

**TOWNSHIP OF TEWKSBURY
ORDINANCE 06- 2014**

AN ORDINANCE OF THE TOWNSHIP OF TEWKSBURY, COUNTY OF HUNTERDON, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT ARTICLE VII, SECTION 726 WITH NEW SUBSECTION 'B' TO BE ENTITLED "SMALL WIND ENERGY SYSTEMS" OF THE TOWNSHIP OF TEWKSBURY DEVELOPMENT REGULATIONS ORDINANCE ESTABLISHING SMALL WIND ENERGY SYSTEMS AS A PERMITTED ACCESSORY USE WITHIN CERTAIN DISTRICTS OF THE TOWNSHIP

WHEREAS, the Legislature of the State of New Jersey has enacted P.L. 2009, Chapter 244, "An Act concerning small wind energy systems and supplementing Title 40 of the Revised Statutes" to establish standards for municipal ordinances regarding the use and regulation of small wind energy systems where said ordinances are adopted; and

WHEREAS, in accordance with P.L. 2009, c.244 the Municipal Land Use Law sets forth certain standards to govern municipal ordinances regulating small wind energy systems in N.J.S.A. 40:55D-66.12; and

WHEREAS, it is the purpose of this ordinance to promote the safe, effective and efficient use of small wind energy systems to reduce the on-site consumption of utility-supplied electricity; and

WHEREAS, research by the New Jersey Board of Public Utilities, Office of Clean Energy; Rutgers, the State University, Center for Advanced Energy Systems; and Rowan University does find that:

- 1) Wind energy is an abundant, renewable, and nonpolluting energy resource;
- 2) Converting wind to electricity will reduce our dependence on nonrenewable energy resources, and decrease the air and water pollution that results from the use of conventional energy sources;
- 3) Distributed small wind energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the State's energy supply portfolio; and
- 4) Small wind energy systems make the electricity supply market more competitive by promoting customer choice; and

WHEREAS, New Jersey's Renewable Portfolio Standards (RPS) require each supplier/provider, as defined at N.J.A.C. 14:8-1.2 , that sells electricity to retail customers in New Jersey to provide a percentage of their retail electricity sales from renewable energy sources, beginning at 3.5 percent in 2004 and increasing to 22.5 percent by 2021; and

WHEREAS, the Township Committee of the Township of Tewksbury has determined upon a favorable recommendation from the Tewksbury Township Land Use Board to establish standards for the installation and operation of small wind energy systems to

facilitate this clean, renewable energy resource in appropriate locations in accordance with recognized safety standards.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Tewksbury that Article VII, §726 of the Development Regulations Ordinance of the Township of Tewksbury shall be revised and amended to add a new subsection 'B' to permit a small wind energy system as a permitted accessory use in the Mining, Research Office/Mixed Use and Farmland Districts and to include standards regulating same.

Section 1

§ 726 "Additional Accessory Use Provisions" is hereby amended and supplemented by adding the new subsection 'B' entitled Small Wind Energy Systems as follows:

A. Purpose

The purpose of this ordinance is to promote the safe effective and efficient use of small wind energy systems to reduce the on-site consumption of utility-supplied electricity in the Mining, Research Office/Mixed Use and Farmland Districts where adequate lot size standards will facilitate reduction of off-site visual and audible impact consistent with the parameters set forth in N.J.S.A. 40:55D-66.12.

B. Applicability

Small Wind Energy Systems, as defined in subsection C, herein, shall be permitted accessory uses in the Mining, Research Office/Mixed Use, and Farmland Districts in accordance with the standards set forth in subsection E, herein.

