

Order 33-11/12
Given first reading 8/15/11 and referred back to Energy and Environmental Committee
Postponed 11/21/11
Passed as amended 1/18/12 9-0

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CITY OF PORTLAND
IN THE CITY COUNCIL

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**AMENDMENT TO ORDER 33 PREPARED FOR COUNCILOR DONOGHUE
AND COUNCILOR DUSON BY CORPORATION COUNSEL**

The ordinance provisions contained within Order 33 shall be adopted with the following amendments:

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Sec. 14-755. Definitions.

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Public industrial or utility facility: A facility operated by the City of Portland or Portland Water District that contains a major industrial or utility operation, such as a treatment plant, solid waste facility, materials storage yard or similar operation.

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Sec. 14-757. Permitted Uses.

(a) Freestanding wind energy systems that are accessory to the lawful principal use of the lot, primarily for the generation of energy for on-site consumption, and at or below 25 feet in total height, may be allowed as permitted uses in all Residential, B1, I-B and Residence-Professional zones subject to the standards listed below in Section 14-761 (General Standards), 14-763 (Maintenance and Removal), and 14-765 (Submittal Requirements).

(b) Freestanding wind energy systems that are accessory to the lawful principal use of the lot, primarily for the generation of energy for on-site consumption, and meet the applicable height standards of the zone in which they are located and are no higher than 45 feet, may be allowed as permitted uses

in all Business Zones except B1 and I-B, and in the Office Park, Industrial Zones, Airport Business Zone, Recreation Open Space (ROS) Zone and Island Transfer Station Zone subject to the standards listed below in Section 14-761 (General Standards), 14-763 (Maintenance and Removal), and 14-765 (Submittal Requirements).

- (c) Roof mounted wind energy systems that are accessory to the lawful principal use of the lot, primarily for the generation of energy for on-site consumption, meet the applicable height standards of the zone in which they are located and are less than 10 feet above the highest part of the roof, may be allowed as permitted uses in all zones except Stream Protection Zone and Recreation Open Space Zone, subject to the standards listed below in Section 14-761 (General Standards), 14-763 (Maintenance and Removal), and 14-765 (Submittal Requirements).

Sec. 14-758. Conditional Uses.

- (a) Wind energy systems that do not meet the requirements for a permitted system may be allowed as conditional uses in all zones (including all Overlay Zones but excluding Stream Protection and Resource Protection zones), subject to the provisions of Section 14-430 (height and bulk exceptions/use exceptions); Section 14-474 (conditional uses); and to the requirements and performance standards listed below in Section 14-761 (General Standards), 14-763 (Maintenance and Removal), and 14-765 (Submittal Requirements). For the purposes of this provision, wind energy may be an accessory use in all zones or a principal use in all zones except Residential Zones, B1 Zone, I-B Zone, Residence-Professional Zone and Resource Protection Zone.
- (b) Wind energy systems within Recreation Open Space Zones (including the Island Transfer Station Overlay Zone) are allowed as a conditional use where they are co-located with public industrial or utility facilities as defined in Section 14-755.

Table 1: SUMMARY TABLE of PERMITTING (see legend on next page)

Type and Scale of wind energy system	Stream Protection, Historic Landscape Districts and Historic Cemeteries	Re-source Protection Zone	All Residential Zones, and Residential Professional Zone; B1 Zone; I-B Zone	Historic Districts*, and within 1000 ft of specified landmarks (see **)	Water-front Zones and B6	Bus. Zones B2 and B5; Industrial Zones I-L, I-Lb and I-Ma	Bus. Zones B3 and B7	B4 Zone, Office-Park Zone	Recreational Open Space (ROS) Zones where Co-located with public industrial or utility facilities as per 14-758 (b) except four specified ROS Zones (see ***)	Island Transfer Station; Industrial Zones I-M, I-Mb, I-H; four specified ROS Zones (see ***) ; Airport Bus. (w/FAA approval)
Roof mounted, accessory, <10 ft above roof) & below permitted height of zone	X	P	P	P	P	P	P	P	C	P
Freestanding; accessory; up to 25 ft	X	X	P	P	P	P	P	P	C	P
Freestanding or roof mounted; accessory; at or below permitted height of zone AND no higher than 45 ft	X	X	X if <.5 acre Except if .5 acre or larger	P	P	P	P	P	C	P
Freestanding or roof mounted; at or above permitted height of zone AND no higher than 45 ft	X	X	X Except C only where accessory & on institutional sites over 5 acres	C	C	C	C	C	C	C
Roof mounted or free-standing; at or below permitted height for that zone AND no higher than 65 ft	X	X	X Except C only in USM Overlay Area & for college, university or trade schools in the R5 zone	X Except C in B3 part Congress St. Historic District	C	C	C	C	C	C
Roof mounted or freestanding; above permitted	X	X	X	X Except C	C	C	C	C	C	C

