

ORDINANCE NO. _____-2009

AN ORDINANCE OF THE TOWNSHIP OF EAST PENNSBORO
TOWNSHIP CUMBERLAND COUNTY, PENNSYLVANIA,
AMENDING CHAPTER 27 OF THE TOWNSHIP OF EAST
PENNSBORO CODE OF ORDINANCES FOR THE PURPOSES OF
REGULATING WIND TURBINES AND AMENDING ARTICLE
24 SECTION 2413 DUTIES OF THE ZONING HEARING BOARD
B.2 & 3 SPECIAL EXCEPTIONS

BE IT HEREBY ENACTED AND ORDAINED by the Board of Township Commissioners
in and for the Township of East Pennsboro, Cumberland County, Pennsylvania, as follows:

SECTION 1: The Purpose of this ordinance is to promote the use of Wind Energy and to provide installation and construction of Wind Turbines in East Pennsboro Township subject to reasonable conditions that will protect the public health, safety and welfare. In addition this ordinance allows for a greater role of the Environmental Advisory Council in providing input to the Zoning Hearing Board in matters pertaining to special exception requests.

SECTION 2: Section 202 (Definitions), Chapter 27 (Zoning) of the Township of East Pennsboro Code of Ordinances as originally enacted July 5, 2007 Ordinance 737-07 and as subsequently amended, is hereby amended to provide the following additional definitions:

HUB HEIGHT - the distance measured from the surface of the tower foundation at finished grade to the height of the Wind Turbine hub, to which the blade is attached.

TURBINE HEIGHT - the distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane.

WIND ROTOR - means the blades, plus the hub to which the blades are attached, that are used to capture wind for the purpose of energy conversion. The wind rotor is mounted on a pole or tower or other suitable structure along with other generating and electrical equipment to form a Wind Turbine.

WIND TURBINE - a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, wind rotor, and or vertical axis, or alternate technology and tower, pad transformer or similar means.

SECTION 3: Article 5 (Forest-Slope District), Section 502 of Chapter 27 (Zoning) of the Township of East Pennsboro Code of Ordinances is hereby amended to include the following additional text:

"H. Wind turbines permitted by special exception *."

An * indicates that additional regulations found in Article 19 apply.

SECTION 4: Article 6 (R-C Residential-Conservation District), Section 602 of Chapter 27 (Zoning) of the Township of East Pennsboro Code of Ordinances is hereby amended to include the following additional text:

"H. Wind turbines permitted by special exception."

An * indicates that additional regulations found in Article 19 apply.

SECTION 5: Article 7 (A-1 Agricultural District), Section 702 of Chapter 27 (Zoning) of the Township of East Pennsboro of Ordinances is hereby amended to include the following additional text:

"N. Wind turbines permitted by special exception *."

An * indicates that additional regulations found in Article 19 apply.

SECTION 6: Article 8 (R-1A Residential Single Family Agricultural District), Section 802 of Chapter 27 (Zoning) of the Township of East Pennsboro of Ordinances is hereby amended to include the following additional text:

"L. Wind turbines permitted by special exception *."

An * indicates that additional regulations found in Article 19 apply.

SECTION 7: Article 9 (R-1 Residential Single Family), Section 902 of Chapter 27 (Zoning) of the Township of East Pennsboro Code of Ordinances is hereby amended to include the following additional text:

"L. Wind turbines permitted by special exception *."

An * indicates that additional regulations found in Article 19 apply.

SECTION 8: Article 13 (PRO Professional Office District-), Section 1302 of Chapter 27 (Zoning) of the Township of East Pennsboro Code of Ordinances is hereby amended to include the following additional text:

"R. Wind turbines permitted by special exception*."

An * indicates that additional regulations found in Article 19 apply.

SECTION 9: Article 14 (OA Office-Apartment Dwelling District), Section 1402 of Chapter 27 (Zoning) of the Township of East Pennsboro Code of Ordinances is hereby amended to include the following additional text:

"BB. Wind turbines permitted by special exception *."

An * indicates that additional regulations found in Article 19 apply.

SECTION 10: Article 16 (C-G Commercial General), Section 1602 of Chapter 27 (Zoning) of the Township of East Pennsboro Code of Ordinances is hereby amended to include the following additional text:

"OO. Wind turbines permitted by special exception *."

An * indicates that additional regulations found in Article 19 apply.

SECTION 11: Article 17 (CPL Commercial Park Limited), Section 1702 Chapter 27 (Zoning) of the Township of East Pennsboro Code of Ordinances is hereby amended to include the following additional text:

"BB. Wind turbines permitted by special exception *."

An * indicates that additional regulations found in Article 19 apply.

SECTION 12: Article 18 (IP Industrial Park District) Section 1802 Chapter 27 (Zoning) of the Township of East Pennsboro Code of Ordinances is hereby amended to include the following additional text:

"R. Wind turbines permitted by special exception *."

An * indicates that additional regulations found in Article 19 apply.

SECTION 13: Article 19 (General Regulations), Chapter 27 (Zoning) of the Township of East Pennsboro Code of Ordinances is hereby amended to include the following additional text identified as Section 1902W:

§1902 W. WIND TURBINES

When listed in a district as permitted by special exception under 2406, the standards outlined in Section 2304.W shall apply.

SECTION 14: Article 2304 (Specific Criteria), Chapter 27 (Zoning) of the Township of East Pennsboro Code of Ordinances is hereby amended to include the following additional text identified as Section 2304W:

§2304 W. WIND TURBINES

Wind Turbines, when authorized by the Zoning Hearing Board, shall be permitted by special exception subject to the following conditions and the requirements set forth in Section 2406.

