

ORDINANCE NO. 2010-018

IMPOSING AN INTERIM MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR WIND ENERGY SYSTEMS (WES) GREATER THAN 500 KILOWATTS, OR MULTIPLE WES PER PARCEL WITH A CUMULATIVE RATED OUTPUT ABOVE 100 KILOWATTS

WHEREAS, on October 21, 2008, the Whatcom County Council adopted Ordinance 2008-043 regulating the construction and operation of Wind Energy Systems (WES); and

WHEREAS, these regulations addressed the construction and operation of WES greater than 500 Kilowatts, or multiple WES per parcel with a cumulative rated output above 100 Kilowatts, in certain zones by means of a Conditional Use Permit as specified in Whatcom County Code 20.14.041; and

WHEREAS, the impacts of these large structures were anticipated to be considered through the Conditional Use Hearing process as to the uses associated with the applicable zone in which the subject WES greater than 500 Kilowatts, or multiple WES per parcel with a cumulative rated output above 100 Kilowatts, was being proposed; and

WHEREAS, the requirements for locating a proposed WES greater than 500 Kilowatts, or multiple WES per parcel with a cumulative rated output above 100 Kilowatts, did not specifically address the impacts of a proposed system constructed in allowed zoning where the specific property abuts properties of a more dense residential zoning; and

WHEREAS, on February 23, 2010, the Whatcom County Council adopted Ordinance 2010-015 as an emergency ordinance imposing a moratorium on the acceptance of new applications for Wind Energy Systems (WES) greater than 500 Kilowatts, or multiple WES per parcel with a cumulative rated output above 100 Kilowatts, and declaring an emergency; and

WHEREAS, the Whatcom County Council makes the following finding of facts:

1. There is merit in considering additional mitigation and/or property boundary setbacks in circumstances of adjacency to zoning boundaries; and

2. A significant number of Whatcom County residents who live in residential areas directly adjacent to properties which are zoned for large-scale WES have presented additional information regarding the negative impacts of nearby WES that was not considered in the passage of Ordinance 2008-043; and

3. This interim ordinance is necessary to prevent future applications for WES greater than 500 Kilowatts, or multiple WES per parcel with a cumulative rated output above 100 Kilowatts, from vesting under current law and thus subverting the purpose of this ordinance; and

4. The Whatcom County Council desires the opportunity to further review this issue in order to study the possible impacts a proposed system may have on abutting properties; and

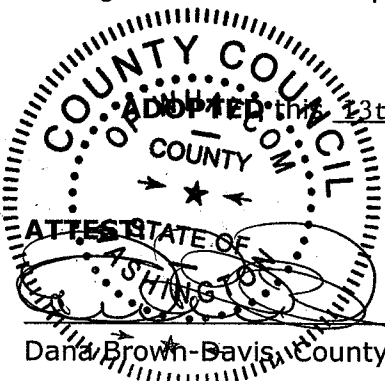
5. The siting of wind energy systems in heavy impact industrial and commercial forestry zones may create noise impacts already associated with noise levels in those zones; and

WHEREAS, the Whatcom County SEPA Official has determined that this proposal is exempt from SEPA; and

WHEREAS, the Whatcom County Council held a public hearing on this issue on April 13, 2010; and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that an interim moratorium is hereby imposed on the acceptance of new applications for Wind Energy Systems greater than 500 Kilowatts, or multiple WES per parcel with a cumulative rated output above 100 Kilowatts in the Rural Forestry or Agricultural zones, unless the applications were complete, as provided by Whatcom County Code, prior to the effective date of this ordinance.

BE IT FURTHER ORDAINED by the Whatcom County Council that this ordinance shall be effective for not longer than six months following its effective date, but may be renewed for one or more six-month periods if subsequent public hearings are held and findings of fact are made prior to each renewal.



ADOPTED this 13th day of April, 2010.

Dana Brown-Davis, County Clerk

**WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON**

Sam Crawford, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor

Approved Denied

Pete Kremen, County Executive

Date: 4-20-10