

RESOLUTION NO. 195-2019

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A RESOLUTION PROVIDING AMENDMENTS TO SECTION II-B-13.k AND SECTION III-D.6 OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE (April 19, 2001 EDITION), AS ADOPTED BY REFERENCE IN RESOLUTION NO. 84-01, DEALING WITH NEW AND MODIFIED DEFINITIONS AND PERFORMANCE AND DEVELOPMENT STANDARDS FOR RENEWABLE ENERGY SYSTEMS.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS.

**SECTION I.** That upon the recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission on June 6, 2019, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under the authority granted by K.S.A. 12-741 et. seq., the Wichita-Sedgwick County Unified Zoning Code, as adopted by reference in Resolution No. 84-01 is hereby amended as follows:

1. Section II-B.13.k of the Wichita-Sedgwick County Unified Zoning Code is hereby amended to read as follows:

k. **Utility, Major** means generating plants; electrical switching facilities and primary substations; water and wastewater treatment plants; water tanks; renewable energy systems, and radio, television and microwave transmission towers; and similar facilities that provide the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service. The term Utility, Major shall not be construed to include corporate or general offices; gas or oil processing facilities that are accompanied by office uses, telecommunication carrier with transmission equipment for long-distance calls and high-speed Internet connections with one or more telecommunication carrier located within a Building, or other uses defined in this section. For the purpose of this definition, the term "renewable energy systems shall mean the following:

1. **Renewable Energy Systems** means either a Wind Energy Conversion System (WECS) or a Solar Energy Conversion System (SECS). Those terms shall mean the following:

(a) **Solar Energy Conversion System (SECS)** means a commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity and includes all associated support facilities including, but not limited to, roads, substations, operation and maintenance buildings, as specified in the application.

(b) **Wind Energy Conversion System (WECS)** means the

combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind Energy Conversion Systems consist of the turbine apparatus and any other buildings, support structures and other related improvements necessary for the generation of electric power from wind and intended for wholesale sales of generated electricity.

2. Section III-D.6 of the Wichita-Sedgwick County Unified Zoning Code is hereby amended by adding the following:

**pp. Renewable Energy Systems.** Renewable energy systems, as defined by this Code and where permitted, shall always be considered Conditional Uses and subject to Sec. V-D (Conditional Use review procedures). Renewable energy systems shall be subject to the following:

- (1) All wind energy conversion system (WECS) are prohibited within the unincorporated portion of Sedgwick County and the City of Wichita.
- (2) For all SECS applications, a site plan shall be submitted in compliance with the requirements provided by the Site Plan Guidelines for Conditional Use Application and shall provide the following supplemental information:
  - (a) Information shall be provided relative to the solar technology to be used (i.e. polycrystalline PV, monocrystalline PV, Cadmium Telluride PV, evacuated tube solar thermal, flat plate solar thermal, etc.); approximate number of solar modules/panels; system mounting (i.e. fixed-tilt on flat roof, fixed-tilt ground-mount, 1-axis tracking groundmount, etc.); the maximum height of the array from the ground or roof surface; the maximum height of any new utility poles; and power capacity of the system, in both DC and AC Watts where applicable; total acreage of array and acreage of total project; manner in which the project will connect (i.e. net meter to existing distribution line, to new distribution line, to transmission line); and, whether a new substation will be constructed. (If so, provide location and size).
  - (b) If a SECS is proposed to be placed within one (1) mile of any airport or airstrip as shown on the Airport and Airstrip Map incorporated herein by reference, the applicant shall provide acknowledgement of location approval from the Federal Aviation Administration prior to construction.
  - (c) The applicant shall provide a Solar Glare Hazard Analysis utilizing the latest version of the Solar Glare Hazard Analysis Tool (SGHAT), or its equivalent, per its user's manual to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information, shall be submitted to the Planning Director at least 30 days before the required public hearing for the Conditional Use Permit for the SECS. Any applicable SECS design changes (e.g. module tilt,

module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the Planning Director for accurate records of the as-built system. The analysis shall provide an assessment of when and where glare will occur throughout the year.

1. If solar glare is predicted, the applicant shall provide mitigation measures to address the impacts of solar glare. Mitigation measures may include and are not limited to textured glass, anti-reflective coatings, screening, distance, and angling of solar PV modules in a manner that reduces glare to surrounding land uses of non-participating property owners.
- (d) The applicant shall submit an Environmental Assessment to EPA standards that addresses the project's impact, if any, on: wildlife habitat; bird migration; the projects potential to cause bird and bat strikes or death; officially listed flora and fauna; and flood zones.
  - (e) The applicant shall provide information that addresses: stormwater drainage, soil erosion, sediment control, and will detail how same will be addressed, prevented or enhanced by grading, re-vegetation or other standard construction practices in accordance with the reclamation recommendations of the Sedgwick County Conservation District. Damage to existing vegetation shall be minimized. Disturbed areas shall be reseeded in accordance with the reclamation recommendations of the Sedgwick County Conservation District. Weed control shall be maintained as directed by the Sedgwick County Noxious Weed Department.
  - (f) The applicant shall provide an evaluation of potential impacts together with any plans and proposals for alleviating social and economic impacts upon local governments or special districts and alleviating environmental impacts which may result from the proposed facility.
  - (g) The applicant or developer shall meet with the appropriate department of public works, and/or Kansas Department of Transportation to determine what roads may be used as transportation routes for construction and maintenance, and shall provide a map of the route(s) to be used in Sedgwick County. No building or construction permit shall be issued until the applicant submits proof that appropriate permits and any required guarantees dealing with road damage or maintenance can be provided.
  - (h) The applicant shall provide a list of all Local, State and Federal agencies requiring approval and a copy of such approval, including all required studies, reports and certifications. In the event that a State or Federal Agency has not yet approved a

required study, report or certification, then the enforcement of the conditional use permit shall be subject to receipt of a copy of such approval, unless good cause is shown to the satisfaction of the Planning Director.