1. The Wind Turbine shall be independent of any other structure and shall be located a minimum distance of 1.5 times the Turbine height from any structure and property line. Except for Roof-mounted wind turbines.
2. No part of the Wind Turbine shall be located within or above any required front, side or rear setback.
3. The minimum height of the lowest position of the wind rotor shall be fifteen (15) feet above the ground. Maximum height shall not exceed maximum building height for the Zoning District in which the Wind Turbine is placed. Roof-mounted wind turbines hub height shall not exceed three (3) feet above the peak of the roof to which they are mounted.
4. Wind Turbines shall not be climbable up to twelve (12) feet above the ground surface.
5. All Wind Turbines shall comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended, and the regulations adopted by the Department of Labor and Industry.
6. The design of the Wind Turbine shall conform to applicable industry standards, including those of the American National Standards Institute. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturers from

Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.

7. Wind Turbines shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip and other similar systems) 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.
8. All electrical components of the Wind Turbine shall conform to the relevant and applicable local, state and national codes, and relevant and applicable international standards.
9. Wind Turbines shall be a non-obtrusive color such as white, off-white or gray.
10. Wind Turbines shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
11. Wind Turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, which sign shall have an area of less than two-hundred (200) square inches.
12. On-site transmission and power lines shall, to the maximum extent practicable, be placed underground.
13. A clearly visible warning sign concerning voltage must be placed at the base of all pad mounted transformers and substations.
14. Visible, reflective, colored objects, such as flags, reflectors, or tape, shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten (10) feet from the ground.
15. The Applicant shall avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the Wind Turbine.

16. The Applicant shall be responsible for obtaining all State, Federal permits if required.
17. When a building is necessary for storage cells or related mechanical equipment, the building must not exceed one hundred ninety-nine (199) square feet in area, fifteen (15) feet in height, and must not be located within any required front, side or rear setbacks.
18. The Wind Turbine shall comply with all other applicable regulations and requirements as set forth in the Zoning Ordinance. However, Land Development approval shall not be required under the East Pennsboro Township Subdivision and Land Development Ordinance for a single Wind Turbine. A Zoning Permit shall be required from East Pennsboro Township prior to the erection of a wind turbine.
19. The landowner shall, at his/her expense, complete decommissioning of the Wind Turbine within twelve (12) months after the end of the useful life of the Wind Turbine. It shall be presumed that the Wind Turbine is at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
20. Decommissioning of the Wind Turbine shall include removal of the Wind Turbine. Owner shall submit a plan and schedule for removal to the Zoning Officer and the turbine shall be removed within one year (1) for decommissioning.
21. The Wind Turbine shall be subordinate to and located on the same lot occupied by the principal use to which it relates.
22. No more than one (1) Wind Turbine shall be located on any one (1) lot.
23. Audible sound from a Wind Energy Facility shall not exceed fifty-five (55) DBA, as measured at the exterior of any Occupied Building on a Non-participating Landowner's property. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Facility shall be equal to or exceed the minimum standards for provision described in American Wind Energy Association (AWEA) Standard 2.1-

1989 titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume 1. First Tier*, or any successor provision or publication. 24.

The Facility Owner and Operator shall make reasonable efforts to minimize shadow flicker to any Occupied Building on a Non-participating Landowner's property.

SECTION 15: 2. No permit shall be granted by the Zoning Hearing Board for any special exception use until said Board has first received and considered an advisory report thereon from the Planning Commission & Environmental Advisory Council with respect to the location of such use in relation to the needs and growth pattern of the Township, and, where appropriate, with reference to the adequacy of the site area and the arrangement of buildings, driveways, parking areas, off street truck loading spaces, environmental concerns and other pertinent features of the site plan. The Planning Commission & Environmental Advisory Council shall have 30 days from the date of its receipt of the application within which to both conduct a joint hearing and file its report thereon. In the event that said Commission & Council shall fail to file its report within 30 days, such application shall be deemed to have been approved by said Planning Commission & Environmental Advisory Council. The Planning Commission & Environmental Advisory Council may have representation at the public hearing held by the Zoning Hearing Board on such application.

3. After receipt of the Planning Commission's & Environmental Advisory Council's report the Zoning Hearing Board shall hear the application in the same manner and under the same procedure as it is empowered by law and ordinance to hear cases and make exceptions to the provisions of this Ordinance. The Zoning Hearing Board may thereafter direct the Zoning Officer to issue a permit if, in its judgment, the request will not be detrimental to the health, safety and general welfare of the Township and meets the criteria of Section 2303 and if applicable 2304.

SECTION 16: Except only as amended, modified and changed by this Ordinance, the Township of East Pennsboro Code of Ordinances as codified and amended shall remain in all other respects in full force and effect.

SECTION 17: The provisions of this Ordinance shall be severable. If any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, that decision shall not affect the remaining provisions of this Ordinance or the Township of East Pennsboro Code of Ordinances.

SECTION 18: This Ordinance shall become effective in accordance with applicable law.

DULY ENACTED AND ORDAINED this _____ day of _____, 2009 by
the Board of Township Commissioners of the Township of East Pennsboro in public session
duly assembled.

ATTEST:

TOWNSHIP OF EAST PENNSBORO
BOARD OF COMMISSIONERS

Mr. Robert L. Gill, Secretary

By: _____
George A. DeMartyn, President

