

CHAPTER 1292: WIND ENERGY TURBINES

1292.01 PURPOSE

This Chapter is adopted in order to provide for the safe, effective and efficient use of wind energy turbines subject to reasonable conditions that will protect the public health, safety and welfare.

1292.02 DEFINITIONS

(a) AMBIENT SOUND LEVEL is the amount of background noise at a given location prior to the installation of a WET(s) which may include, but not be limited to, traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A) weighted scale as defined by the American National Standards Institute.

(b) ANEMOMETER is a temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, 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.

(c) APPLICANT means the person or entity filing an application under this Chapter.

(d) CLEAR FALL ZONE means an area surrounding the wind turbine unit into which the turbine, tower and/or turbine components might fall due to inclement weather, poor maintenance, faulty construction methods, or any other condition causing turbine failure. The area shall remain confined within the property lines of the primary parcel where the turbine is located.

(e) DECIBEL is defined as unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dB(A) weighted scale as defined by the American National Standards Institute.

(f) DECOMMISSIONING is the process of terminating operation and completely removing a WET(s) and all related buildings, structures, foundations, access roads, and equipment.

(g) HUB HEIGHT means the distance measured from the surface of the tower foundation to the height of the wind turbine hub, to which the blade is attached.

(h) LARGE WIND ENERGY TURBINE (LWET) is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The LWET has a nameplate above two hundred fifty (250) kilowatts, and the main purpose of the LWET is to supply electricity to off-site customers.

(i) MEDIUM WIND ENERGY TURBINE (MWET) is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other components used in the system. The MWET has a nameplate capacity that does not exceed two hundred fifty (250) kilowatts. The total height does not exceed one hundred fifty (150) feet.

(j) MEGAWATT means a unit of power equal to one million watts.

(k) NACELLE refers to the encasement which houses all of the generating components, gear box, drive tram, and other equipment.

(l) NET-METERING is a special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid.

(m) NON-PARTICIPATING LANDOWNER means any landowner except those on whose property all or a portion of a wind energy turbine is located.

(n) OCCUPIED BUILDING means a residence, school, hospital, church, public library or other building used for private or public gathering that is occupied or in use when the permit application is submitted.

(o) OPERATOR means the entity responsible for the day-to-day operation and maintenance of the wind energy facility.

(p) OWNER means the person or entity who holds title to property on which the wind energy turbine is located.

(q) ROTOR DIAMETER is the cross-sectional dimension of the circle swept by the rotating blades of a WET.

(r) SHADOW FLICKER means the on-and-off flickering effect of a shadow caused when the sun passes behind the rotor of a wind turbine.

(s) SMALL TOWER-MOUNTED WIND ENERGY TURBINE (STMWET) is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other components used in the system. The STMWET has a nameplate capacity that does not exceed thirty (30) kilowatts. The total height does not exceed one hundred twenty (120) feet.

(t) STRUCTURE is any building or other structure that is a minimum of twelve (12) feet high at its highest point of roof and is secured to frost-footings or a concrete slab.

(u) SMALL STRUCTURE-MOUNTED WIND ENERGY TURBINE (SSMWET) converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. A SSMWET is attached to a structure's roof, walls, or other elevated surface. The SSMWET has a nameplate capacity that does not exceed ten (10) kilowatts. The total height does not exceed five (5) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.

(v) TOTAL HEIGHT is the vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the Wind Energy Turbine (WET).

(w) TOWER is a freestanding monopole that supports a Wind Energy Turbine (WET).

(x) TURBINE HEIGHT means the distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

(y) UPWIND TURBINE is a Wind Energy Turbine (WET) positioned in a manner so that the wind hits the turbine blades before it hits the tower in order to avoid the thumping noise which can occur if the wind is disrupted by hitting the tower before the blades.

(z) WIND ENERGY PROJECT means equipment that converts and then stores or transfers energy from the wind into usable forms of energy (as defined by ORC § 1551.20) and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the project.

(aa) WIND GENERATOR means the mechanical and electrical conversion components mounted at the top of a tower in a wind energy project.

(bb) WIND TURBINE means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

(cc) WIND ENERGY TURBINE (WET) is any structure-mounted, small, medium, or large wind energy conversion system that converts wind energy into electricity through the use of a wind generator and includes the nacelle, rotor, tower, and pad transformer, if any.

