

**ORDINANCE #2011-1**

**AN ORDINANCE AMENDING THE PONCHA SPRINGS LAND USE CODE  
REGARDING WIND ENERGY CONVERSION SYSTEMS (WECS)**

**WHEREAS**, the Town of Poncha Springs is authorized to regulate land use by CRS 29-20-101 et al.

**WHEREAS**, changes and upgrades to the Town's Land Use Code are necessary from time to time, and

**WHEREAS**, the Board of Trustees for the Town of Poncha Springs believes that the Land Use Code is an important guide and needs to be accurate; and

**WHEREAS**, the Town of Poncha Springs Planning Commission made a recommendation to the Board of Trustees to correct the language in sections 2.3, and 2.5.11 to accurately reflect the zones in which WECS are allowed, and to remove conflicting language. To allow Administrative review and approval by the Town Administrator for Wind Energy Conversion Systems proposed for location in the DIO and ESCI zones as long as they meet the Land Use Code requirements for WECS, and to be referred to the Board if they do not comply with Land Use Code requirements; and

**WHEREAS**, sections 2.5.11 (1.)(c), and (f), and (2.) address Wind Energy Conversion Systems (WECS) and the zones they are allowed in, and these sections state that Wind Turbines are allowed in the DIR zone, which conflicts with section 2.3 Permitted Uses where the Wind Turbines are no longer allowed in the DIR zone, and

**WHEREAS**, section 2.5.11 (2.) states that ' "Permitted Uses" is hereby amended to add Wind Energy Conversion Systems as a special review use in the ESCI, DIO, and DIR zone districts. ' directly conflicting with section 2.3 Permitted Uses which shows Wind Turbines as a 'Permitted Use' in the DIO and ESCI zones; and

**WHEREAS**, the Town of Poncha Springs supports a modification to the land use code to allow WECS that are properly designed, located and installed and that meet the Land Use Code requirements for WECS in the DIR and ESCI zones to be approved administratively by the Town Administrator prior to building permit application submittal to the County; and

**WHEREAS**, the Town of Poncha Springs supports a modification to the Land Use Code to require WECS proposed for the DIR and ESCI zones that the administrator determines require additional review and approval by the board, to be referred to the Board of Trustees for review and approval before a building permit may be applied for; and

**WHEREAS**, The Town of Poncha Springs Board of Trustees believes that WECS are becoming more popular as a result of increasing energy costs; and believes WECS to be a clean, renewable, inexhaustible economical source of energy that helps reduce dependence upon fossil fuels and serves to increase the overall sustainability of Poncha Springs, and

**NOW THEREFORE, BE IT ORDAINED BY THE PONCHA SPRINGS, COLORADO, BOARD OF TRUSTEES:** that the following revisions be made to the Town of Poncha Springs Land Use Code.

2.3 Permitted Uses

The following is a schedule of permitted and special review uses within each zone district. Those uses designated as permitted are allowed as a matter of right and without special authorization (***with the exception of Wind Energy Conversion Systems in the ESCI and DIO zones which require Administrative Review prior to Building Permit, and may be referred to the Board for review and approval if the Town Administrator determines that further review is required.***) Special review uses are allowed in zone districts when so designated only when and if a special review application is approved in accordance with Section 2.6.

