

BOROUGH OF OCEAN GATE – Wind Model Ordinance

Adopted: November 12, 2007

Contact: Paul Kenedy – Mayor- ogmayor@verizon.net

Resident: James Fry - JFryOG@aol.com

ORDINANCE # 523-07

**AN ORDINANCE OF THE BOROUGH OF OCEAN GATE, COUNTY OF OCEAN,
STATE OF NEW JERSEY ESTABLISHING REGULATIONS REGARDING THE
ERECTION AND LOCATION OF SMALL WIND ENERGY SYSTEMS**

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, the Borough Council of the Borough of Ocean Gate, State of New Jersey, County of Ocean has determined that:

1. 1. Wind energy is an abundant, renewable, and nonpolluting energy resource;
1. 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, existing local zoning regulations do not address wind power, which, while not intended to discourage the installation of small wind turbines, can substantially increase the time and costs required to obtain necessary local land-use permits; and

WHEREAS, the Borough Council finds that it is necessary to standardize and streamline the requirements for small wind energy systems so that this clean, renewable energy resource can be utilized in a cost-effective and timely manner in our municipality.

NOW, THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Ocean Gate, County of Ocean, State of New Jersey, that.

SECTION I – Short Title.

This ordinance shall be known as the Small Wind Energy System Ordinance.

SECTION II - Purpose.

The purpose of this ordinance is to:

- (1) Facilitate the permitting of small wind energy systems
- (2) Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system.

SECTION III - Definitions.

In this ordinance:

- (1) “Administrator” means the Borough of Ocean Gate Zoning Officer.
- (2) “Board” means the Borough of Ocean Gate Land Use Board.
- (3) “Construction Official” is the state licensed Code Enforcement official appointed by the Borough of Ocean Gate who is responsible for administering the New Jersey State Uniform Construction Code Act.
- (4) “Meteorological tower” or “met tower” means a structure designed to support the gathering of wind energy resource data, and includes the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- (5) “Owner” shall mean the individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance. The individual or entity shall have also have a proprietary interest in the land upon which the small wind energy system is proposed to be located.
- (6) “Rotor diameter” means the cross sectional dimension of the circle swept by the rotating blades of a wind-powered energy generator.
- (7) “Small wind energy system” means a wind energy system, as defined in this section, that
 - (a) is used to generate electricity;
 - (b) has a nameplate capacity of 100 kilowatts or less; and
 - (c) is as high as necessary to capture the wind energy resource, but not to exceed one-hundred **ninety five** (195’) feet for commercial use and one hundred thirty five (135’) feet fro residential use.

(8) “Total height” means, in relation to a wind energy system, the vertical distance measured from the average elevation of the finished grade to the tip of a wind generator blade when the tip is at its highest point.

(9) “Tower” means a monopole, freestanding, or guyed structure that supports a wind generator.

(10) “Wind energy system” means a wind generator and all associated equipment, including any base, blade, foundation, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries and/or other component necessary to fully utilize the wind generator.

(11) “Wind generator” means equipment that converts energy from the wind into electricity. This term includes the rotor, blades and associated mechanical and electrical conversion components necessary to generate, store and/or transfer energy.

SECTION IV - Standards.

A small wind energy system shall be a permitted use in all zoning districts subject to the following requirements:

(1) **Setbacks.** A wind tower for a small wind energy system shall be set back a distance equal to the principal building set back line requirements. No portion of the wind generator shall extend beyond the required set back line, nor into the following:

- (a) any public or private right of way, easement or leasehold, unless written permission is granted by the government entity or private party with jurisdiction over said area;
- (b) any overhead utility lines, or aerial easement for same, unless written permission is granted by the utility or entity that owns and/or controls the lines.

(2) **Lot Area.** A wind tower for a small wind energy system shall consist of a minimum lot size of 20,000 square feet.

(3) **Access.**

- (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, rungs or other publicly accessible means of climbing the tower, for a minimum height of eight feet above the ground elevation.

(4) **Electrical Wires.** All electrical wires associated with a small wind energy system shall be located underground when practicable. All wires not located underground, including but not limited to wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box and the grounding wires, shall be contained within an appropriate conduit suitable for same.

(5) **Lighting.** A small wind energy system shall not be artificially light unless such lighting is required by the Federal Aviation Administration.

(6) **Appearance, Color, and Finish.** The wind generator and the tower shall remain painted or finished in the color or finish that was originally applied by the manufacturer, unless a different color of finish is approved in the building permit.

(7) **Signage.** There shall be no signs that are visible from any public road posted on a small wind generator system or any associated building, except for the manufacturer's or installer's identification, appropriate warning signs, or owner identification.