1292.03 APPLICABILITY

(a) This Ordinance applies to all Wind Energy Turbines proposed to be constructed after the effective date of this Ordinance.

(b) Wind Energy Turbines or projects are prohibited in the City of North Royalton unless expressly permitted under Chapter 1292.

(c) All Wind Energy Turbines constructed prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; however, any physical modification to an existing Wind Energy Turbine that materially alters the size, type, equipment or location shall require a permit under this Ordinance.

1292.04 TEMPORARY USES

The following is permitted in all zoning districts as a temporary use, in compliance with the provisions contained herein, and the applicable Wind Energy Turbines regulations.

(a) Anemometers

(1) The construction, installation, or modification of an anemometer tower shall require a building permit and shall conform to all applicable local, state and federal safety, construction, environmental, electrical, communications, and FAA requirements.

(2) An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety requirements and decommissioning that correspond to the size of the WET that is proposed to be constructed on the site.

(3) An anemometer shall be permitted for no more than nine (9) months for a SSMWET, STMWET, or MWET, and no more than one (1) year for a LWET.

1292.05 PERMITTED USES

(a) Structure-Mounted Wind Energy Turbine (SSMWET) and Small Tower Mounted Wind Energy Turbine (STMWET) shall be considered a permitted accessory use in all zoning districts, which shall not be erected, constructed, installed, or modified as provided in this Ordinance unless a building permit has been issued to the owner(s) and/or operator(s).

(b) An application for a SSMWET or STMWET permit shall contain the following information:

(1) Name of property owner(s), address, and parcel number.

(2) A site plan shall include maps (drawn to scale) showing the proposed location of all components and ancillary equipment of the SSMWET or STMWET, property lines, physical dimensions of the property, existing building(s), setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, non-motorized pathways, roads and contours. The site plan must also include adjoining properties as well as the location and use of all structures.

(3) The proposed type and height of the SSMWET or STMWET to be constructed including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.

(4) Documented compliance with the noise requirements set forth in this Ordinance.

(5) Documented compliance with applicable local, state and federal regulations including, but not limited to, all applicable safety, construction, environmental, electrical, communications, and FAA requirements.

(6) Proof of applicant's liability insurance pursuant to 1292.15.

(7) Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.

(8) Other relevant information as may be reasonably requested.

(9) Signature of the applicant.

(10) The applications shall also include the total proposed number of SSMWETs or STMWETs.

(11) The application shall also include a description of the methods that will be used to perform maintenance on the STMWET or SSMWET and the procedures for lowering or removing the STMWET or SSMWET in order to conduct maintenance.

(c) All Small Structure Mounted Wind Energy Turbines (SSMWET) and Small Tower Mounted Wind Energy Turbines (STMWET) are subject to the following minimum requirements:

(1) Siting and Design Requirements:

A. Upwind turbines shall be required.

B. Visual Appearance; A SSMWET or STMWET, including accessory buildings and related structures shall comply with 1292.07.

C. Ground Clearance: The lowest extension of any blade or other exposed moving component of a SSMWET or STMWET shall be at least fifteen (15) feet above the ground (at the highest point of the natural grade within thirty (30) feet of the base of the tower) and, in addition at least fifteen (15) feet above any outdoor surfaces intended for human use, such as balconies or roof gardens, that are located directly below the SSMWET or STMWET.

D. Noise: Noise emanating from the operation of a SSMWET or STMWET shall not exceed, at any time, the limits set forth by Chapter 634 and Section 1278.09 in the North Royalton Codified Ordinances "Noise Control".

E. Vibration: Vibrations shall not be produced which are humanly perceptible beyond the property on which a SSMWET or STMWET is located.

F. Guy Wires: Guy wires shall not be permitted as part of the SSMWET or STMWET.

G. In addition to the Siting and Design Requirements listed previously, the SSMWET shall also be subject to the following:

1) Height: The height of a SSMWET shall not exceed five (5) feet as measured from the highest point of the roof, excluding chimneys, antennae and other similar protuberances.

2) Setback: The setback of the SSMWET shall be a minimum of fifteen (15) feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of a structure. If the SSMWET is affixed by any extension to the side, roof, or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of fifteen (15) feet. The setback shall be measured from the furthest outward extension of all moving parts and shall further comply with all setback, height, area and yard requirements set forth in 1270.04 and 1270.05.

