SECOND AMENDMENT

BILL NO. 2009-33

ORDINANCE NO. _____

AN ORDINANCE TO REVISE THE ZONING REGULATIONS GOVERNING SMALL WIND ENERGY SYSTEMS, AND PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilman Steven D. Ross

Summary: Revises the zoning regulations governing small wind energy systems.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Table 2 of the Land Use Tables adopted in Title 19, Chapter 4, Section 10, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by amending the entry for the use "Small Wind Energy System," as found in the "Utilities, Communication and Transportation" element of Table 2, to read as follows:

USE	RESIDENTIAL												COMMERCIAL						INDUSTRIAL		
Small Wind Energy System	U	R-A	R-E	R-D	R-1	R-CL	R-2	R-3	R-4	R-5	R-MH	R-MHP	P-R	N-S	O	C-D	C-1	C-2	C-PB	C-M	M
		C	C	C	C		C	C	C	C			S		S		C	C	C	C	C
	Description: A wind energy conversion system consisting of a wind turbine, a tower or supporting structure, and associated control or conversion electronics, which has a rated capacity of not more than 100kW and which is intended primarily to reduce on-site consumption of utility power. The use is not to be deemed an accessory structure.																				
	Conditional Use Regulations: 1. The minimum parcel size shall be [two acres (net).] 20,000 square feet. 2. No small wind energy system is eligible for approval if all or part of the property is within a conservation easement or scenic highway corridor, or is listed on the State or National Registers of Historic Places, unless the applicant submits satisfactory evidence that the addition of a small wind energy system is not a violation of the rules that govern the development of the property. [3. The tower height (meaning the height above grade of the fixed portion of the tower, excluding the wind turbine itself) may not exceed the lesser of the following: a. The maximum height recommended by the manufacturer or distributor of the system, as demonstrated by evidence included with the application; or b. A height of 90 feet for a qualifying parcel less than 2 net acres in size, or a height of 110 feet on a parcel of 5 net acres or more in size.] 3. A system may be directly mounted on or attached to the principal structure on the site, or may be mounted on a freestanding tower. Where possible, the system should be integrated with other structures, such as buildings, light poles or on-premise sign structures, so as to minimize visual impacts. 4. A system shall not extend to a height greater than the following, measured with reference to the highest point of the fixed structure to which the system is attached (but excluding the wind																				

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	turbine): a. 50 feet, for parcels in the R-D, R-1 and R-2 Zoning Districts; b. 65 feet, for parcels in the R-A, R-E, R-3 and R-4 Zoning Districts; and c. 90 feet for parcels in the R-5, C-1, C-2, C-PB, C-M and M Zoning Districts. 5. When a system is mounted on a freestanding tower: a. The tower and any guy-wires or other supports shall comply with all minimum setbacks for the property; and b. The tower shall be set back from any habitable structure on an adjacent property a distance at least as great as the height of the tower. [4.] 6. [In the R-D Zoning District, the entire system must be set back at least 30 feet from the front property line and at least 10 feet from the side and rear property lines. In the R-A and R-E Zoning Districts, the entire system must be set back at least 50 feet from the front and side property lines, and at least 10 feet from the rear property line.] No more than one system shall be permitted on a parcel of land. [5. No part of a system, including guy wire anchors, may be closer to any residential building or outbuilding than the sum of the following distances: the length of the tower, plus half the length of the blade diameter, plus an additional 10 feet. 6.] 7. A system shall be constructed and maintained so that noise levels do not exceed 60dBA, as measured by a sound level meter at the closest neighboring inhabited dwelling. However, this level may be exceeded during short term events such as utility outages or severe windstorms. [7.] 8. The applicant must submit proof of turbine certification approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association. [8.] 9. A system must comply with applicable FAA regulations, including any necessary approvals for installations close to airports. Such approvals must be received prior to the submittal of a building permit application. For locations within the Airport Overlay District, the system must comply with all regulations and requirements applicable to that district. [9.] 10. A system must comply with all applicable fire codes and building codes. [10.] 11. A building permit application for a system must be accompanied by: a. Standard drawings of the wind turbine structure including base, tower and footings; b. An engineering analysis of the tower showing compliance with the International Building Code and certified by a licensed professional engineer; and c. A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. [11.] 12. Before the installation of a system, the applicant must provide satisfactory evidence that the electrical utility provider has been informed of the applicant's intent to install a system. An off-grid system shall be exempt from this requirement if the property is not served by an electrical utility provider. [12.] 13. No system shall be erected or moved onto any lot prior to construction of the main building unless a building permit has been issued for the construction of the main building. [13.] 14. Except with respect to Conditional Use Regulations 1, 3, 4, 5(b), 6 and 12, [The] the Special Use Permit provisions of Section 19.04.040(B) do not apply to this use. In the case of a Special Use Permit application filed as a consequence of not qualifying for conditional use treatment regarding any of the Regulations listed in the preceding sentence, the remaining Regulations shall apply as Minimum Special Use Permit Requirements, and Regulations 2, 5(a), 7, 8, 9, 10, 11 and 13 above, when imposed as Minimum Special Use Permit Requirements, shall be deemed to be non-waivable.
	Minimum Special Use Permit Requirements: *1. No small wind energy system is eligible for approval if all or part of the property is within a conservation easement or scenic highway corridor, or is listed on the State or National Registers of Historic Places, unless the applicant submits satisfactory evidence that the addition of a small wind energy system is not a violation of the rules that govern the development of the property.

