

PAINT TOWNSHIP
SOMERSET COUNTY, PENNSYLVANIA

ORDINANCE NO. 2018-1

AN ORDINANCE OF THE TOWNSHIP OF PAINT PROVIDING FOR THE REGULATION OF CONSTRUCTION, PLACEMENT AND OPERATION OF RESIDENTIAL WIND ENERGY SYSTEMS, WIND ENERGY FACILITIES AND WIND TURBINES AND ESTABLISHING CRITERIA AND REGULATION FOR THE ISSUANCE OF PERMITS AND PROSCRIBE PENALTIES FOR VIOLATION.

WHEREAS, the Board of Supervisors of Paint Township recognizes the potential benefits to be derived from utilization of renewable and non-consumptive energy sources; and

WHEREAS, the Board of Supervisors desires to make appropriate provision for the safe installation and use of wind energy facilities within the Township by adopting an Ordinance in order to do so.

NOW, THEREFORE, it is hereby ENACTED and ORDAINED by the Board of Supervisors of Paint Township as follows:

SECTION 1.
DEFINITIONS.

RESIDENTIAL WIND ENERGY SYSTEM. A wind energy conversion system consisting of a wind turbine and associated control or conversion electronics, which has a rated capacity of not more than 10 kW and which is intended to primarily reduce on-site consumption of utility power. A system is considered a Residential Wind Energy System only if it supplies electrical solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess

electrical power generated and not presently needed for on-site use may be used by the utility company.

WIND ENERGY FACILITY. An electrical generation facility, whose purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities. This term does not include stand-alone Wind Turbines constructed primarily for residential or farm use.

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, rotor, tower and pad turbine, if any.

SECTION 2.
RESIDENTIAL WIND ENERGY SYSTEMS.

A Wind Turbine installed and operated as part of a Residential Wind Energy System shall be required to comply with the specific regulations set forth below.

A. A Wind Turbine shall be installed on a self-supporting tower, a/k/a "monotower," and shall be set back from any occupied building, property line or public road, a distance of not less than 1.5 times the height from the surface of the tower foundation to the highest point of the turbine rotor plane.

B. A Wind Turbine shall be a non-obtrusive color such as white, off-white, or gray.

C. A Wind Turbine shall not be artificially lighted and shall not display advertising, except for reasonable identification of the turbine manufacturer.

D. A Wind Turbine shall not be climbable up to fifteen (15) feet above grade level.

E. A Wind Turbine shall have a maximum height of one hundred (100) feet above grade level.

F. A Wind Turbine shall be equipped with manual (electronic or mechanical) and automatic overspeed controls to limit the blade rotation speed to within the design limits of the Residential Wind Energy System.

G. A Wind Turbine must be approved under an emerging technology program such as the California Energy Commission, IEC, or any other small wind certification program recognized by the American Wind Energy Association (AWEA) or the U.S. Department of Energy.

H. The owner of any property on which a Wind Turbine is located shall be required to completely remove any Wind Turbine which is not used to generate electricity for a continuous period of twelve (12) months.

I. All permit applications shall include a design/drawing that complies with Pennsylvania Uniform Construction Code and all applicable regulations regarding windmill installation/construction which shall be reviewed by the Township Code Enforcement Officers for approval.

SECTION 3.
WIND ENERGY FACILITIES.

A Wind Energy Facility installed and operated primarily for the purpose of commercial electrical power generation shall be required to comply with the specific regulations set forth below:

A. APPLICATION REQUIREMENTS.

1. The application shall be accompanied by a narrative describing the proposed Wind Energy Facility, including an overview of the project; the project location; the approximate generating capacity of the facility; the approximate number, representative types and height or range of heights of the Wind Turbines to be constructed, including their generating capacity and dimensions; and a description of all ancillary facilities.

2. The application shall be accompanied by a site plan showing the boundary lines of the parcel; zoning setback lines; access road and turnout locations; location of each proposed Wind Turbine; substation(s); electrical cabling from the Wind Energy Facility to the substation(s); ancillary equipment; buildings and other structures, including meteorological towers; and transmission lines. Furthermore, a performance bond as set forth in Section 14 shall accompany the application.

B. DESIGN AND INSTALLATION.

1. Uniform Construction Code. To the extent applicable the Wind Energy Facility shall comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999 as amended, and the regulations of the Pennsylvania Department of Labor and Industry.

2. Design Safety Certification. The design of the Wind Energy Facility 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.

3. Controls and Brakes. All Wind Energy Facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed 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 overspeed protection.

4. Electrical Components. All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national electrical codes, and relevant and applicable international standards.

5. Visual Appearance. Wind Turbines shall be a non-obtrusive color, such as white, off-white or gray, and shall not display advertising except for reasonable identification of the turbine manufacturer and owner/operator of the Wind Energy Facility. Wind Energy Facilities shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety. On-site transmission and power lines between Wind Turbines shall, to the maximum extent practicable, be placed underground.

6. Warnings. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations. Visible reflective markers, such as flags, reflectors or tape, shall be placed on

the anchor points of guy wires and along the guy lines up to a height of ten (10) feet from the ground.

7. Security. Wind Turbines shall not be climbable up to fifteen (15) feet above grade level. All access doors to Wind Turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by unauthorized persons.

8. Setbacks. Wind Turbines shall be set back from any occupied building on the Wind Energy Facility site, any property line, any public road, and from the property line of an adjacent property owner NOT having erected thereon an occupied building, a distance of not less than 1.5 times the height from the surface of the tower foundation to the highest point of the turbine rotor plane. The setback distance shall be measured from the center of the Wind Turbine base to the nearest point of the occupied building, property line or public road.

