

TOWN OF NEDERLAND, COLORADO

ORDINANCE NUMBER 680

AN ORDINANCE AMENDING CHAPTER 16 OF THE NEDERLAND MUNICIPAL CODE TO ADOPT REGULATIONS GOVERNING SMALL WIND TURBINES

WHEREAS, the Town of Nederland, Colorado (“Town”) is authorized pursuant to Part 3 of Article 23 of Title 31, C.R.S., to regulate the use of land within its jurisdiction, including regulations governing the height, size, location and density of uses and structures; and

WHEREAS, pursuant to such authority, the Town Board of Trustees (“Board”) previously adopted a comprehensive set of zoning regulations, codified as Chapter 16 of the Nederland Municipal Code (“Code”); and

WHEREAS, the Board finds that, due to the Town’s geographic location and an increase in public and private desire to investigate alternative energy sources, the Town may experience an increase in applications for the location of small wind turbines; and

WHEREAS, the Town’s zoning regulations do not currently contain any regulations specific to such devices; and

WHEREAS, the Board finds and determines that small wind turbines are a land use with unique considerations, such as the need for turbines to be a specific height to be effective, the height relative to the width of such structures, setback and safety considerations, and noise generation, to name only a few; and

WHEREAS, the Board further finds that it is desirable to promote the development and consumption of clean, renewable energy resources within the Town, while minimizing the potential adverse visual, safety and environmental impacts of wind turbines and protecting the public health, safety and welfare; and

WHEREAS, the Board therefore determines that it is necessary and desirable to adopt zoning regulations that are specific to small wind turbines that address the unique land use considerations implicated by such devices.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Nederland, Colorado, as follows:

Section 1. Findings and Intent. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Board of the Town of Nederland.

Section 2. Code Section 16-6 is hereby amended by the addition of three (3) new definitions, to be inserted alphabetically, as follows:

Small wind turbine means a wind energy conversion system consisting of a wind turbine(s), tower(s) and associated control or conversion electronics, which has a rated capacity of 20 kilowatts or less.

Wind tower means the monopole or guyed monopole structure that supports a small wind turbine.

Wind turbine means the blades and associated mechanical and electrical conversion components whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

Section 3. The “Industrial Use Groups” portion of the table of Use Groups set forth in Code Section 16-32(c) is hereby amended by inserting the following row concerning small wind turbines:

USE GROUPS	F	MR LDR MDR HDR	NC	CBD	CG	I	P
<i>Industrial Use Groups</i>							
Small wind turbines	R	R	R	R	R	R	R

Section 4. Article IV of Chapter 16, concerning Supplemental Regulations, is hereby amended by the addition of the following new Sections in numerical order, previously designated as “Reserved,” to read in their entirety as follows:

Sec. 16-96. Small wind turbines.

(a) Small wind turbines are permitted as a special review use in those zone districts designated by the Use Table set forth in Section 16-32(c). The requirements set forth in this Section are in addition to, and not in lieu of, those special review use requirements set forth in Article III of this Chapter. Applications for a small wind turbine tower shall be processed in accordance with Article III of this Chapter.

(b) Setbacks. Small wind turbines shall meet the following minimum setbacks from all property lines, whichever is the greatest:

- (1) The setback for a principal building within the applicable zone district; or
- (2) Twenty-five percent (25%) of the overall wind turbine height, measured at the highest-reaching point of any part of the turbine.

(c) Exemptions from setbacks. A small wind turbine may be exempt from the setback requirements of subsection (b) above from any adjacent property upon which is located a wind turbine from an adjacent property that is participating in a unified wind energy project or study with the applicant, as evidenced by a written instrument, such as a lease or access/easement agreement.

(d) Distance from environmental areas. Small wind turbines shall be located a minimum of 2,500 feet from all Important Bird Areas, as identified by the local Audubon Society, and a minimum of 1,500 feet from all State-identified wetlands. Distance shall be measured in a straight line, regardless of topographical features, from the base of the small wind turbine to the nearest boundary of such area or wetland. These minimum distances may be altered to be greater or lesser at the discretion of the Board of Trustees, based on topography, land cover, land uses and any other factors that the Board reasonably determine influence the flight patterns of resident birds.

(e) Sound level. A small wind turbine shall not exceed fifty decibels, except during short-term events such as severe wind storms and utility outages. Sound shall be measured in accordance with Code Section 10-264.

(f) Visual Impacts. Small wind turbines will necessarily have visual impact on surrounding properties and the community due to the height necessary for such facilities to access wind resources. The intent of this subsection is to reduce visual impacts without restricting the applicant's access to wind resources.

(1) Color and surface treatment of the turbine shall minimize visual disruption to surrounding properties, such as flicker and reflection, through techniques such as using non-reflective colors and colors that blend with the surrounding environment.

(2) The turbine and any associated structures shall, to the extent reasonably feasible, use materials, colors, textures, screening and landscaping that will blend the structures into the natural setting and existing environment.

(3) Where wind characteristics permit, small wind turbines shall be set back from the tops of visually prominent ridgelines to minimize the visual contrast apparent from any public access.

(4) The tower shall not significantly impair a scenic vista or scenic corridor as identified in the Town's comprehensive plan.

(5) A small wind turbine shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is

required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind turbine.

(6) A small wind turbine shall not significantly obstruct the predominant view of the surrounding neighborhood. For purposes of this paragraph, “predominant view” means the scenic view of the landscape as seen from a residence or business or the accessory area of a residence or business such as a deck, garden or family gathering area.

(g) Height Restrictions. The overall height of a small wind turbine, as measured at the highest-reaching point of any part of the turbine, shall not exceed sixty (60) feet. The minimum distance from ground level to the lowest-reaching point of any moving part of the small wind turbine shall be fifteen (15) feet.

(h) Submittal Requirements. In addition to the requirements of Section 16-52, an application to locate a small wind turbine shall include the following:

- (1) Small wind turbine system specifications and drawings, including manufacturer and model, rotor diameter, tower height and tower type: freestanding or guyed, all elevation views or a photo or 3 Dimensional rendering from a certified or qualified by recognized agencies as meeting established standards and recommended business practices and/or determined by the American Wind Energy Association’s (AWEA) Small Wind Turbine Committee as commercially available with multiple publicly accessible operational installations in the U.S.
- (2) Mechanical wind brake required

Section 5. Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 6. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

**INTRODUCED, READ AND PASSED, ADOPTED AND ORDERED PUBLISHED
THIS ___ DAY OF _____, 2010.**

TOWN OF NEDERLAND, COLORADO

Martin Cheshes, Mayor

ATTEST:

S E A L

Christi Icenogle, Town Clerk

APPROVED AS TO FORM:

Carmen Beery, Town Attorney