. On some parcels, small wind energy systems may be prohibited entirely, if applicable standards cannot be met.

On October 16, 2002, the Commission received an application from the County to further amend the LCP to simplify the local permitting process by eliminating the requirement for a conditional use permit for small wind energy systems within certain rural residential, agricultural, and timberland zoning districts. The amendment would also reduce the property line setback requirement for wind energy towers on properties greater than ten acres in cases where a narrower setback would reduce the visibility of the system and if the tower is set back from any structure on the adjacent property a distance equivalent to the tower height.

**Summary of the Staff Recommendation.**

Staff recommends approval of the proposed amendment to the coastal zoning ordinance as submitted.

## **1.0 Staff Recommendation**

### **1.1 Motion and Resolution**

**MOTION:** *I move that the Commission reject Amendment 2-02 to the Implementation Program for the Sonoma County certified LCP as submitted.*

#### **STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:**

Staff recommends a NO vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

#### **RESOLUTION TO CERTIFY AMENDMENT 2-02 TO THE IMPLEMENTATION PROGRAM AS SUBMITTED:**

The Commission hereby certifies Amendment 2-02 to the Implementation Program for the Sonoma County certified LCP as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment conforms with, and is adequate to carry out, the provisions of the certified land use plan, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment.

## **2.0 Findings and Declarations**

The Commission hereby finds and declares as follows:

### **2.1 Description of Existing Ordinance**

#### **2.1.1 General Standards**

Pursuant to LCP Amendment 1-02 certified in June 2002, wind energy systems are identified in the certified LCP as an allowable use in certain commercial, public facilities, rural residential, agricultural, and timberland zoning districts subject to coastal development permit, design review, and either zoning permit or use permit approvals. Wind energy systems are not allowed in urbanized areas, scenic corridors, parcels less than one acre in size, parcels subject to a conservation, open space, or agricultural easement that does not specifically authorize small wind energy systems, within an Alquist-Priolo earthquake fault Special Studies Zone, or areas listed in the National Register of Historic Places or the California Register of Historic Resources.

The Small Wind Energy Systems Ordinance adopted by the County and certified by the Commission as LCP Amendment 1-02 provides additional standards for small wind energy systems within the County's coastal zone, including (see Exhibit 1 for the entire text of the ordinance including a complete list of all standards):

- Only one system is allowed per legal parcel,
- A minimum property line setback the equivalent of the system tower height and ten feet from any other structure,
- A maximum tower height of 65 feet on parcels less than five acres,
- A maximum tower height of 80 feet on parcels five acres or greater,
- Systems shall not project above the top of visually prominent ridgelines,
- Natural landforms and existing vegetation shall be used screen views from public roads, trails and parks,
- Systems shall be screened to the maximum extent feasible to avoid significant visual impacts to neighboring properties,
- Systems shall not significantly impair scenic vistas from County or State designated scenic corridors or as designated on the LCP Visual Resources Maps, and
- System towers and components shall be of non-reflective, unobtrusive colors.

#### **2.2.2 Commercial and Public Facilities Zoning Districts**

As amended by LCP Amendment 1-02, the County's coastal zoning ordinance designates small wind energy systems as a permitted use, subject to the standards of Section 26C-325.8 as described above, in the Rural Services (CS), Commercial Tourist (CT), Community Commercial (C2), Agricultural Services (AS), Commercial Fishing (CF), and Public Facilities (PF) zoning districts.

These districts allow a variety of commercial uses such as small-scale retail and personal services businesses, visitor-serving uses such inns and restaurants, and public facilities such as water supply facilities. Small wind energy systems are allowed in each district "subject to the applicable criteria set forth in Section 26C-325.8 and the height limit of the use (i.e. residential, commercial, or agricultural) to which the use is appurtenant."