1. Section 2.3 Permitted Uses is hereby amended as follows:

ESCI	PERMITTED USES	SPECIAL REVIEW USES
Established Service/ Commercial/ Industrial	<p>Any kind of scientific research, manufacturing, compounding, assembling, processing or treatment of products, distribution centers, food and beverage processing provided the following limitations are placed on all such uses: (1) all permitted principal uses shall be operated primarily within an enclosed structure; (2) dust, fumes, odors, refuse, matter, smoke, vapor, noise, lights and vibrations shall be confined to the premises of the lot upon which such use is located; (3) travel and parking portions of the lot shall be surfaced with asphalt, concrete, compressed gravel or equivalent surfacing; (4) outdoor storage areas shall be concealed from view from abutting streets and highways and from adjoining residential zoning districts; (5) landscape perimeters shall be provided when the use abuts a street, highway or residential area; public utility mains, line and underground facilities; accessory buildings and uses; office accessory to light industrial uses; storage yards for lumber and building supplies; open sales yards; warehouses; dwelling units accessory to permitted uses</p> <ul style="list-style-type: none"> <li>- Wind Energy Conversion Systems and Associated Facilities (Ord. #2008-9)</li> </ul> <p><b>by Administrative Review prior to building permit (2011-1).</b></p>	<ul style="list-style-type: none"> <li>- Commercial storage units. (Ord. 2000-4)</li> <li>- Cellular Towers and Associated Facilities (Ord 2008-5)</li> </ul>

DIO	PERMITTED USES	SPECIAL REVIEW USES
Developing Industrial Office	<p>Retail sales (Ord. 2002-33), wholesale distributors and warehouses; gas stations; parking lots; public utility distribution facilities; Fire and Police stations; offices; maintenance; repair, and refurbishing facilities; Industrial and Vocational schools, hospitals and related medical facilities (Ord. #2005-8) provided the following limitations shall (Ord. 2004-17) be placed on all such uses:</p> <ul style="list-style-type: none"> <li>- Dust, fumes, odors, refuse matter, smoke, vapor, noise, lights and vibrations shall be confined to the premises of the lot upon which use is located.</li> <li>- Travel and parking portions of the lot shall be surfaced with asphalt, concrete, compressed gravel or equivalent surfacing. (Ord. 2000-3)</li> <li>- Outside storage shall be items used in the normal operation of the business and shall be kept in an orderly manner. (Ord. 2000-8)</li> <li>- Landscape perimeters shall be provided when the use abuts a street, highway or residential area. (Ord. 2000-3)</li> <li>- Wind Energy Conversion Systems and Associated Facilities (Ord. #2008-9)</li> </ul> <p><b>by Administrative Review prior to building permit (2011-1).</b></p>	<p>Open sales yards, bulk storage of petroleum gases and chemicals; Accessories structures including railroad facilities; any kind of scientific research, manufacturing, compounding, assembling, processing or treatment of products, Animal Hospitals, (Ord. 1999-21) food and beverage processing, Cellular Towers and Associated Facilities (Ord. 2008-5) provided the following limitations shall (Ord. 2004-17) be placed on all such uses:</p> <ul style="list-style-type: none"> <li>- dust, fumes, odors, refuse matter, smoke, vapor, noise, lights and vibrations shall be confined to the premises of the lot upon which such use is located</li> <li>- travel and parking portions of the lot shall be surfaced with asphalt, concrete, compressed gravel or equivalent surfacing</li> <li>- landscape perimeters shall be provided when the use abuts a street, highway or residential area</li> </ul>

