

ORDINANCE NO. 2008- 94

AN ORDINANCE OF THE TOWNSHIP OF STAFFORD, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 130 OF THE TOWNSHIP CODE OF THE TOWNSHIP OF STAFFORD, ENTITLED "LAND USE AND DEVELOPMENT," SO AS TO CREATE A NEW SECTION 130-64, ENTITLED "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 Mayor and Township Council of the Township of Stafford 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 5.5 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 Mayor and Township Council of Stafford Township find 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 governing body of the Township of Stafford, County of Ocean, State of New Jersey, as follows:

SECTION 1. The Township Code of the Township of Stafford is hereby amended and supplemented so as to amend Chapter 130 of the Township Code, entitled "Land Use and Development," so as to create a new § 130-64, entitled "Small Wind Energy Systems," as follows:

§ 130-64. Small Wind Energy Systems.

- A. 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.
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated.

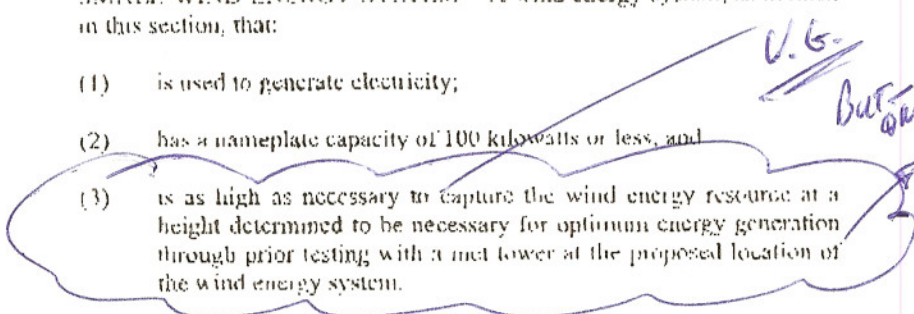
METEOROLOGICAL TOWER or MET TOWER - A structure designed to support the gathering of wind energy resource data, and includes the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, 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

OWNER - The individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance.

ROTOR DIAMETER - The cross sectional dimension of the circle swept by the rotating blades of a wind-powered energy generator.

SMALL WIND ENERGY SYSTEM - A wind energy system, as defined in this section, that:

- (1) is used to generate electricity;
- (2) has a nameplate capacity of 100 kilowatts or less, and
- (3) is as high as necessary to capture the wind energy resource at a height determined to be necessary for optimum energy generation through prior testing with a met tower at the proposed location of the wind energy system.



TOTAL HEIGHT - In relation to a wind energy system, the vertical distance from the ground to the tip of a wind generator blade when the tip is at its highest point. Additionally, the total height of the tower shall not exceed the distance from the location of the tower to the closest property line.

TOWER - A monopole, ^{lattice} freestanding, or (gabled structure) that supports a wind generator.

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.

WIND GENERATOR - 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.

C. Standards. A small wind energy system shall be a permitted use in the following zones subject to the following requirements:

- A. Medical/Medical Commercial
- B. Highway Commercial
- C. Stafford Business Park -
- D. Highway Medical Commercial
- E. Mixed Use

RESIDENTIAL w/over 1ACRE?

(1) Setbacks. ^{*town?*} A wind tower for a small wind energy system shall be set back a distance equal to the town's building setback requirements. If overhead power lines are located in close vicinity to the wind tower, the Zoning Officer may increase the setback requirement as necessary to reduce any public safety issue. No portion of the wind generator shall extend beyond the setback line, nor into the following:

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- (a) any public road right of way, unless written permission is granted by the government entity with jurisdiction over the road right of way;
- (b) any overhead utility lines, unless written permission is granted by the utility that owns and/or controls the lines.

(2) 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, or other publicly accessible means of climbing the tower, for a minimum height of eight feet above the ground.
- (c) All towers shall be constructed so as to limit access to only authorized personnel and shall contain appropriate safety measures to assure compliance with all federal and state occupational safety requirements.

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

(4) Appearance, Color, and Finish. The wind generator and the tower shall remain painted or finished in the color or finish that was

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originally applied by the manufacturer, unless a different color of finish is approved in the zoning approval. All components of the system shall be maintained in accordance with the most current requirements contained within the Property Maintenance Code and the Uniform Construction Code adopted by the township.