The requirements of Section 26C-325.8 of the coastal zoning ordinance are described above. The "height limit of the use to which the use is appurtenant" means that the height for small wind energy systems in the cited zone districts shall not exceed the height limit for the structure for which electrical energy would be provided. As an example, the existing coastal zoning ordinance provides that in the CS zone district, the height limit for residential structures west of Highway One is 16 feet; east of Highway One and visible from designated scenic roads, the height limit is 24 feet; and east of Highway One and not visible from scenic roads is 35 feet, all measured above the average level of the parcel. The phrase "height limit of the use to which the use is appurtenant" means that wind energy systems providing electricity to a residence is subject to the same height limit as the residence itself. In summary, wind energy systems

in the zone districts listed above may be permitted with a tower no higher than the height currently allowed for other structures permissible on the property.

### **2.2.3 Rural Residential, Agricultural, and Timberland Zoning Districts**

Small wind energy systems are designated as an allowable use in the Land Intensive Agriculture (LIA), Land Extensive Agriculture (LEA), Diverse Agriculture (DA), Resources and Rural Development (RRD), Resources and Rural Development/Agricultural Preserve (RRDWA), Timberland Production (TP), Agriculture and Residential (AR), and Rural Residential (RR) zoning districts. Depending on the height of the structure proposed, a coastal permit and a zoning permit or a coastal permit and a use permit is required.

These districts allow a variety of resource production uses such as the raising of farm animals, the growing of crops, and construction of farm dwellings. Under the certified coastal zoning ordinance, small wind energy systems are allowed in each of these districts in one of two ways.

Systems that do not exceed the lesser of the height limit of the use (i.e. residential, commercial, or agricultural) to which the use is appurtenant, or thirty-five feet, subject to the applicable criteria set forth in Section 26C-325.8 may be approved through a coastal permit and a zoning permit. Wind energy systems with a structure height "greater than either of the permitted height limit of the use (i.e. residential, commercial, or agricultural) to which the use is appurtenant, or thirty-five feet, subject to the applicable criteria set forth in Section 26C-325.8, may be approved under a coastal permit and a use permit. The maximum height for a small wind energy system remains 65 feet on a parcel less than five acres in size or 80 feet on a parcel of five acres or more in size. A development requiring a use permit is a conditional use under the County's zoning ordinance, requiring the adoption of specific findings of approval following a public hearing.

## **2.2 Description of Proposed LCP Amendment**

The proposed amendment to the coastal zoning ordinance would designate all small wind energy systems as "other permitted uses subject to site development and erosion control standards" within the LIA, LEA, DA, RRD, RRDWA, TP, AR, and RR coastal zoning districts irrespective of system height up to the maximum allowable height of 65 feet on parcels less than five acres and 80 feet on parcels five acres or greater (see Exhibit 2). The effect of the proposed amendment would be to eliminate the use permit requirements for small wind energy systems within these rural residential, agricultural, and timberland districts. **The amendment would not affect the appealability of coastal development permits for small wind energy systems in these zoning districts.**

The amendment would also allow the setback standards for small wind energy systems on parcels greater than ten acres in size to be reduced where such a reduction would decrease the visibility of the system. Design review approval would still be required for all small wind energy systems and all of the visual resource protection measures and other prohibitions and standards provided under Section 26C-325.8 of the coastal zoning ordinance would remain in effect.

## **2.3 Standard of Review**

Section 30513 of the Coastal Act provides, in part:

**The commission may only reject ordinances, zoning district maps, or other implementing actions on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan.**

The standard of review for the proposed LCP amendment is the County's certified land use plan (Coastal Plan). To approve the proposed amendment to the coastal zoning ordinance, the Commission must find that the zoning ordinance as amended conforms with and is adequate to carry out the County's certified land use plan.

## **2.4 Conformity of the proposed LCP Amendment to the Certified LUP**

### **2.4.1 Permitted Uses and Appealability**

Coastal Section 30603(a) provides that an action taken by a local government on a coastal development permit may be appealed to the Coastal Commission for only certain types of development, including:

- (4) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).**

The Coastal Act provides that development that is not the principal permitted use is appealable. In accordance with Coastal Act Section 30603(a)(4), coastal development permits approved by a coastal county for development that is not designated as the "principal permitted use" are appealable to the Coastal Commission.