DIR	PERMITTED USES	SPECIAL REVIEW USES
(Ord. 2004-17) (Ord 2010-10)	<p>3,000 s.f. minimum for main building with 50% retail * required. Retail space (front) is required to be located along Halley's Ave. Eating Facilities, <del>hospitals and related medical facilities (Ord 2006-8)</del> light industrial, art galleries, <del>with associated retail, hospital and related medical facilities, (Ord. 2006-8)</del> provided maintenance, repair, and refurbishing facilities, equipment sales and rental stores, liquor sales, the following limitations shall be placed on such uses:</p> <ul style="list-style-type: none"> <li>- Compliance with Section 4.10 Architectural Guidelines.</li> <li>- Dust, fumes, odors, refuse matter, smoke, vapor, noise, lights and vibrations shall be confined to the premises of the lot upon which such use is located.</li> <li>- Travel and parking portions of the lot shall be surfaced with asphalt, concrete, compressed gravel or equivalent surfacing. (Ord. 2000-3)</li> <li>- Outside storage shall be items used in the normal operation of the business and shall be kept in an orderly manner. (Ord. 2000-8)</li> <li>- Landscape perimeters shall be provided when the use abuts a street, highway or residential area. (Ord. 2000-3)</li> <li>- <del>Wind Energy Conversion Systems and Associated Facilities (Ord. 2008-9)</del></li> <li>- A sign shall be posted in the front window or door of the business stating the business name and the hours of operation.</li> </ul>	<p>Main building less than the 3,000 s.f. min. or having less than 50% retail space. Fences, <del>Public utility distribution facilities, Accessory Buildings, maintenance repair, and refurbishing facilities, equipment sales and rental stores,</del> open sales yards, drinking establishments, banks, including drive-up windows, <del>for liquor sales; Cellular Towers and Associated Facilities (Ord. 2008-6)</del> provide the following limitations shall be placed on all such uses;</p> <ul style="list-style-type: none"> <li>- Compliance with Section 4.10 Architectural Guidelines.</li> <li>- Dust, fumes, odors, refuse matter, smoke, vapor, noise, lights and vibrations shall be confined to the premises of the lot upon which such use is located.</li> <li>- Travel and parking portions of the lot shall be surfaced with asphalt, concrete, compressed gravel or equivalent surfacing. (Ord. 2000-3)</li> <li>- Outside storage shall be items used in the normal operation of the business and shall be kept in an orderly manner. (Ord. 200-3)</li> <li>- Landscape perimeters shall be provided when the use abuts a street, highway or residential area. (Ord. 2000-3)</li> <li>- A sign shall be posted in the front window or door of the business stating the business name and the hours of operation.</li> </ul>

2.5.11 WIND ENERGY CONVERSION SYSTEMS

(c) Location.

WECS facilities may be located in the DIO, **DIR**, and ESCI zone districts in the Town of Poncha Springs and shall be subject to the requirements of special review uses, **(and WECS Administrative Review)** specified in the Poncha Springs Land Use Code.

(f) Submittal and Review Requirements

In addition to the requirements specified in section 2.6.2 of the Poncha Springs Land Use Code for special review uses, **(and Administrative Review for WECS)**, the applicant shall submit the following information.

2.6 Rezoning and Special Review (and WECS) Criteria

2.6.2 SPECIAL REVIEW **(and WECS Administrative Review)**

In considering the suitability of a special review use, the Commission and Board should determine **(or for WECS, Administrative Review by the Town Administrator, or if referred to the Board the Town Board should determine)**:

- (i) No approved special review use (*or for WECS, use approved by Administrative Review or by Board approval*) shall be modified, structurally enlarged or expanded in ground area unless such modification, enlargement or expansion receives approval pursuant to the procedures of Section 5. The Board of Trustees shall determine, at the time of approval of a use by special review (*or for WECS, at the time of Town Administrator approval, or at the time of Board approval, if Board approval was required*), the length of duration of such approval (whether perpetual or limited to a definite term), and whether such approval shall run with the land or, alternately shall expire upon sale of the affected property.

3.2.3 MINOR SUBDIVISIONS (*and WECS\**) REQUIRING ADMINISTRATIVE REVIEW: (Ord. #2008-2)  
\* *WECS applications must comply with section 5.5.1 as directed by the Town Administrator, and section 6.0 for building permit compliance. WECS applications referred to the Board are subject to section 5.5.1(d).*

The above Land Use Code sections are hereby amended to resolve conflicts, and to allow WECS in the DIO and ESCI zones to be approved administratively unless the Town Administrator determines that Board review is necessary and refers them to the Board for further review and approval.

**PASSED AND APPROVED THIS 24<sup>th</sup> DAY OF JANUARY, 2011, BY THE BOARD OF TRUSTEES OF THE TOWN OF PONCHA SPRINGS, COLORADO**

/s/  
\_\_\_\_\_  
Mark F. Thonhoff, Mayor

/s/  
\_\_\_\_\_  
Diana K. Heeney  
Clerk/Treasurer

(corrections are as follows:  
additions = ***bold italics***,  
previous deletions = ~~strikethrough~~,  
new deletions = ***italicized bold strikethrough***)