3) Separation: If more than one SSMWET is installed, a distance equal to the height of the highest SSMWET must be maintained between the base of each SSMWET.

4) Comply with any clear fall zones as determined by the Building Commissioner.

H. In addition to the Siting and Design Requirements listed previously, the STMWET shall also be subject to the following:

1) Height: The total height of a STMWET shall not exceed forty (40) feet.

2) Location: The STMWET shall be located in a rear yard of a property.

3) Occupied Building Setback: The setback from all occupied buildings on the applicant's parcel shall be a minimum of twenty (20) feet measured from the base of the Tower or 1.1 times the turbine height, whichever is

greater and further shall comply with all setback requirements and area and yard requirements set forth in 1270.04 and 1270.05.

4) Other Setbacks: The setback shall be equal to 1.1 times the total height of the STMWET, as measured from the base of the tower, from the property line, public right-of-way, public easement, or overhead public utility lines.

5) Separation: If more than one STMWET is installed, a distance equal to the height of the highest STMWET must be maintained between the base of each STMWET.

6) Comply with any clear fall zone requirements as determined by the Building Commissioner.

I. Safety Requirements:

1) If the SSMWET or STMWET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting federal, state, and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.

2) The SSMWET or STMWET shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.

3) A clearly visible warning sign regarding voltage shall be placed at the base of the SSMWET or STMWET.

4) The structural integrity of the SSMWET or STMWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design" and/or IEC 61400-2, "Small Wind Turbine Safety," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," or any similar successor standards as approved by the Building Commissioner.

5) To the extent applicable, the wind energy turbines shall comply with the Ohio Building Code.

6) All electrical components shall conform to the relevant and applicable local, state and national codes.

J. Signal Interference:

The SSMWET or STMWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.

K. SSMWET or STMWET decommissioning shall comply with 1292.16.

1292.06 CONDITIONAL USE PERMIT REQUIREMENTS

(a) No Medium Wind Energy Turbine (MWET) or Large Wind Energy Turbine (LWET) shall be constructed or located within the City unless a Conditional Use Permit has been issued by the Planning Commission and approved by Council, pursuant to the requirements of Chapter 1270 and Section 1262.07, approving construction of the WET after compliance with the applicable sections of this Chapter and the Code.

(b) Medium Wind Energy Turbine (MWET) may be a permitted conditional use in business, industrial and public use districts after compliance with this Chapter and Code.

(c) Large Wind Energy Turbine (LWET) may be a permitted conditional use in industrial and public use districts only after compliance with this Chapter and Code.

(d) No MWET or LWET shall be permitted in a residential district.

(e) FEES. The fee shall be established pursuant to Section 214.08.

(f) The Planning Commission may authorize the issuance of a Conditional Use Permit after a public hearing if the application and supporting material showing the proposed wind energy turbine meets the requirements of this regulation, state and federal regulations and the use is otherwise authorized by the Planning Commission. Planning Commission shall condition the issuance of the Conditional Use Permit upon the filing of a bond or other surety with the City in an amount set by Planning Commission.

(g) Any physical modification to an existing conditionally permitted wind energy turbine that materially alters the size, type and number of wind turbines or other equipment shall require conditional use approval by the Planning Commission.

(h) Submission Requirements

An application for a Conditional Use Permit shall be on a form approved by the Building Commissioner and shall contain the following information:

(1) The name, address, parcel number, and telephone number of the applicant/property owner.

(2) The address, parcel number and zoning district of the subject property.

(3) A narrative description of the existing use.

(4) A narrative describing the proposed wind energy turbine, including an overview of the project, the project location, the approximate generating capacity of the wind energy turbine, the approximate number, representative types and height or range of heights of wind turbines to be constructed, including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.

(5) An affidavit or similar evidence of agreement between the property owner and the facility owner or operator demonstrating that the facility owner or operator has the permission of the property owner to apply for necessary permits for construction and operation of the wind energy facility.

(6) Identification of the properties on which the proposed wind energy facility will be located, and the properties adjacent to where the wind energy facility will be located.

(7) A site plan showing the planned location of each wind turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the wind energy facility to the substation(s), ancillary equipment, buildings, and structures, including permanent meteorological towers, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback, a lighting plan, a plan showing areas impacted by shadow flicker, and other information the Planning Commission may require.

(8) Documents related to decommissioning.

(9) Other relevant studies, reports, certifications and approval as may be reasonably requested by the City to ensure compliance with this Chapter and Code.