C. Definitions

1. SMALL WIND ENERGY SYSTEM - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity consistent with applicable provisions of the State Uniform Construction Code promulgated pursuant to the "State Uniform Construction Code Act" P.L. 1975, c. 217 (C.52:27D-119 et seq.) and technical bulletins issued in accordance with the requirements of P.L. 2009, c. 244
2. ROTOR DIAMETER - The cross sectional dimension of the circle swept by the rotating blades of a wind powered energy generator.
3. SYSTEM HEIGHT - The height above grade of the tower plus the wind generator.
4. TOWER HEIGHT - The height above grade of the fixed portion of the tower, excluding the wind generator.
5. VAWT SYSTEMS - The vertical axis wind turbine which utilizes vertical panels as opposed to horizontal propellers.
6. WIND ENERGY SYSTEM - A wind generator and all associated equipment, including any base, blade, foundation, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other component necessary to fully utilize the wind generator. For the purposes of this ordinance wind energy system refers only to those systems that are outdoors.

7. WIND GENERATOR - The blades and associated mechanical and electrical conversion components mounted on top of the tower.

D. Permit(s) Required

No small wind energy system shall be installed without first having obtained the requisite permits from the Zoning Official and the Construction Code Official.

E. Standards

A small wind energy system shall be permitted subject to the following:

1. Small wind energy systems shall be permitted as an accessory use exclusive to
 - a conforming lot and only within the Mining, Research Office/Mixed Use and Farmland Districts.
2. Small wind energy systems shall not be located within the required front or side yard setback areas.
3. No more than one (1) small wind energy system shall be permitted on a lot.
4. Towers shall be set back a distance equal to one and one-half times the total system height from all property lines, public roads, power lines, and existing buildings and structures. The distance shall be measured from the center of the tower.
5. Total system height, which includes the blades and associated mechanical and electrical conversion components mounted on top of the tower, shall not exceed
 - a total height of one hundred (100) feet.
6. Small wind energy systems shall be placed in such a manner as to minimize off-site visual impacts.
7. Access restrictions shall be designed as follows:
 - (a) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - (b) The tower shall be designed and installed so as not to provide step bolts a ladder or other publicly accessible means of climbing the tower for a minimum height of fifteen (15) feet above the ground.
8. A small wind energy system shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
9. All wind energy facilities must comply with the applicable Federal Aviation Administration regulations and must receive any necessary Federal Aviation Administration permits.

10. All wind energy facilities must comply with the applicable Department of Environmental Protection regulations and must receive any necessary permits from the Department of Environmental Protection.
11. A small wind energy system shall remain painted or finished in the color or finish of grey or white that was originally applied by the manufacturer.
12. There shall be no signs on a small wind generator system or any associated building except for the manufacturer or installer identification and appropriate warning signs.
13. Small wind energy systems that connect to the electric utility grid shall comply with the New Jersey Net Metering and Interconnection Standards for Class I Renewable Energy Systems at N.J.A.C. 14:4-9.
14. Except for limited overages during short term events such as power outages or severe wind storms, the level of noise produced by wind turbine operation shall not exceed 65 decibels (dBa) as measured at the property boundaries of the parcel on which the small wind energy system is located. The applicant shall provide a post-construction certification on noise levels prepared by a qualified professional.
15. No small wind energy system shall be roof mounted.
16. All wind energy systems shall be mounted on a monopole and shall not utilize a truss frame construction or require wired guyed systems.
17. All wind energy systems shall provide a manual braking system and an over-speed control to prevent over spin during periods of excessively high winds.
18. There shall be a minimum ground clearance of at least thirty (30) feet between the finished grade and bottom of any rotor of a wind energy system mounted on a tower, except a VAWT system may have a vertical panel to ground clearance of twenty (20) or more feet.
19. Any batteries used in conjunction with wind energy systems shall be recycled or properly disposed of in accordance with hazardous waste management regulations.
20. All power lines from the small wind energy system to on-site interconnection equipment and/or to the user facility shall be located underground and installed by a certified professional and must meet all applicable national, state, and local electrical codes.
21. Maintenance plan which describes the applicant's approach to maintaining the facility after construction, including the system and associated supporting structures, as well as the property on which the facility is installed.
22. Substations (excluding switchgear stations) shall be set back a minimum of 150 feet, or not less than 200 feet from a residential use or district.

