

ORDINANCE NO. [#]09-2

**AN ORDINANCE TO OVERSEE THE PERMITTING
OF SMALL WIND ENERGY SYSTEMS
INCLUDING DEFINITIONS, STANDARDS,
PERMIT REQUIREMENTS, ABANDONMENT,
MODIFICATIONS AND WAIVERS, PENALTIES,
SEVERABILITY AND EFFECTIVE DATE**

WHEREAS, the Township of Weisenberg desires to permit small wind energy systems and to establish standards and permit requirements.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Weisenberg, Lehigh County, Pennsylvania, in lawful fashion duly assembled as follows:

Title

This Ordinance shall be referred to as the Weisenberg Township Small Wind Energy System Ordinance.

Purpose

The purpose of this Ordinance is to:

- (1) Oversee 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.

Definitions

In this ordinance:

- (1) "Small Wind Energy System" means a wind energy system that
 - (a) is used to generate electricity;
 - (b) has a total height of 100 feet or less.
- (2) "Total Height" means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

(3) “Wind Tower” means the monopole, freestanding structure that supports a wind generator.

(4) “Wind Energy System” means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other components used in the system.

(5) “Wind Generator” means blades and associated mechanical and electrical conversion components mounted on top of the tower.

(6) All other terms shall be as defined in the Weisenberg Township Zoning Ordinance of 1993, as amended.

Permitted Use

A Small Wind Energy System shall be a permitted as an accessory use in all zoning districts.

Standards

(1) Setbacks and Height Limitations

(a) A Wind Tower for a small wind system shall be independent of any structure and shall be located a minimum distance of one hundred ten (110%) percent times the total height from any property line or street ultimate right-of-way.

(b) No part of the Wind Tower shall be located within any required front, side or rear yard setback.

(c) The total height of the Wind Tower shall not exceed 100 feet.

(2) Access.

(a) All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.

(b) The Wind Tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 15 feet above the ground.

(c) The minimum height shall be twenty-five (25') feet measured as the vertical distance from the ground level to the tip of a wind generator blade when the tip is at its lowest point.

(d) All electrical wires associated with a small wind energy system, other than 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 located underground. All electrical components shall conform to relevant and applicable local, state and national codes and relevant and applicable international standards.

(e) A Wind Tower and Generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

(f) The wind generator and tower shall be a gray color.

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

(h) A small wind energy system including the wind tower shall comply with all applicable provisions of the Uniform Construction Code, latest revision, adopted by the Township.

(i) Small wind energy systems that connect to the electric utility shall comply with the applicable laws and rules and regulations of the Pennsylvania Public Utility Commission.

(j) The design of the wind energy system shall conform to the applicable industry standards, including those of the American National Standards Institutes. Landowner shall submit certificates of design compliance obtained by the equipment manufactures from Underwriters Laboratories, or other similar certifying organizations.

(k) The wind energy system shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar system) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.

(l) The Landowner shall locate the wind energy system to prohibit the shadow flicker for more than one (1) hour per day on to any occupied building, other than the Landowners, or a non-participating Landowner property.

(m) When a building is necessary for storage cells or related mechanical equipment, the building must not exceed one hundred forth (140) square feet in area, and shall not be located within any required front, side, or rear yard setback.

(n) The resultant energy harnessed from the wind shall only be used on the property on which the Wind Energy System is located. Energy may only be sold or otherwise transferred back to the power company.

(o) The Wind Energy System shall be subordinate to and located on the same lot occupied by the principal use to which it relates.

(p) The Wind Energy System shall comply with all other applicable regulations.

Permit Requirements

(1) Building Permit. A building permit shall be required for the installation of a small wind energy system. The building permit shall be issued in accordance with the Zoning Ordinance and any Township Ordinances relating to the issuance of permits.

(2) Fees. The application for a building permit for a small wind energy system must be accompanied by the fee required for a building permit for a Permitted Accessory Use.

Abandonment

(1) The Landowner shall, at his expense, complete decommissioning of the Wind Energy System within twelve (12) months after the end of the useful life of the Wind Energy System. It shall be presumed that the Wind Energy System is at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

(2) Decommissioning of the Wind Energy System shall include removal of the wind tower, the wind generator, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six (36") inches, and any other associated facilities. Disturbed earth shall be graded and re-seeded.

Modifications and Waivers

(1) A Landowner seeking a waiver or modification of the minimum standards required by this Ordinance shall submit to the Township a request in writing that states (a) the specific ordinance section(s) involved, and (b) the reasons for the request. The Board of Supervisors shall in writing grant or deny the waivers or modifications of the specific recommendations of this Ordinance.

(2) The Landowner must demonstrate to the satisfaction of the Board of Supervisors that with respect to each request for a waiver or modification that literal compliance with the mandatory provisions of this Ordinance is:

(a) Unreasonable;

(b) Causes undue hardship because of peculiar conditions pertaining to the land in question, provided that the purpose and intent of the Ordinance is observed;

(c) Unnecessary because and alternate standard can be demonstrated to provide equal or better results.

Penalties

Any person in violation of any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine or penalty. The fine or penalty shall not be less than \$300.00, nor more than \$1,000.00 plus costs, and in default of the payment of the fines, penalties and costs, Defendant may be sentenced to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this Ordinance continues shall constitute a separate offense. This penalty section is enacted pursuant to the Second Class Township Code, 53 P.S. § 66601, for health, fire and safety and for air and water pollution purposes.

Severability

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Effective Date

The provisions of this Ordinance shall become effective on the fifth (5th) day following enactment.

DULY ENACTED AND ORDAINED on this 12th day of January, 2009, by the Township of Weisenberg in lawful session duly assembled.

ATTEST:

Donald P. Branninger

TOWNSHIP OF WEISENBERG

Robert G. Milet
Linda G. G...
Thomas H. H...