Wind Turbines shall be set back from the nearest property line of an adjacent landowner's property having erected thereon an occupied building a distance of not less than Two Thousand Five Hundred (2,500) feet. The setback distance shall be measured from the center of the Wind Turbine base to the nearest point on the property line.

9. Height. The Height of the wind turbine hub shall not exceed 335 feet.

10. Noise and Shadow Flicker. Audible sound from a Wind Energy Facility shall not exceed fifty-five (55) dBA as measured at the exterior

of any occupied building on any property adjoining the Wind Energy Facility site. 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 precision described in the AWEA Standard 2.1-1989 titled "Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier."

The owner/operator of the Wind Energy Facility shall make reasonable efforts to minimize shadow flicker to any occupied building on any property in the vicinity of the Wind Energy Facility site.

11. Signal Interference. The owner/operator of the Wind Energy Facility shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals to any property in the vicinity of the Wind Energy Facility and shall mitigate all harm to such signals caused by the Wind Energy Facility.

12. Use of Public Roads.

(a) The applicant shall identify all state and local public roads to be used within Paint Township to transport equipment and parts for construction, operation or maintenance of the wind energy facility.

(b) Paint Township's engineer or a qualified third party engineer hired by Paint Township and paid for by the applicant, shall document road conditions prior to construction. The engineer shall document road conditions again 30 days after construction is complete or as weather permits.

(c) Paint Township may require bonding of the road/roads by the applicant/owner in compliance with state regulations.

(d) Any road damage caused by the applicant or its contractors shall be promptly repaired at the applicant's expense.

13. The owner/operator of the Wind Energy Facility shall be required to maintain general liability insurance covering bodily injury and property damage with coverage limits of not less than One Million (\$1,000,000.00) Dollars per occurrence and One Million (\$1,000,000.00) Dollars in the aggregate. Certificates evidencing such coverage shall be delivered to the Township upon request.

14. Decommissioning. The owner/operator of the Wind Energy Facility shall, at its expense, complete decommissioning of the Wind Energy Facility, or any individual Wind Turbine, within twelve (12) months after the end of the useful life of the Facility or any individual Turbine. The Facility or individual Turbine shall be presumed to be at the end of its useful life if no electricity is generated thereby for a continuous period of twelve (12) months.

The applicant shall submit with its application an estimate prepared by a Professional Engineer as to the total cost of decommissioning the proposed Wind Energy Facility without regard to salvage value of the equipment. Decommissioning shall include removal of Wind Turbines, buildings, cabling, electrical components, roads, foundations to a depth of thirty-six inches (36"), and any other associated facilities, followed by grading and seeding of all disturbed earth.

The decommissioning process shall be conducted in a manner that provides for dismantling of the Tower in separate sections and not as a complete unit.

The owner/operator of the Wind Energy Facility shall be required to submit similar estimates to the Township at five (5) year intervals from the date of issuance of the zoning permit for the Facility.

Prior to issuance of the permit for the Facility, the owner/operator of the Wind Energy Facility shall deliver to the Township decommissioning funds, equal to the amount of the estimated cost of decommissioning, in the form of a performance bond payable to the Township or its assigns issued by a registered insurance or bonding company authorized to do business within the Commonwealth. Such bond shall be maintained by the owner/operator of the Wind Energy Facility and shall be replaced, if necessary, at five (5) year intervals in order to assure that the amount thereof remains equal to the most recent estimate of the cost of decommissioning.

If the owner/operator of the Wind energy Facility fails to complete decommissioning of the Facility site within the twelve (12) month period described above, the owner/operator shall be deemed to have consented to the entry upon the premises by the Township or its assigns for the purpose of completing the decommissioning of the Facility site and the Township or its assigns may take such measures as necessary to complete decommissioning of the site. In that event, the Township or its assigns shall be entitled to recover the costs incurred as a result of the decommissioning of the site from the

surety of the aforementioned performance bond and, if necessary, through the sale of any salvageable materials from the site.

The decommissioning process shall comply with all applicable regulations and statutes including, but not limited to, the Pennsylvania Department of Environmental Protection and/or federal environmental regulations.

15. Remedies.

(a) It shall be unlawful for any person, firm, or corporation to violate or fail to comply with or take any action which is contrary to the terms of this Part, or any permit issued under this Part, or cause another to violate or fail to comply, or to take any action which is contrary to the terms of this Part or any permit issued under this Part.

(b) If Paint Township determines that a violation of this Part or the permit has occurred Paint Township shall provide written notice to any person, firm, or corporation alleged to be in violation of this Part or permit. IF the alleged violation does not pose an immediate threat to public health or safety, Paint Township and the parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within 30 days of the notice of violation.

(c) If after 30 days from the date of the notice of violation Paint Township determines, in its discretion, that the parties have not resolved the alleged violation Paint Township may institute civil enforcement proceedings or any other remedy at law, including but not limited to, enforcement proceedings permitted before a district justice to ensure

compliance with this Part and/or the permit and seek reimbursement of all costs and expenses.

ORDAINED AND ENACTED this 7 day of August, 2018.

PAINT TOWNSHIP SUPERVISORS

Lewin S. Alaskett
_____, Chairman

Joanne C. Wright
_____, Secretary/Treasurer

David Azegh
_____, Vice-Chairman