Several sections of the Sonoma County certified coastal zoning ordinance address appeals of coastal development permits consistent with Coastal Act Section 30603(a)(4).

Section 26C-347(c) of the ordinance states in part:

**[A] coastal development permit may be appealed for the following reasons...**

- (3) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinances as defined in Coastal Combining District.**

Section 26C-2(c) of the ordinance states in part:

**Principal permitted uses are those uses listed under the heading "Uses permitted subject to site development and erosion control standards" within each zoning district, with the following exceptions:**

- LIA – Land Intensive Agriculture: Sec. 26C-20(c)**
- LEA – Land Extensive Agriculture: Sec. 26C-30(c)**
- DA – Divers Agriculture: Sec. 26C-40(c)**
- RRD – Resources and Rural Development Sec. 26C-50(c)**
- RRDWA – Resources and Rural Development (Ag Preserve): Sec. 26C-60(c)**
- TP – Timber Production: Sec. 26C-70(c)**
- AR – Agriculture and Residential: Sec. 26C-80(c)**
- RR – Rural Residential: Sec. 26C-90(d), (e)**

...

Finally, coastal zoning ordinance Sections 26C-20, 30, 40, 50, 60, 70, 80, and 90, which correspond to the LIA, LEA, DA, RRD, RRDWA, TP, AR, and RR zoning districts respectively, list the permitted uses for each of these zoning districts. Each of these Sections of the zoning ordinance contains the following statement:

**Only those uses permitted in (a) and (b) are considered Principal Permitted uses, except that additional dwellings beyond one single-family dwelling are not considered to be Principal Permitted uses.**

The proposed LCP amendment would remove small wind energy systems from the list of uses requiring a use permit and add them to the list of other permitted uses for each of the affected zoning districts under Sections 26C-20(c), 26C-30(c), 26C-40(c), 26C-50(c), 26C-60(c), 26C-70(c), 26C-80(c), and 26C-90(c). This would serve to streamline the local permitting process for wind energy systems by eliminate the use permit requirement. It would not change the existing terms of zoning ordinance specifying that a coastal development permit is required for any small wind energy system located within the Sonoma County Coastal Zone. Moreover, the proposed amendment would not add small wind energy systems to the list of principal permitted uses for any of these districts. Thus, in accordance with the above-cited provisions of the existing certified coastal zoning ordinance, any coastal development permit approved by the County for a wind energy system in the LIA, LEA, DA, RRD, RRDWA, TP, AR, and RR zoning districts would remain appealable to the Commission.

The Commission finds that the County's proposal to eliminate the use permit requirement for small wind energy systems as specified by LCP Amendment 2-02 would not change the kind, location, intensity, or density of uses determined by the Commission to be consistent with the Sonoma County certified LUP, and that the proposed amendment is therefore consistent with and adequate to carry out the policies of the LUP.

#### **2.4.2 Property Boundary Setback**

The proposed coastal zoning ordinance amendment would allow the setback standards for small wind energy systems on parcels greater than ten acres in size to be reduced if the applicant demonstrates that because of the topography of the site, strict adherence to the setback requirements would result in greater visual impacts and that the tower would be set back from any structure on the adjacent property a distance equivalent to the tower height.

Through its action certifying LCP Amendment 1-02 in June 2002, the Commission determined that the County's Small Wind Energy Ordinance is consistent with and adequate to carry out the visual resource and scenic quality protection policies of the Sonoma LUP. The proposed amendment to allow flexibility with respect to the setback requirement for wind energy towers on properties greater than ten acres would serve to further protect the visual resource and scenic quality of the County's Coastal Zone. Therefore, the Commission finds that the proposed amendment is consistent with and adequate to carry out the policies of the Sonoma County certified LUP.