(10) Any documents reasonably deemed necessary by the Building Commissioner.

(11) The fee as established pursuant to Section 214.08.

(12) Proof of liability insurance pursuant to 1292.15.

1292.07 DESIGN AND INSTALLATION

(a) Design Safety Certification: The design of the wind energy turbines shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant shall submit certificates of design compliance obtained by the equipment manufacturers from *Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies*, or other similar certifying organizations. Small wind energy projects shall be required to submit a standard drawing and an engineering analysis and report of the systems tower and certification by a professional engineer.

(b) Ohio Building Code: To the extent applicable, the wind energy turbines shall comply with the Ohio Building Code.

(c) Controls and Brakes: All wind energy turbines shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

(d) Electrical Components: All electrical components of the wind energy facility shall conform to relevant and applicable local, state and national codes, and relevant and applicable international standards.

(e) Visual Appearance:

(1) Wind turbines shall be a non-obtrusive color such as white, off-white or gray.

(2) Wind energy turbines shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

(3) Wind turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner and operator pursuant to Chapter 1284 Signs.

(f) Power Lines:

(1) On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground.

(g) Warnings:

(1) Clearly visible warning signs concerning voltage must be placed at the base of all transformers and substations.

(2) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.

(h) Climb Prevention/Locks:

(1) Wind turbines shall not be climbable up to fifteen (15) feet above ground surface.

(2) All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

1292.08 SETBACKS

(a) Occupied Buildings:

(1) Wind turbines shall be set back from the nearest occupied building, a distance not less than the normal setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.

(2) Wind turbines shall be set back from the nearest occupied building located on a nonparticipating landowner's property a distance of not less than two (2) times the hub height, as measured from the center of the wind turbine base to the nearest point on the foundation of the occupied building.

(3) Setback requirements may be extended to assure compliance with the clear fall zones, safety requirements and the health and welfare of nonparticipating landowners as determined by the Planning Commission and/or Building Commissioner.

(b) Property Lines: All wind turbines shall be set back from the nearest property line a distance of not less than the normal setback requirements for that zoning classification or 1.1 times the turbine height, whichever is greater. The setback distance shall be measured to the center of the wind turbine base.

(c) Public Roads: All wind turbines shall be set back from the nearest public road a distance not less than 1.1 times the turbine height, as measured from the right-of-way line of the nearest public road to the center of the wind turbine base or the normal setback requirements for that zoning classification whichever is greater.

(d) Waiver of Setbacks:

(1) Non-participating landowners may waive the setback requirements in subsection (a)(2) above and subsection (b) above by signing a waiver that sets forth the applicable setback provision(s) and the proposed changes.

(2) The written waiver shall notify the property owner(s) of the setback requirement by this Chapter, described how the proposed wind energy facility is not in compliance, and state that consent is granted for the wind energy facility to not be setback as required by this Chapter.

(3) Any such waiver shall be recorded in the Recorder's Office where the property is located. The waiver shall describe the properties benefited and burdened, and advise all subsequent purchasers of the burdened property that the waiver of setback shall run with the land and may forever burden the subject property.

(4) Upon application, the City may waive the setback requirement for public roads for good cause.

1292.09 HEIGHT RESTRICTIONS

(a) Wind energy turbine height shall be limited to the extent permitted by the zoning district where the wind energy turbine is located or as determined by Planning Commission.

(b) Height shall be further limited by the provisions set forth in FAA requirements.

1292.10 USE OF PUBLIC ROADS

(a) The applicant shall identify all state and local public roads to be used within the City to transport equipment and parts for construction, operation or maintenance of the wind energy facility.

(b) The applicant shall provide to the City Engineer sufficient documentation regarding road conditions prior to construction and thirty (30) days after construction is complete or as weather permits.

(c) A cash bond, performance bond or escrow account of five thousand dollars (\$5,000) per wind turbine facility shall be filed with the City to ensure restoration or repair of streets, sidewalks, curbing or berms within the City.

(d) Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.

1292.11 LOCAL EMERGENCY SERVICES

(a) The applicant shall provide a copy of the project summary and site plan to local emergency services, including the City Fire Department.

(b) Upon request, the applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the wind energy turbines at the owner and/or operator's expense.

