



DEPARTMENT OF CODES & REGULATIONS
DIVISION OF PLANNING & DESIGN SERVICES

LOUISVILLE, KENTUCKY

JERRY E. ABRAMSON
MAYOR

WILLIAM P. SCHRECK
DIRECTOR

Planning Director's Interpretation Number 05-08

Are wind power systems permitted as accessory uses/structures?

Below are the current Land Development Code provisions that apply to alternative power systems such as solar power systems:

Accessory Use or Structure -A use or structure which is clearly incidental to, customarily found in association with, and serves a principal use; is subordinate in purpose, area, or extent to the principal use served; and is located on the same building site as the principal use.

This term shall be deemed to include accessory service uses, accessory private garages, home occupations, accessory tennis courts, accessory parking facilities, ground-mounted satellite dish antennas and solar energy systems which have the purpose of providing energy for heating and cooling of the principal use. Under no circumstances will uses appropriate only in the M-3 zone be allowed in the M-1 and M-2 zones as accessory uses.

Solar Collector -A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply.

Solar Energy System -A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system.) Passive solar energy systems are included in this definition but not to the extent that they fulfill other functions such as structural and recreational.

4.2.23 Electric Power or Steam Generating Plants

Electric Power or Steam Generating Plants may be allowed in the M-3 and EZ-1 districts upon granting of a Conditional Use Permit and compliance with the following regulations:

A. When applicable, the applicant shall provide documentation from the Kentucky State Board on Electric Generation and Transmission Siting that a complete application required to obtain a construction certificate to construct a merchant electric generating facility has been submitted.

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Relevant portions of the application shall be submitted for the Board's consideration, as requested by staff.

B. All structures housing generating equipment and outdoor storage facilities shall be set back at least 1,000 feet from the property line when adjacent to any non-industrial use or zoning district. Offices and employee parking areas are required to be located at least 30 feet from any property line.

C. Facilities adjacent to property used or zoned for residential purposes shall provide a landscape buffer 60 feet wide and planted with three staggered rows of trees, half evergreen and half deciduous, with trees in each row no more than 20 feet apart.

D. All facilities shall be enclosed within a continuous fence with a minimum height of 8 feet.

E. The applicant shall submit to the Board of Zoning Adjustment a copy of any applicable requirements or permits approved by the Air Pollution Control District.

F. Merchant Power Plants must comply with all the applicable regulations in KRS Chapter 278.

5.1.10 Exceptions

B. Chimneys, water, fire, transmitting and receiving communications towers for non-commercial use in accordance with FAA/FCC requirements, church spires, domes, cupolas, stage towers and scenery lofts, cooling towers, elevator bulkheads, smokestacks, parapet walls and similar structures and their necessary mechanical appurtenances may be erected above the height limits herein established; however, the heights of these structures or appurtenances thereto shall not exceed the height limitations prescribed by the Kentucky Airport Zoning Board.

5.4.1 Traditional Form Districts (except for DFD)

2. Rear yard requirement. The minimum rear yard requirement shall be 5 feet from rear property line. Structures are not permitted in the rear yard. This minimum rear yard is also the minimum size of the accessory structure/use area. This five (5) foot setback cannot be counted toward the private yard requirement. Parking in the required rear yard is permissible adjacent to an alley, provided that vehicles are parked at least two feet from the alley's edge of pavement. INFILL CONTEXT: Accessory structures that front an



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alley or rear street may reduce the five-foot rear setback to match the setbacks of the two closest constructed accessory structures as long as the alley width is at least 18 feet.

7. Accessory Structure Height. The maximum height of accessory structures shall be 24 feet from the existing grade. New accessory structures shall be subordinate in size to the principal structure on the lot.

5.4.2 Suburban Form Districts

3. Accessory Structures/Uses in a Required Rear or Side Yard – Accessory structures and uses for residential buildings may be permitted in a required side or rear yard setback when the following standards are met:

- a. The minimum setback from a rear property line shall be 5 feet. The minimum setback from side property lines shall be 2 feet except that accessory structures and uses shall observe the same setback from street side property lines as required for principal structures. Parking areas shall be at least 5 feet from the required rear property line. Parking is permitted within required side yards.
- b. The cumulative total area of building footprint, accessory structure(s) and residence, shall not encroach more than 50% of the area of the rear yard. No structure shall be closer than five (5) feet to the rear property line.

STAFF ANALYSIS

The current Land Development Code allows solar power systems as accessory uses when they provide power to heat and cool the principal structure on the lot. Wind energy systems are not listed as an accessory use. Staff considers wind systems as alternative power systems that should be included with solar power systems. Therefore, the interpretation below provides guidance on alternative power systems as accessory uses as well as principal uses.

Alternative Power Systems

1. Alternative power systems may be considered accessory as long as they provide power for the principal use on the lot. These types of facilities are limited to "Eligible Customer

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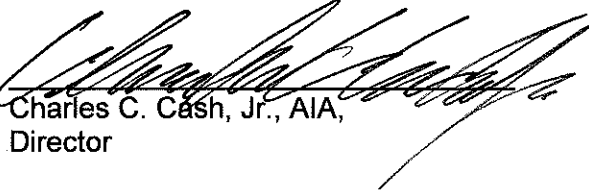
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Generators" as defined in KRS 278.465 (KRS currently limits these power systems to a 30 kilowatt capacity). If the power system is proposed to exceed this limit they shall be regulated by conditional use permit as a Power Generation Facility unless exempted by KRS 100 as a utility.

2. Alternative power systems mounted on a building shall be exempt from the height restrictions of the form district in accordance with Section 5.1.10 Exceptions.
3. Alternative power systems mounted on a stand alone support structure (e.g. pole or pylon) shall be considered accessory structures and shall comply with the applicable accessory structure standards (height, setback, etc.) found in Chapter 5, Part 4 for residential accessory structures and the setback and height restrictions required for non-residential accessory structures as found within the applicable form district standards.
4. Alternative power systems may be required to have an electrical permit and/or building permit based on the design specifications and use of the system.

Approved By:


Charles C. Cash, Jr., AIA,
Director

Effective Date: December 19, 2008