height for that zone AND no higher than 65 ft				in B3 part Congress St. Historic District						
Roof mounted; at or below permitted height for that zone AND no higher than 85 ft	X	X	X	X Except C in B3 part Congress St. Historic District	X	X	C	C	C	C
Freestanding; at or below permitted height for that zone AND no higher than 85 ft	X	X	X	X Except C in B3 part Congress St. Historic District	X	X	X	C	C	C
Freestanding; above permitted height for that zone AND no higher than 85 ft	X	X	X	X	X	X	X	X	C	C
Roof mounted or freestanding; above 85 ft and no higher than 160 ft	X	X	X	X	X	X	X	X	CWith increased setbacks (see 14-761 (d) 6)	C With increased setbacks (see 14-761 (d) 6)

Table 1: SUMMARY TABLE of PERMITTING (see legend on next page)

P = Permitted Use; needs Zoning Administrator approval plus building permit; if within 100 feet of a designated landmark, historic district or historic landscape district, also needs Planning Authority (HP) approval;

C = Conditional Use; needs ZBA approval plus building permit; if within 100 feet of a designated landmark, historic district or historic landscape district, also needs Planning Authority (HP) approval

X = Prohibited

* Historic Districts only (wind systems are prohibited in Historic Landscape Districts and Historic Cemeteries); in Historic Districts if the maximum allowed height in this section is different from the allowable height associated with the underlying zone, the lower of the two height limits would apply regarding wind energy systems. Within the B3 part of the Congress Street Historic District, the height limits in this ordinance for the B3 Zone shall apply.

** Specified landmarks are: Portland Observatory; Cathedral of Immaculate Conception; St Dominic’s Cathedral; St Luke’s Cathedral; State Street Church; and City Hall.

~~*** Specified Recreation Open Space Zones where wind systems up to 160 feet are allowed as conditional uses subject to all other requirements of this ordinance being met: Riverside Golf Course; Quarries area off Ocean Avenue; Trott-Littlejohn Park on Peaks Island; Sewage Treatment Plant part of Eastern Promenade.~~

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14-761. General Standards.

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(c) Siting

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3. *Overall Height:* The total height (including the supporting structure or building and the rotors or blades of the generator) of the wind energy system when operating shall be at or below the following maximum height limits.

These limits do not apply within Historic Districts (except the Congress Street Historic District) or within 1000 feet of Portland Observatory; Cathedral of the Immaculate Conception; St Dominic's Cathedral; St Luke's Cathedral; State Street Church; and City Hall where the overall height of wind energy systems may be no higher than 45 feet. Within the Congress Street Historic District, the overall height of wind energy systems may be no higher than 45 feet in those areas outside of the B3 Zone and within the B3 Zone the height limits below shall apply.

In addition, the actual height of any roof mounted wind energy system, as measured above the roof from the point of attachment, where allowed as a conditional use shall not exceed 35% of the height of the building on which is it mounted.

- i. Maximum of 45 feet: Roof mounted in R-6 Zone if 10 feet or less above highest part of the roof and permitted by that zone
Residential Zones, B1 Zone, I-B Zone and Residence-Professional Zone if lot is .5 acre or larger and height permitted by that zone
Institutional uses in Residential Zones, B1 Zone, I-B Zone and Residence-Professional Zone where lot is over 5 acres
Resource Protection Zone (roof mounted and up to height permitted by the zone)
- ii. Maximum of 55 feet: College, university or trade school in R5 Zone where conditional use

requirements of the zone are met (14-118 (b) 6 g)

- iii. Maximum of 65 feet: Waterfront Zones
Business Zones B2, B5 and B6
Industrial Zone I-L, IL-b and I-Ma
Freestanding in Business Zones B3 and B7
USM Overlay Zone if allowed by Overlay Heights
- iv. Maximum of 85 feet: Roof mounted in B3 & B7 if height permitted by Overlay Heights
Business Zone B4 if height permitted by that zone
Office-Park Zone up to 75 feet where requirements of the zone are met (14-230.14 (e))
~~Recreation Open Space Zones except as specified in v. below~~
- v. Maximum of 160 feet: Industrial Zones I-M and IMb and I-H

(Increased setbacks Airport Business Zone if over 85 feet)
~~Specified Recreation Open Space Zones: Riverside Golf Course; Quarries area off Ocean Avenue; Trott Littlejohn Park on Peaks Island; Sewage Treatment Plant part of Eastern Promenade; Peaks Island Transfer Station where allowed by 14-758(b).~~