#### **2.5 California Environmental Quality Act**

The Coastal Commission's review and development process for Local Coastal Programs and amendments to them has been designated by the Secretary of Resources as being the

functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does use any environmental information that the local government has developed.

In addition to making a finding that the amendment is in full compliance with the Coastal Act, the Commission must make a finding consistent with Section 21080.5 of the Public Resources Code. Section 21080.5(d)(2)(A) of the Public Resources Code requires that the Commission not approve or adopt an LCP:

**...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment.**

As discussed above, the proposed small wind energy systems ordinance is consistent with the County's land use plan and will not have any significant adverse environmental impacts. The Commission incorporates its findings on land use plan conformity at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse effects of the project that have been received as of the writing of this report. Therefore, the Commission finds that approval of the proposed amendment to the Zoning Code will not result in significant environmental effects within the meaning of the California Environmental Quality Act.



EXHIBIT NO.	1
APPLICATION NO.	
SONOMA COUNTY LCP Amendment (Major)	
No. 3-02 (Page 1 of 9)	

ADOPTED  
5-14-02

ORDINANCE NO.

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 26C OF THE SONOMA COUNTY CODE RELATIVE TO SMALL WIND ENERGY SYSTEMS**

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

**SECTION I.** The Board finds that the adoption of this Ordinance is necessary to protect the public health, safety, and welfare. The Board further finds and declares that the adoption of this Ordinance is intended to promote clean, renewable, alternate energy sources; reduce reliance and demand upon the state electric grid; and implement the requirements of Government Code Section 65892.13 relating to wind energy while protecting the scenic and natural resources of Sonoma County.

**SECTION II.** Section C-18 (Definitions) of Chapter 26C of the Sonoma County Code is hereby amended as follows:

(a) Section 26C-18 (Definitions) is amended to revise the definition of "tower" to read as follows:

"Tower" means the support structure, including guyed, monopole and lattice types, upon which antennas are located as part of a telecommunication facility or upon which a wind turbine (or other mechanical device) is mounted as part of a small wind energy system.

(b) Section 26C-18 (Definitions) is amended to add the following definitions pertaining to small wind energy systems to read as follows:

"Small wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity that does not exceed the allowable rated capacity under the Emerging Renewables Fund of the Renewables Investment Plan administered by the California Energy Commission and which will be used primarily to reduce onsite consumption of utility power.

“Tower height” means the height above grade of the fixed portion of the tower, excluding any telecommunication antennas or a wind energy system or its blades.

“Wind energy conversion system” means a machine used to convert the kinetic energy of the wind into a usable form of electrical energy, including wind turbine generators, rotors, and blades.

“Wind energy system height” means the height above grade of the fixed portion of the tower including the vertical length of any extensions such as the rotor blade.

**SECTION III.** Sections 26C-130 (CS); 26C-140 (CT); 26C-150 (C2); 26C-160 (AS); 26C-170 (CF) and 26C-182 (PF) of Chapter 26C of the Sonoma County Code are amended as follows:

(a) The following sections are added (and existing sections renumbered) to read as shown below. Section 26C-130(b)(11) [CS]; Section 26C-140(b)(15) [CT]; Section 26C-150(b)(12) [C2]; Section 26C-160(c)(9) [AS]; Section 26C-170(b)(6) [CF]; Section 26C-182(p) [PF]:

(11), (15), (12), (9), (6), (p) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8 and the height limit of the use (i.e. residential, commercial, or agricultural) to which the use is appurtenant.

