

MEMORANDUM

TO: Planning and Zoning Commission
FROM: Christine McLachlan, AICP, Planner II
SUBJECT: Docket R-22-03 Wind Energy Power Plant, Zoning Regulation Amendment
DATE: December 2, 2022

I. PROPOSED CHANGES AND BACKGROUND

Docket R-22-03 is a staff-initiated amendment to the Cochise County Zoning Regulations, Section 1822 Wind Energy Power Plants. Wind Energy Power Plants are defined by the Zoning Regulations as follows, “A Non-Residential, utility-scale Wind Energy System, the primary purpose of which is to supply electricity to off-site consumers, consisting of a network of Wind Turbines and accessory structures and buildings, including substations, anemometers, and associated electrical infrastructure. The term does not include stand-alone Wind Energy Systems for on-site use, which feed residual power into the electrical grid, as defined by the Arizona Corporation Commission.”



State law requires all Counties to identify policies and practices to encourage greater use of renewable energy within the Comprehensive Planning Process. The Cochise County Comprehensive Plan includes a renewable energy element, which directs the county to permit flexible site development standards.

Wind energy power plants (WEPPs) are not a permitted use in any zoning district. However, they are considered special uses within Rural, General Business, Light Industry, and Heavy Industry Zoning Districts. All special uses must be reviewed and approved by the Planning and Zoning Commission. Unless appealed, the decision of the Planning and Zoning Commission is final. Because of their unique characteristics and oftentimes high potential to adversely impact surrounding properties, Special Use Authorizations may be permitted within the Zoning District only when they can demonstrate that potentially negative off-site impacts have been mitigated. In addition, all WEPP applicants must also comply with the site development standards contained in Section 1822 of the Zoning Regulations. These standards include the following:

- Mandatory setback requirements - equal to the height of the tallest structure, + 10 feet (same for distance between structures) and 1,000 ft from any existing residence
- Noise - shall not exceed fifty decibels (50 dBA), as measured from the nearest property line
- Lighting – none allowed, except as required by the FAA
- Signage -none allowed, except manufacturer logo or emergency info

Section 1822 also provides a height exemption. There are no height limits for WEPP turbines in Cochise County.



WEPP turbines are large structures. On average, they are 300' in height. There is currently one 51-megawatt WEPP in Cochise County, where indicated in the graphic to the left. The "Red Horse" project was approved in 2013. It includes up to 28 turbines, each of which are 475-feet in height. Earlier this year, Tucson Electric issued an All-Source Request for Proposals for new wind and solar generation energy storage systems. Although the power generated would not provide power for Cochise County residents, wind and solar electric power plants could be placed in the northwestern portion of the County to fulfill this request. Planning staff has been contacted by WEPP and SEPP consultants over the past several months.

Staff is requesting some modifications to Section 1822 of the Zoning Regulations. The changes proposed will incorporate additional best practices into our regulations. Also proposed are supplemental safety provisions and measures intended to limit County liability in cases of abandonment, damage, transfer/sale, cessation of use, and the end of the useful life of the WEPPs. Wind turbines are equipment. All equipment wears out over time. According to EPA, the typical lifespan of a wind turbine is 20 years. Across the United States, WEPP decommissioning, and remediation is loosely regulated by lease agreements and a patchwork of local rules. There are currently no binding federal, state, or local regulations to assure WEPP owners clean up their site at the end of its useful life. There are also no mandates for set aside funds to cover decommissioning or site restoration. Significantly, the cost for decommissioning a single turbine can be as much as \$500,000.

More specifically, staff recommends changes to section 1822, to:

- Increase consistency among staff recommendations to the Planning and Zoning Commission for conditions
- Increase best practices of WEPP site design (bury transmission lines, matte paint finish, must be maintained in operational condition...)
- Decrease potential safety hazards in design (mandate redundant braking, high voltage warnings, and no climbing provisions)

- Ensure we have the necessary study information, including electromagnetic interference, shadow flicker analysis and bird/bat studies, on which to base recommendations for conditions
- Better guides transfer/sale of projects
- Specify what constitutes cessation of use and WEPP owner responsibilities
- Define acceptable decommissioning and site restoration.
- Require WEPP owner to continuously maintain financial assurance in the amount of the net decommissioning cost for the removal of equipment and the restoration of the site.
- Require WEPP owner to maintain liability insurance.

II. SUMMARY AND RECOMMENDATION

The proposed changes would amend Article 18 of the Cochise County Zoning Regulations, as indicated in Exhibit A of the attached document.

Sample Motion:

I move to recommend to the Board of Supervisors **approval** of docket R-22-03, amendments to Article 18 of the Cochise County Zoning Regulations as outlined in Exhibit A.

III. ATTACHMENTS

Exhibit A amending Article 18 of the Cochise County Zoning Regulations with strike-through and underline.

IV. UPDATE FROM PREVIOUS MEETING

This item was tabled from the November 9, 2022 to the December 14, 2022 regular meeting of the P&Z to provide additional time for the commission to review and for staff to respond to comments. During the November 9th meeting there was significant discussion regarding several sections of the proposed amendments. Since that meeting, staff received additional comments from two of the commissioners. Key changes from the last meeting to the exhibit are summarized as follows:

1. 1822.03.A., Article 20 circular height reference removed
2. 1822.03.F./1822.04.B. Reference to permitted warning signage added to development standards
3. 1822.07.D. Removal of the system shall include, but not be strictly limited to the following, provision "4. Removal and remediation of any hazardous materials." added
4. 1822.08.A. Financial Assurance Required. The word "net" has been removed.
5. 1822.08.A. Periodic financial update requirements were added.
6. 1822.08.B. First sentence referencing cessation of use was removed because it is addressed in section 1822.06.