- (i) The SECS shall not exceed thirty-five feet (35') in height; provided, however, said height restriction shall not apply to substation facilities or transmission lines.
- (j) All SECS structures shall be setback from the project boundary lines and public rights-of-way at least forty (40) feet. Additional setbacks may be required to mitigate site specific issues or to provide for access, road or commercial corridors.
- (k) The SECS shall be enclosed by perimeter fencing at least 8 feet tall to restrict unauthorized access. No outdoor storage of any materials or equipment is permitted.
- (l) On-site communication lines and power collection lines are to be installed underground. Above ground utility or power lines may be used only in public rights-of-way, easements or other legally dedicated land permitting such uses, or when conditions on-site are found to make installation of such lines or facilities impractical or infeasible, such as existing underground pipelines, utilities or high groundwater.
- (m) There shall be no signage allowed on the SECS with the exception of safety and emergency contact signs, warning signs, directional or project identification signs.
- (n) The SECS should be located to make maximum use of existing terrain, vegetation and structures to screen the Project from off-site views. To the greatest extent possible, SECS should be sited such that non-shading vegetation and/or existing structures are located between the facility and public and private viewpoints. Landscaping and/or screening may be required to help screen the SECS.
- (o) The applicant shall identify the potential fire risk associated with the project, including both prescribed burning and non-prescribed burning.
- (p) No SECS shall be placed such that concentrated solar glare casts onto adjacent properties or roadways.
- (q) No lighting over 15 feet in height shall be installed on renewable energy facilities unless approved as part of the conditional use review process and is required by local, state or federal requirements. No light source greater than one foot-candle shall be directed off-site. Security or safety lighting of the SECS and accessory structures shall be limited to the minimum necessary

and full cutoff lighting (e.g., dark sky compliant) may be required when determined necessary to mitigate visual impacts. Lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.

- (r) The applicant(s) shall provide a site and facility reclamation and decommissioning plan which indicates the planned life of the SECS and the means by which the facility and its site will be decommissioned and reclaimed at the end of the facility's life. Said reclamation and decommissioning plan shall certify that any owner of land within the SECS and its site who is not the applicant(s) has been consulted in development of the reclamation and decommissioning plan. If the permit is granted, the plan shall be updated every five (5) years until site reclamation and decommissioning is complete. Before final inspection by public officials, the applicant shall provide evidence that the decommissioning plan, and amendments thereto, have been recorded with the Register of Deeds. The reclamation and decommissioning plan shall provide that, at the end of the project's life; or array component of an SECS, all, or the appropriate portion, of the site's equipment and access roads shall be removed from the site and the site shall be returned to original condition, or restored to such condition as to allow a use compatible with surrounding uses as determined by the Planning Director, or to such condition as agreed to by the landowner and the SECS owner, developer, and/or operator. The landowner may choose to have access roads left intact.
- (s) Upon final approval of the Conditional Use, construction shall begin within two years from the date of final approval; otherwise, the conditional use approval shall be deemed to be null and void unless an extension to begin construction is administratively approved by the Director of Planning. The Director of Planning is authorized to administratively grant a one-time, up-to-one year extension for construction to begin. Extensions for more than one year require a public hearing and approval by the Metropolitan Area Planning Commission. Construction for a SECS will be considered to have begun once the first array of solar panels has begun to be installed.
- (t) Any other issues or concerns that are identified relative to a specific request for a Renewable Energy System may be included within the information required for consideration of the Conditional Use Permit.

**SECTION II.** That this Resolution shall take effect and be in force from and after its adoption by the Governing Body and publication in the official county newspaper.

Commissioners present and voting were:

PETER F. MEITZNER	<u>    Aye    </u>
MICHAEL B. O'DONNELL, II	<u>    Aye    </u>
DAVID T. DENNIS	<u>    Aye    </u>
LACEY D. CRUSE	<u>    Aye    </u>
JAMES M. HOWELL	<u>    Aye    </u>

Dated this 21 day of August, 2019.

ATTEST:

Karen S. Baird  
KELLY B. ARNOLD, County Clerk



BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS

[Signature]  
DAVID T. DENNIS, Chairman  
Commissioner, Third District

[Signature]  
PETER F. MEITZNER, Chair Pro Tem  
Commissioner, First District

APPROVED AS TO FORM:

[Signature]  
JUSTIN M. WAGGONER  
Assistant County Counselor

[Signature]  
MICHAEL B. O'DONNELL, II  
Commissioner, Second District

[Signature]  
LACEY D. CRUSE  
Commissioner, Fourth District

[Signature]  
JAMES M. HOWELL  
Commissioner, Fifth District