

# Senate File 84 - Introduced

SENATE FILE \_\_\_\_\_  
BY KIBBIE

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the adoption of small wind energy system  
2 ordinances by cities and counties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 1444XS 83  
5 rn/sc/5

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1 1 Section 1. NEW SECTION. 361.1 SMALL WIND ENERGY SYSTEM  
1 2 ORDINANCE.  
1 3 1. A city or county shall promote the safe, effective, and  
1 4 efficient use of small wind energy systems by adopting an  
1 5 ordinance addressing the installation and operation of such  
1 6 systems.  
1 7 2. For purposes of this chapter, "small wind energy  
1 8 system" means a wind energy conversion system consisting of a  
1 9 wind turbine, a tower, and associated control or conversion  
1 10 electronics, which has a rate capacity of not more than five  
1 11 hundred kilowatts, and which is primarily intended to reduce  
1 12 on-site consumption of utility-generated forms of energy.  
1 13 Sec. 2. NEW SECTION. 361.2 PROVISIONS REQUIRED IN  
1 14 ORDINANCE.  
1 15 If by July 1, 2009, a city or county has not otherwise  
1 16 adopted an ordinance, or regulations contained in zoning  
1 17 requirements, addressing the installation and operation of  
1 18 small wind energy systems, the city or county shall adopt an  
1 19 ordinance providing that a small wind energy system shall be a  
1 20 permitted use in all zoning classifications where structures  
1 21 of any sort are allowed. The ordinance shall be subject to  
1 22 and shall include all of the following provisions:  
1 23 1. A wind energy system shall not be constructed, altered,  
1 24 or maintained so as to project above any of the imaginary  
1 25 airspace surfaces described in 49 C.F.R. pt. 77.  
1 26 2. The base of the tower shall be set back from all  
1 27 property lines, public rights-of-way, and public utility lines  
1 28 equal to the total extended height of the tower. Turbines  
1 29 shall be allowed closer to a property line than the tower's  
1 30 total extended height if each owner of property that abuts the  
1 31 property where the system is being constructed grants written  
1 32 permission and if the installation poses no interference with  
1 33 public utility lines or public road or rail rights-of-way.  
1 34 3. a. Building permit applications for small wind energy  
1 35 systems shall be accompanied by standard drawings of the wind  
2 1 turbine structure and stamped engineer drawings of the tower,  
2 2 base, footings, and foundations as provided by the  
2 3 manufacturer. Wet stamps or original impression seals shall  
2 4 not be required.  
2 5 b. For standard soil conditions, foundations developed by  
2 6 the wind turbine manufacturer shall be acceptable for turbine  
2 7 installations of five hundred kilowatts or less and shall not  
2 8 require project-specific soil studies or an engineer's wet  
2 9 stamp or original impression seal.  
2 10 c. Building permit applications for small wind energy  
2 11 systems shall be accompanied by a line drawing of the  
2 12 electrical components, as supplied by the manufacturer, in  
2 13 sufficient detail to allow for a determination that the manner  
2 14 of installation conforms to the national electric code.  
2 15 4. Any climbing foot pegs or rungs that extend below  
2 16 twelve feet of a freestanding tower shall be removed to  
2 17 prevent unauthorized climbing. For lattice or guyed towers,  
2 18 sheets of metal or wood may be fastened to the bottom tower

2 19 section such that it cannot readily be climbed.  
2 20 5. Sound produced by the turbine under normal operating  
2 21 conditions, as measured at the property line, shall not exceed  
2 22 the definition of nuisance noise. However, sound levels may  
2 23 be exceeded during short-term events beyond the owner's  
2 24 control such as utility outages or severe wind storms.

2 25 6. A small wind energy system shall not be installed until  
2 26 the utility furnishing electricity to the owner has been  
2 27 informed of the customer's intent to install an interconnected  
2 28 customer-owned generator. Off-grid systems shall be exempt  
2 29 from this requirement.

2 30 7. Additional insurance beyond the customer's homeowner's  
2 31 coverage shall not be required.

2 32 8. If a wind turbine is inoperable for six consecutive  
2 33 months the owner shall be notified by the city or county that  
2 34 they must restore their system to operating condition within  
2 35 six months of receiving the notification. If the owner fails  
3 1 to restore the system to operating condition within six months  
3 2 of receiving the notification, the owner shall be required, at  
3 3 the owner's expense, to remove the wind turbine from the tower  
3 4 for safety reasons. After removal of the turbine, the tower  
3 5 shall be subject to the public nuisance provisions applicable  
3 6 within the city or county.

3 7 9. All signs, other than the manufacturer's or installer's  
3 8 identification, appropriate warning signs, or owner  
3 9 identification, on a wind generator, tower, building, or other  
3 10 structure associated with a small wind energy system visible  
3 11 from any public road shall be prohibited.

3 12 10. Illumination of the turbine or tower shall not be  
3 13 permitted unless required by the federal aviation  
3 14 administration.

3 15 Sec. 3. NEW SECTION. 361.3 EXCEPTIONS TO ORDINANCE  
3 16 REQUIREMENTS.

3 17 A city or county ordinance that governs the installation  
3 18 and operation of small wind energy systems shall not place any  
3 19 substantial restriction either directly or indirectly on the  
3 20 installation or use of a small wind energy system unless the  
3 21 city or county documents that the restriction satisfies one or  
3 22 more of the following:

3 23 1. Serves to preserve or protect the public health or  
3 24 safety.

3 25 2. Does not significantly increase the cost of a small  
3 26 wind energy system or significantly decrease its efficiency.

3 27 3. Allows for an alternative system of comparable cost and  
3 28 efficiency.

#### 3 29 EXPLANATION

3 30 This bill requires a city or county which has not otherwise  
3 31 adopted an ordinance or zoning regulations addressing the  
3 32 installation and operation of small wind energy systems by  
3 33 July 1, 2009, to adopt an ordinance adhering to several  
3 34 specified requirements.

3 35 The bill defines a "small wind energy system" as a wind  
4 1 energy conversion system consisting of a wind turbine, a  
4 2 tower, and associated control or conversion electronics, which  
4 3 has a rate capacity of not more than 500 kilowatts, and which  
4 4 is primarily intended to reduce on-site consumption of  
4 5 utility-generated forms of energy.

4 6 The requirements specified in the bill with respect to an  
4 7 ordinance adopted pursuant to new Code section 361.2 generally  
4 8 relate to the height, setback, sound, and illumination of an  
4 9 installation; engineering drawing requirements; safety  
4 10 considerations; soil condition requirements; national electric  
4 11 code compliance; utility notification; insurance;  
4 12 inoperability constituting abandonment; and signage  
4 13 restrictions.

4 14 The bill provides that a city or county ordinance that  
4 15 addresses installation and operation of small wind energy  
4 16 systems shall not place any substantial restriction either  
4 17 directly or indirectly on the installation or use of a small  
4 18 wind energy system unless the city or county documents that  
4 19 the restriction serves to preserve or protect the public  
4 20 health or safety, does not significantly increase the cost of  
4 21 a small wind energy system or significantly decrease its  
4 22 efficiency, or allows for an alternative system of comparable  
4 23 cost and efficiency.

4 24 LSB 1444XS 83

4 25 rn/sc/5.2