23. No portion of the wind generator shall extend into any public right of way, unless written permission is granted by the government entity with jurisdiction over the right of way or any overhead utility lines, unless written permission is granted by the utility that owns and/or controls the lines.
24. The following minimum screening requirements shall be met:
 - a. All ground-based support facilities shall be buffered from view of non-residential properties by a 20 foot wide planted buffer and from view of public roads and residential districts and properties (including those located across a public road) by a 40 foot wide planted buffer.
 - b. The buffer shall consist of an earthen berm and/or solid fence which completely screens all ground mounted equipment and structures from adjacent streets (measured from a height of 4 feet at the centerline of the street) and adjacent property lines (measured from a height of 5 feet at the property line). The buffer shall also consist of a mix of deciduous and evergreen trees and shrubs to provide a year round visual screen.
 - c. The buffer shall also meet the landscape standards in §631 unless otherwise specified. Deciduous trees shall have a minimum caliper size of 3.5 inches and a minimum height at planting of 14 feet. Evergreen trees shall have a minimum height at planting of 6 feet.
 - d. Fencing, with the exception of a wooden or approved PVC fence, shall not be visible from the property line in all districts,
 - e. Existing hedgerows or vegetated windbreaks that provide screening of the subject site from neighboring properties shall be retained and augmented as necessary.

F. Zoning Permit Requirements for Small Wind Energy Systems

1. An application for a Zoning Permit for a small wind energy system shall provide the following information on a signed and sealed plot plan or survey:
 - (a) Location dimension and use of all existing structures on site.
 - (b) Location and proposed ground elevation of the proposed small energy wind system.
 - (c) Location of all above ground utilities on the proposed parcel.
 - (d) Location of all public and private roadways.
 - (e) Design data indicating the basis of design including manufacturer's specifications and operation requirements.

(f) Verification shall be provided by a design professional that the proposed location on the subject parcel and proposed tower elevation has sufficient wind speeds for operation of the wind energy system. Upon completion a certification from a NJ licensed professional engineer will be required stating that the structure was constructed as per the certified drawings.

(g) Surrounding land uses adjacent to the parcel.

G. Abandonment A wind facility that is out-of-service for a continuous 12-month period will be deemed to have been abandoned.

a. The Township may issue a Notice of Abandonment to the owner of a wind energy facility that is deemed to have been abandoned. The Notice shall be sent return receipt requested.

b. The owner shall have the right to respond to the Notice of Abandonment within 30 days from the Notice receipt date.

c. If the owner provides information that demonstrates the wind facility has not been abandoned, the Township shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn.

d. If the Township determines that the wind facility has been abandoned, the owner of the wind energy facility shall remove the wind energy facility and properly dispose of the components at the owner's sole expense within 6 months after the owner receives the Notice of Abandonment.

e. In the event that the owner fails to remove the wind facility, the Township and/or its employees and/or contractors may enter the property to remove the wind energy facility (but shall not be obligated to remove same) and, in the event that the Township performs the removal, all costs of such removal shall be reimbursed to the Township by the owner. In the event the owner fails to reimburse the Township, the Township may place a lien on the property in the amount of the costs of said removal and, in the event that the Township incurs any additional costs in enforcing the lien and/or collecting the money owed, the owner shall be obligated to reimburse the Township for the additional costs and expenses, including reasonable attorneys fees.

H. Compliance with Building Code

Building permit applications shall be accompanied by standard drawings of structural components of the small wind energy system including support structures tower base and footings. Drawings and necessary calculations shall be certified in writing by a licensed professional engineer that the system complies with the Building Code.

Section 2

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjusted unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Ordinance #06-2014
Introduced 08-12-14
Adopted 09-09-14

Section 3

Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 4

This Ordinance shall take effect immediately upon final adoption, publication, and publication of a notice for final adoption and the filing of same with the Hunterdon County Planning Board.

Attest

Township of Tewksbury Committee

Roberta Brassard, Clerk

Shaun Van Doren, Mayor