(8) **Utility notification and interconnection.** Small wind energy systems that connect to the electric utility shall comply with the New Jersey's Net Metering and Interconnection Standards for Class I Renewable Energy Systems as established by N.J.A.C. 14:4-9.

(9) **Met towers.** A met tower shall be permitted under the same standards, permit requirements, restoration requirements and permit procedures as a small wind energy system.

SECTION V - Permit Requirements.

(1) **Permits.** A zoning permit and a building permit shall be required for the installation of a small wind energy system.

(2) **Documents:** The zoning permit application shall be accompanied by a plot plan which includes the following:

- (a) Property lines and physical dimensions of the property;
- (b) Location, dimensions, and types of existing principal and accessory structures on the property;
- (c) Location of the proposed small wind energy system tower;
- (d) The right-of-way delineation of any public road that is contiguous with the property;
- (e) Any overhead utility lines;
- (f) Easements;
- (g) Small wind energy system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed)

(3) **Fees.** The application for a zoning permit shall be (\$100.00).

(4) **Expiration.** A permit issued pursuant to this ordinance shall expire if:

- (a) The small wind energy system is not installed and functioning within 12 months from the date the permit is issued; or
- (b) The small wind energy system is out of service or otherwise unused for a continuous 12 month period.

SECTION VI - Abandonment.

- (1) A small wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned.
- (2) The Administrator may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The notice shall be sent via regular mail and certified mail return receipt requested to the owner of record as it appears on Building Permit and, if different, the current tax duplicate of the Borough.
- (3) The Owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date.
- (4) If the owner provides information that satisfactorily demonstrates to the Administrator that the small wind energy system has not been abandoned, the Administrator shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn.
- (5) If the Administrator determines that the small wind energy system has been abandoned, the Owner of the small wind energy system shall remove the wind generator from the tower at the Owner's sole expense within 6 months after the Owner receives the Notice of Abandonment.
- (6) If the owner fails to remove the wind generator from the tower in the time allowed under Paragraph (5) above, the Administrator may pursue any legal remedies available to have the wind generator removed at the Owner's expense, including costs of litigation and reasonable attorney's fees.

SECTION VII - Permit Procedure.

- (1) An Owner shall submit the zoning permit application to the Administrator for review. The Administrator shall issue a permit or deny the application within one month of the date on which the application is received. If the Administrator approves the permit application, he shall issue the zoning permit and the applicant may then apply for a building permit. If the Administrator denies the permit application, the administrator will notify the applicant in writing within 30 days and provide a written statement of the reason why the application was rejected. The owner may reapply if the deficiencies specified by the Administrator are resolved. If they cannot be resolved by the owner, the owner shall be instructed that approval from the Ocean Gate Land Use Board for a variance is required before a zoning permit may be issued and an application for a building permit submitted.

SECTION VIII - Violations.

(1) It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance.

(2) Small wind energy systems installed prior to the adoption of this ordinance are exempt from the requirements of this ordinance, except for the provisions at Section VI regarding abandonment.

SECTION IX - Administration and Enforcement.

(1) This ordinance shall be administered by the Administrator or other official as designated.

(2) The Administrator may enter any property for which a permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met.

(3) The Administrator may direct the Borough Code Enforcement Officer to issue orders to abate any violation of this ordinance.

(4) The Administrator may direct the Borough Code Enforcement Officer to issue a citation for any violation of this ordinance.

(5) The Administrator may refer any violation of this ordinance to the Borough Attorney for enforcement.

SECTION X - Penalties.

(1) Any person, partnership, firm or corporation who fails to comply with any provision of this ordinance shall be subject to enforcement and penalties and upon conviction be subject to a fine of up to five hundred dollars (\$500.00) or up to thirty (30) days imprisonment, or both.

(2) Nothing in this section shall be construed to prevent the Borough of Ocean Gate from using any other lawful means to enforce this ordinance.

SECTION XI - Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION XII - Inconsistent ordinances

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION XIII – Effective Date

This ordinance shall take effect immediately upon its final passage, approval and publication, as required by law.

NOTICE

PUBLIC NOTICE is hereby given that the foregoing ordinance was introduced and passed on first reading of the Borough Council of the Borough of Ocean Gate, in the County of Ocean, held on September 26, 2007, and will come on for a second reading, public hearing and final passage at a meeting of said Borough Council to be held on November 12, 2007 at Borough Council Chambers, 801 Ocean Gate Avenue, Ocean Gate, New Jersey, at 6:00 P.M., or as soon thereafter as the matter can be reached, at which last mentioned date, hour and place any person desiring to be heard either for or against the adoption of the within ordinance will be given an opportunity to be so heard.

JODI PELLICANO, RMC
Municipal Clerk