- (5) Signs. 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.
- (6) 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 1 Renewable Energy Systems at N.J.A.C. 14:27.9 *et seq.*
- (7) Net towers. A net tower shall be permitted under the same standards, permit requirements, restoration requirements and permit procedures as a small wind energy system.

D. Permit Requirements

- (1) Permit. A zoning permit shall be required for the installation of a small wind energy system.
- (2) Documents: The zoning permit application shall be accompanied by (3) three sets of a plot plan which includes the following:
 - (a) Property lines and physical dimensions of the property;
 - (b) Location, dimensions, and types of existing major structures on the property;
 - (c) Location of the proposed small wind energy system tower;
 - (d) The right of way of any public road that is contiguous with the property;
 - (e) Any overhead utility lines within 300 feet of the outbound property lines;
 - (f) Small wind energy system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed);

- (g) A plot plan showing all of the adjacent properties and the current zoning for all adjacent properties
 - (h) A study conducted by a licensed professional engineer certifying to the viability and feasibility of the small wind energy system at the proposed location
- (3) Fees. The application for a zoning permit for a small wind energy system must be accompanied by the fee required for a zoning permit in addition to a fee in the amount of \$1,000 to cover the costs for engineering review.
- (4) Expiration. A permit issued pursuant to this ordinance shall expire if:
- (a) The small wind energy system is not installed and functioning within 24 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 18-month period.
- (5) Building Permit. All applicants must file the required information and documentation with the Construction Official and meet all of the requirements to obtain a building permit pursuant to the Uniform Construction Code.

*WHY NEED AN ENGINEER
CAPABLE?
WHY? COSTLY. CERT.
WIND SITE ASSESSMENTS
GOOD ENOUGH FOR B.P.U.
TOWNSHIP ENGINEER? PLUS
ENGINEER?*

E. Abandonment.

- (1) A small wind energy system that is out of-service for a continuous 18-month period will be deemed to have been abandoned.
- (2) The Administrative Officer 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 return receipt requested.
- (3) The owner shall have the right to respond to the Notice of Abandonment within 30 days from notice receipt date, documenting evidence of why the small wind energy system should not be deemed abandoned. Such documenting evidence may include, but not be limited to, certifications, affidavits, photographic and videographic evidence and electric utility bills.
- (4) If the owner provides sufficient information that demonstrates the small wind energy system has not been abandoned as defined in subsection E(1) above, the Administrative Officer shall withdraw

- (3) The Administrative Officer may issue orders to abate any violation of this ordinance.
- (4) The Administrative Officer may issue a citation for any violation of this ordinance.
- (5) The Administrative Officer may refer any violation of this ordinance to legal counsel for enforcement.

I. Penalties.

- (1) Any person who fails to comply with any provision of this ordinance shall be subject to enforcement and penalties as stipulated in chapter and section of the appropriate zoning code.
- (2) Nothing in this section shall be construed to prevent the appropriate Stafford Township Board with jurisdiction from using any other lawful means to enforce this ordinance.

SECTION 2. After introduction of this ordinance, the Township Clerk shall send a copy of this ordinance to the Municipal Planning Board for its review and comment. The Township Clerk shall also send copies of this ordinance to all adjoining municipalities pursuant to N.J.S.A. 40:55D-15, and to the Ocean County Planning Board

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the Notice of Abandonment and notify the owner that the notice has been withdrawn.

- (5) If the Administrative Officer determines that the small wind energy system has been abandoned, the owner of the small wind energy system shall remove the wind generator and 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 and the tower in the time allowed under (5) above, the Administrative Officer may pursue legal action to have the wind generator removed at the owner's expense.

F. Zoning Permit Procedure

- (1) An owner shall submit an application to the Administrative Officer for a zoning permit for a small wind energy system. The Administrative Officer shall submit a copy of the application to the Township Engineer for review and recommendation.
- (2) The Administrative Officer shall issue a permit or deny the application within ten days as consistent with Municipal Land Use Law of the date on which the application is received. VG
- (3) If the application is approved, the Administrative Officer will return one signed copy of the application with the zoning permit and retain the other copy with the application.
- (4) If the application is rejected, the Administrative Officer will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may appeal the Administrative Officer's decision pursuant to the appropriate appeals authority. The applicant may reapply if the deficiencies specified by the Administrative Officer are resolved.

G. 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 130-64(F) regarding abandonment.