1292.12 NOISE AND SHADOW FLICKER

(a) Audible sound from a wind energy project shall not exceed limits set forth by Chapter 634 and Section 1278.09 in the North Royalton Codified Ordinances "Noise Control."

(b) The owner shall make reasonable efforts to minimize shadow flicker to any occupied building on a nonparticipating landowner's property.

(1) The Planning Commission may evaluate noise and shadow flicker when ruling on applications for conditional use of wind generation facilities.

1292.13 WAIVER OF NOISE AND SHADOW FLICKER

(a) Nonparticipating landowners may waive the noise and shadow flicker provisions of this Chapter by signing a waiver of their rights.

(b) The written waiver shall notify the property owner(s) of the sound or flicker limits in this Chapter, describe the impact on the property owner(s), and state that the consent is granted for the wind energy facility to not comply with the sound or flicker limit in this Chapter.

(c) Any such waiver shall be recorded in the Recorder's Office where the property is located. The waiver shall describe the properties benefited and burdened, and advise all subsequent purchasers of the burdened property that the waiver of sound or flicker limit shall run with the land and may forever burden the subject property.

1292.14 SIGNAL INTERFERENCE

The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind energy facility.

1292.15 LIABILITY INSURANCE

There shall be maintained a current general liability insurance policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. Certificates shall be made available to the City upon request and shall be included in the application for Conditional Use Permit and Building Department application.

1292.16 DECOMMISSIONING

The owner(s) or operator(s) shall complete decommissioning within twelve (12) months after the end of the useful life of the wind energy turbine. Upon request of the owner(s) or assigns, and for good cause, Building Commissioner may grant a reasonable extension of time. The wind energy turbine will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months. All decommissioning expenses are the responsibility of the owner(s) or operator(s).

(a) If the owner(s) or operator(s) fails to complete decommissioning within the period prescribed above, the Building Commissioner may designate a contractor to complete decommissioning with the expense thereof to be charged to the violator and/or to become a lien against the premises. If the wind energy turbine is not owned by the property owner(s), a bond must be provided to the City for the cost of decommissioning in an amount set by Council.

(b) In addition to the decommissioning requirements listed previously, the wind energy turbine shall also be subject to the following:

(1) Decommissioning shall include the removal of each wind energy turbine, buildings, electrical components, and any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade.

(2) The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner(s) of the facility or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion, unless the property owner(s) requests in writing that the land surface areas not be restored.

1292.17 PUBLIC INQUIRIES AND COMPLAINTS REMEDIES

(a) The facility owner and operator shall maintain a telephone number and identify a responsible person for the public to contact with inquiries and complaints.

(b) The facility owner and operator shall make reasonable efforts to respond to the public's inquiries and complaints.

(c) In the event that a nonparticipating landowner alleges that the wind energy turbine is not in compliance with the noise requirements of this Ordinance, the procedure shall be as follows:

(1) Noise Complaint

A. Notify the Building Commissioner in writing regarding concerns about noise level.

B. If the complaint is deemed sufficient by the Building Commissioner to warrant an investigation,

C. the Building Commissioner will request the aggrieved property owner deposit funds in an amount sufficient to pay for a noise level test conducted by a certified acoustic technician to determine compliance with the requirements of this Ordinance.

D. If the test indicates that the noise level is within Ordinance noise requirements, the City will use the deposit to pay for the test.

E. If the wind energy turbine owner(s) or operator(s) are in violation of the Ordinance noise requirements, the owner(s) shall reimburse the City for the noise level test and take immediate action to bring the WET into compliance which may include ceasing operation of the WET until Ordinance violations are corrected. The City will refund the deposit to the aggrieved property owner.

1292.18 VIOLATIONS

(a) It shall be unlawful for any person, firm, or corporation to violate or fail to comply with or take any action which is contrary to the terms of this Chapter, or any permit issued under this Chapter, or cause another to violate or fail to comply, or to take any action which is contrary to the terms of this Chapter or any permit issued under this Chapter.

(b) If the City determines that a violation of this Chapter or the permit has occurred, the City shall provide written notice to any person, firm, or corporation alleged to be in violation of this Chapter or permit. If the alleged violation does not pose an immediate threat to public health or safety, the City and the parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of violation.

(c) If after thirty (30) days from the date of the notice of violation the City determines, in its discretion, that the parties have not resolved the alleged violation, the City may institute civil enforcement proceedings or any other remedy at law to ensure compliance with this Chapter or permit.