	2. A system may be directly mounted on or attached to the principal structure on the site, or may be mounted on a freestanding tower. Where possible, the system should be integrated with other structures, such as buildings, light poles or on-premise sign structures, so as to minimize visual impacts. 3. A system shall not extend to a height greater than the following, measured with reference to the highest point of the fixed structure to which the system is attached (but excluding the wind turbine): a. 50 feet, for parcels in the P-R Zoning District; and b. 90 feet, for parcels in the O Zoning District. 4. When a system is mounted on a freestanding tower: *a. The tower and any guy-wires or other supports shall comply with all minimum setbacks for the property; and b. The tower shall be set back from any habitable structure on an adjacent property a distance at least as great as the height of the tower. *5. A system shall be constructed and maintained so that noise levels do not exceed 60dBA, as measured by a sound level meter at the closest neighboring inhabited dwelling. However, this level may be exceeded during short term events such as utility outages or severe windstorms. *6. The applicant must submit proof of turbine certification approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association. *7. A system must comply with applicable FAA regulations, including any necessary approvals for installations close to airports. Such approvals must be received prior to the submittal of a building permit application. For locations within the Airport Overlay District, the system must comply with all regulations and requirements applicable to that district. *8. A system must comply with all applicable fire codes and building codes. *9. A building permit application for a system must be accompanied by: a. Standard drawings of the wind turbine structure including base, tower and footings; b. An engineering analysis of the tower showing compliance with the International Building Code and certified by a licensed professional engineer; and c. A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. 10. Before the installation of a system, the applicant must provide satisfactory evidence that the electrical utility provider has been informed of the applicant's intent to install a system. An off-grid system shall be exempt from this requirement if the property is not served by an electrical utility provider. *11. No system shall be erected or moved onto any lot prior to construction of the main building unless a building permit has been issued for the construction of the main building.
	On-site Parking Requirement: No additional parking required beyond that which is required for the principal use on the site.

SECTION 2: Ordinance No. 6041 and Title 19, Chapter 8, Section 60, Subsection (B), Paragraph (3), of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, are hereby amended so that Paragraph (3) reads as follows:

(3) Exceptions.

(a) The following structures may project a maximum of twelve feet above the Proximity Slope:

(i) Chimney and vent stacks.

(ii) Roof structures for the use of solar panel units, elevators, stairs, tanks, ventilation and similar necessary mechanical equipment.

(iii) Visual screens which surround mounted mechanical equipment.

(iv) Skylights.

(v) Whip and mounted antennas.

(b) Church steeples, utility transmission lines and towers, wireless communication facilities when attached to a utility transmission line pole or tower, small wind energy systems, and municipal utility facilities such as water towers are exempt from the maximum height provisions.

SECTION 3: Title 19, Chapter 20, Section 20, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to amend the definition of "Small Wind Energy System" to read as follows:

"Small Wind Energy System" means a wind energy conversion system consisting of a wind turbine, a tower or supporting structure, and associated control or conversion electronics, which has a rated capacity of not more than 100kW and which is intended to primarily reduce on-site consumption of utility power. For purposes of this Title, the use shall not be deemed an accessory structure.

SECTION 4: Title 19, Chapter 16, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 70, reading as follows:

19.16.070: Notwithstanding any other provision of this Chapter, a small wind energy system that is approved as a conditional use or approved by means of special use permit pursuant to Chapter 19.04 shall not be considered an impermissible expansion or alteration to a nonconforming use or structure under this Chapter. However, nothing in this Section precludes the denial of a special use permit application for a small wind energy system based upon the extent to which the size, scope and impact of the proposed system would impact surrounding properties or would tend to perpetuate the nonconformity in a manner contrary to the intent of this Chapter as described in Section 19.16.010.

SECTION 5: For purposes of Section 2.100(3) of the City Charter, LVMC 19.04.010, 19.08.060 and 19.20.020 are deemed to be subchapters rather than sections.

SECTION 6: If any section, subsection, subdivision, paragraph, sentence, clause or

phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 7: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2009.

APPROVED:

By _____
OSCAR B. GOODMAN, Mayor

ATTEST:

_____
BEVERLY K. BRIDGES, CMC
City Clerk

APPROVED AS TO FORM:

_____
Date

The above and foregoing ordinance was first proposed and read by title to the City Council on the _____ day of _____, 2009, and referred to the following committee composed of _____ and _____ for recommendation; thereafter the said committee reported favorably on said ordinance on the _____ day of _____, 2009, which was a _____ meeting of said Council; that at said _____ meeting, the proposed ordinance was read by title to the City Council as amended and adopted by the following vote:

VOTING "AYE": _____

VOTING "NAY": _____

ABSENT: _____

APPROVED:

By _____
OSCAR B. GOODMAN, Mayor

ATTEST:

_____
BEVERLY K. BRIDGES, CMC
City Clerk