**SECTION IV.** Sections 26C-20 (LIA), 26C-30 (LEA), 26C-40 (DA), 26C-50 (RRD), 26C-60 (RRDWA), 26C-70 (TP), 26C-80 (AR), and 26C-90 (RR) of Chapter 26C of the Sonoma County are amended as follows:

(a) The following sections are added (and existing sections renumbered) to read as shown below. Section 26C-20(c)(13) [LIA]; Section 26C-30(c)(13) [LEA]; Section 26C-40(c)(13) [DA]; Section 26C-50(c)(16) [RRD]; Section 26C-60(c)(15) [RRDWA]; Section 26C-70(c)(13) [TP]; Section 26C-80(c)(12) [AR]; Section 26C-90(c)(12) [RR]:

(13), (13), (13), (16), (15), (13), (12), (12) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8 and the lesser of the height of: (a) the height limit of the use (i.e. residential, commercial, or agricultural) to which the use is appurtenant, or (b) thirty five (35) feet.

**SECTION V.** Sections 26C-21 (LIA), 26C-31 (LEA), 26C-41 (DA), 26C-51 (RRD), 26C-61 (RRDWA), 26C-71 (TP), 26C-81 (AR), and 26C-91 (RR) of Chapter 26C of the Sonoma County are amended as follows:

(a) The following sections are added (and existing sections renumbered) to read as shown below. Section 26C-21(c)(17) [LIA]; Section 26C-31(c)(21) [LEA]; Section 26C-41(c)(22) [DA]; Section 26C-51(c)(27) [RRD]; Section 26C-61(c)(21) [RRDWA]; Section 26C-71(c)(6) [TP]; Section 26C-81(c)(21) [AR]; Section 26C-91(d)(17) [RR]:

(17), (21), (22), (27), (21), (6), (21), (17) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8, where such systems are greater than either of: (a) the permitted height limit of the use (i.e. residential, commercial, or agricultural) to which the use is appurtenant, or (b) thirty five (35) feet.

**SECTION VI.** Section 26C-325.8 is hereby added to the Sonoma County Code to read as follows:

**"Sec. 26-325.8. Small Wind Energy Systems**

(a) **Purpose.** The purpose of this section is to promote clean, renewable, alternate energy sources; reduce reliance and demand upon the state electric grid; and implement the requirements of Government Code Section 65892.13 relating to wind energy while protecting the scenic and natural resources of the Coastal Zone of Sonoma County, pursuant to Coastal Act Section 30251, and the health, safety, and welfare of its residents.

(b) **Establishment of Small Wind Energy Systems.** Small wind energy systems shall be established in accordance with the provisions of this section. A small wind energy system shall not be located on a site that is any of the following:

(1) Within a Scenic Corridor as identified by the Coastal Plan or Open Space Element of the General Plan;

(2) Within a Special Studies Zone established in compliance with the Alquist-Priolo Earthquake Fault Zoning Act (Public Resources Code Section 2621 et seq.);

(3) Subject to a conservation easement established in compliance with Civil Code Section 815 et seq., that does not specifically authorize a small wind energy system;

(4) Subject to an open space easement established in compliance with Government Code Section 51070 et seq., that does not specifically authorize a small wind energy system;

(5) Subject to an agricultural conservation easement established in compliance with Public Resources Code Section 10200 et seq., that does not specifically authorize a small wind energy system;

(6) Subject to a Williamson Act contract established in compliance with Government Code Section 51200 et seq., that does not specifically authorize a small wind energy system;

(7) Listed in the National Register of Historic Places, or the California Register of Historic Resources, in compliance with Public Resources Code Section 5024.1, or contains a structure that is so listed;

(8) Less than one (1) acre in size;

(9) Within an "urbanized area" as defined in Government Code Section 65892.13.

**(c) Standards.** All small wind energy systems shall be subject to design review pursuant to Article XXIX of this Chapter to ensure compliance with the Coastal Act and Local Coastal Plan Visual Resource Policy 20. In addition, all small wind energy systems shall comply with the following standards:

(1) All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.

(2) The safety of the design and construction of all small wind energy systems shall be certified by the manufacturer's engineering staff.

(3) All small wind energy systems shall be equipped with manual and automatic over speed controls. The conformance of rotor and over speed control design and fabrication with good engineering practices shall be certified by the manufacturer's engineering staff.

(4) Tower-climbing apparatus and blade tips of the small wind energy system shall be no closer than fifteen (15) feet from ground level unless the facility is enclosed by a six-foot high fence.

(5) Small wind energy systems shall be operated such that no electromagnetic interference is caused.

(6) Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports or within the scope of the Airport Land Use Plan.

(7) Maximum power output shall be 10 KW.

(8) Only one small wind energy system tower per legal parcel shall be allowed.

(9) The small wind energy system tower shall be set back from any property line by a minimum distance equivalent to the tower system height and a minimum of ten feet from any other structure, provided that it also complies with any applicable fire setback requirements pursuant to Section 4290 of the Public Resources Code.

(10) A small wind energy system tower shall not exceed a maximum height of sixty-five (65) feet on a parcel less than five acres, or a maximum height of eighty (80) feet on a parcel of five acres or more; provided that, in all cases, the system shall comply with all applicable Federal Aviation Administration (FAA) requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports, and the State Aeronautics Act (Part 1 (commencing with Section 21001) of Division 9 of the Public Utilities Code).

(11) A small wind energy system shall be designed, installed, and operated so that noise generated by the system shall not exceed the maximum noise levels applied pursuant to the Noise Element of the General Plan, except during short-term events including utility outages and severe wind storms.

(12) A turbine proposed for a small wind energy system shall have been approved by the California Energy Commission (CEC) as qualifying under the Emerging Renewables Fund of the CEC's Renewables Investment Plan, or certified by a national program recognized and approved by the CEC.

(13) A small wind energy system shall be located pursuant to the following criteria: (a) it shall not project above the top of visually prominent ridgelines, (b) it shall use natural landforms and existing vegetation for screening from view from public roads, *public* hiking trails, and *public* park access areas, and (c) appurtenant utility lines shall be underground where economically practical.

(14) A small wind energy system shall not significantly impair a scenic vista from a County or State designated scenic corridor or significantly impair a designated scenic view shed area as depicted on the Coastal Visual Resource Maps. A small wind energy system shall be screened to the maximum extent feasible by natural vegetation or other means to minimize potentially significant adverse visual impacts on neighboring residential areas.

(15) Where vegetation is removed in the construction of a small wind energy system or an access road to the system, landscaping shall be required to minimize visual impacts, avoid erosion, and maintain the stability of the soils."

(16) Small wind energy system towers and all components shall be of a nonreflective, unobtrusive color best suited to blend the system with the surrounding landscape. For example, a tower in a wooded setting should be painted a dark color and a tower in an open setting may be a lighter gray color to blend with the sky and clouds.

(17) No advertising sign or logo shall be placed or painted on any tower where it would be visible from a public place. A system or tower manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.

(18) Signs warning of high voltage electricity shall be posted on stationary portions of the small wind energy system or its tower and at gated entry points to the project site at a height of five feet above ground.

(19) Upon abandonment or termination of the use, the entire facility, including all equipment, tower, turbine, etc., shall be removed and the site restored to its pre-construction condition or other authorized use.

**(d) Application requirements.** In addition to the standard submittal requirements for a zoning permit, use permit, or coastal permit and design review, the permit application for a small wind energy system shall include all of the following information and materials:

(1) Standard drawings and an engineering analysis of the system's tower, showing compliance with the Uniform Building Code (UBC), and certification by a California-licensed professional mechanical, structural, or civil engineer. A 'wet stamp' shall not be required on the drawings and analysis if the application demonstrates that the system is designed to meet the most stringent wind requirements (UBC wind exposure D), the requirements for the worst seismic class (UBC Seismic 4), and the weakest soil class, with a soil strength of not more than 1,000 pounds per square foot.

(2) A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code.

(3) Information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.

(4) Evidence that the provider of electric utility service to the site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant intends, and so states in the application, that system will not be connected to the electricity grid.

(5) Evidence that the proposed height of the tower does not exceed the height recommended by the manufacturer or distributor of the system.

(6) A copy of a preliminary title report for the subject property dated no more than thirty (30) days prior to the filing of the application. Copies of any applicable contracts or easement documents listed above in Section 26C-325.8(b)(3) shall also be submitted.

(7) Evidence that the proposed system will not exceed the noise standards in Section 26C-325.8(c)(11) above.

(8) For sites with an SR or SD zoning designation on any portion of the property, or on a parcel adjacent thereto, or for sites within a community separator, or scenic landscape unit, the applicant shall submit a visual analysis, which may include a computerized photographic simulation of the proposed project and which shall discuss the visual context of the facility in the landscape. For all other sites, a visual analysis may be required if needed to determine whether the proposed system meets the requirements of Section 26C-325.8(c)(13)-(16).

(9) Color samples of the proposed facility.

(e) **Notice.** At least ten (10) days prior to the issuance of a zoning permit or a use permit for a small wind energy system, notice of the proposed permit shall be mailed to all property owners within three hundred (300) feet of the property on which the system is proposed to be located. The notice shall include a site plan and one elevation with dimensions for such system. In the event an appeal of a zoning permit for a small wind energy system is filed pursuant to Section 26C-471, a hearing on the project shall be required.

**SECTION VII.** This Ordinance shall be reviewed periodically for its effectiveness, including at least one full review no later than three (3) years from the date of adoption.

**SECTION VIII.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**SECTION IX.** This ordinance shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Supervisors voting for or against the same, in The Press Democrat, a newspaper of general circulation published in the County of Sonoma, State of California.



In regular session of the Board of Supervisors of the County of Sonoma introduced on the \_\_ day of \_\_\_\_\_, 2002, and finally passed and adopted this \_\_ day of \_\_\_\_\_, 2002, on regular roll call of the members of said Board by the following-vote:

**SUPERVISORS:**

KERNS \_\_\_\_\_ SMITH \_\_\_\_\_ KELLEY \_\_\_\_\_ REILLY \_\_\_\_\_ CALE \_\_\_\_\_

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSTAIN \_\_\_\_\_ ABSENT \_\_\_\_\_

WHEREUPON, the Chair declared the above and foregoing ordinance duly adopted and

**SO ORDERED.**

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Chair, Board of Supervisors  
County of Sonoma

**ATTEST:**

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EEVE T. LEWIS, County Clerk and  
ex-officio Clerk of the Board of  
Supervisors



EXHIBIT NO.	2
APPLICATION NO.	SONOMA COUNTY LCP
AMENDMENT (Major)	No. 2-02
(Page 1 of 4)	

**ORDINANCE NO. 5362**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 26C OF THE SONOMA COUNTY CODE RELATIVE TO SMALL WIND ENERGY SYSTEMS**

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

**SECTION I.** The Board finds that the adoption of this ordinance is necessary to protect the public health, safety, and welfare. The Board further finds and declares that the adoption of this ordinance is intended to promote clean, renewable, alternate energy sources; reduce reliance and demand upon the state electric grid; implement the requirements of Government Code section 65892.13 relating to wind energy; and expedite permit processing of small wind energy systems while protecting the scenic, cultural, and natural resources of Sonoma County.

**SECTION II.** Chapter 26C of the Sonoma County Code is hereby amended as follows:

(a) Paragraph (13) of Subsection (c) of Section 26C-20 [LIA Permitted Uses] is amended to read:

(13) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8.

(b) Paragraph (13) of Subsection (c) of Section 26C-30 [LEA Permitted Uses] is amended to read:

(13) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8.

(c) Paragraph (13) of Subsection (c) of Section 26C-40 [DA Permitted Uses] is amended to read:

(13) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8.

(d) Paragraph (16) of Subsection (c) of Section 26C-50 [RRD Permitted Uses] is amended to read:

(16) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8.

(e) Paragraph (15) of Subsection (c) of Section 26C-60 [RRDWA Permitted Uses] is amended to read:

(15) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8.

(f) Paragraph (13) of Subsection (c) of Section 26C-70 [TP Permitted Uses] is amended to read:

(13) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8.

(g) Paragraph (12) of Subsection (c) of Section 26C-80 [AR Permitted Uses] is amended to read:

(12) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8.

(h) Paragraph (12) of Subsection (c) of Section 26C-90 [RR Permitted Uses] is amended to read:

(12) Small wind energy systems subject to the applicable criteria set forth in Section 26C-325.8.

(i) Paragraph (17) of Subsection (c) of Section 26C-21 [LIA Uses Permitted With a Use Permit] is repealed in its entirety.

(j) Paragraph (21) of Subsection (c) of Section 26C-31 [LEA Uses Permitted With a Use Permit] is repealed in its entirety.

(k) Paragraph (22) of Subsection (c) of Section 26C-41 [DA Uses Permitted With a Use Permit] is repealed in its entirety.

(l) Paragraph (27) of Subsection (c) of Section 26C-51 [RRD Uses Permitted With a Use Permit] is repealed in its entirety.

(m) Paragraph (21) of Subsection (c) of Section 26C-61 [RRDWA Uses Permitted With a Use Permit] is repealed in its entirety.

(n) Paragraph (6) of Subsection (c) of Section 26C-71 [TP Uses Permitted With a Use Permit] is repealed in its entirety.

(o) Paragraph (21) of Subsection (c) of Section 26C-81 [AR Uses Permitted With a Use Permit] is repealed in its entirety.

(p) Paragraph (17) of Subsection (d) of Section 26C-91 [RR Uses Permitted With a Use Permit] is repealed in its entirety.

(q) Paragraph (9) of Subsection (c) of Section 26C-325.8 [Small Wind Energy Systems] is amended to read:

(9) The small wind energy system tower shall be set back from any property line by a minimum distance equivalent to the tower system height and a minimum of ten feet from any other structure, provided that it also complies with any applicable fire setback requirements in the Sonoma County Fire Safe Standards (Sonoma County Code, Chapter 13, Article V). On parcels greater than ten (10) acres in size, the setback may be reduced if the applicant demonstrates the following: (a) that because of topography, strict adherence to the setback requirements would result in greater visibility than a reduced setback, and (b) that the tower is set back from any structure on adjacent property by a distance equivalent to the tower system height.

(r) Subsection (e) of Section 26C-325.8 [Small Wind Energy Systems] is amended to read:

(e) **Notice.** At least ten (10) days prior to the issuance of a zoning permit for a small wind energy system, notice of the proposed permit shall be mailed to all property owners within three hundred (300) feet of the property on which the system is proposed to be located. The notice shall include a site plan and one elevation with dimensions for such system. In the event an appeal of a zoning permit for a small wind energy system is filed pursuant to Section 26C-331, a hearing on the project shall be required. The amount of the fee to appeal such a zoning permit shall be equal to the amount of the application fee for the permit.

**SECTION III.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**SECTION IV.** This ordinance shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, passed and adopted this 27 day of August, 2002, on regular roll call of the members of said Board by the following vote:

**SUPERVISORS:**

BROWN \_\_\_\_\_ SMITH \_\_\_\_\_ KELLEY \_\_\_\_\_ REILLY \_\_\_\_\_ KERNS \_\_\_\_\_

AYES 5 NOES \_\_\_\_\_ ABSTAIN \_\_\_\_\_ ABSENT \_\_\_\_\_

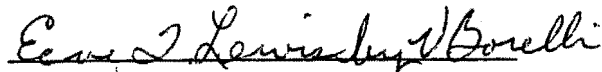
WHEREUPON, the Chair declared the above and foregoing ordinance duly adopted and

**SO ORDERED.**



\_\_\_\_\_  
Chair, Board of Supervisors  
County of Sonoma

**ATTEST:**



\_\_\_\_\_  
EEVE T. LEWIS, County Clerk and  
ex-officio Clerk of the Board of  
Supervisors