

**ARTICLE XXII- SMALL WIND ENERGY PROJECT REGULATION (Adopted January 23, 2012)**

**Section 2200.** This regulation may be referred to as the Small Wind Energy Project Regulation.

**Section 2201 Purpose.** The purpose of this regulation is to establish regulations for small wind energy projects in order to preserve and protect the public health and safety.

**Section 2202 Applicability.** This regulation applies to all lands within the boundaries of Austintown Township, Mahoning County, State of Ohio.

**Section 2203 Definitions.** In this regulation:

Clear Fall Zone - An area surrounding the wind turbine unit into which the turbine, tower and or turbine components might fall due to inclement weather, poor maintenance, faulty construction methods, or any other condition causing turbine failure. The area shall remain confined within the property lines of the primary parcel where the turbine is located.

Megawatt - A unit of power equal to one million watts.

Met tower - A tower, including any anchor, base, base plate, boom, cable, electrical or electronic equipment, guy wire, hardware, indicator, instrument, telemetry device, vane, or wiring, that is used to collect or transmit meteorological data, including wind speed and wind flow information, in order to monitor or characterize wind resources at or near a small wind energy project.

Owner - The person or entity that owns a wind energy project or met tower and the person or entity who holds title to property on which the small wind energy project or met tower is located.

Small wind energy project - A wind energy project that has a capacity of more than 500 watts but less than 5 megawatts, including the wind turbine generator or anemometer or any parts thereof and is primarily used to generate energy for use on the property where it is located.

Total height - The vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

Tower - Either the freestanding or monopole structure that supports a wind generator or the freestanding or monopole structure that is used as a met tower.

Zoning Inspector - The Austintown Township Zoning Inspector.

Wind energy project - Equipment that converts and then stores or transfers energy from the wind into usable forms of energy (as defined by ORC § 1551.20) and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the project.

Wind generator - The mechanical and electrical conversion components mounted at the top of a tower in a wind energy project.

**Section 2204 Standards - Small Wind Energy Project.** A small wind energy project is a conditional use in any district and is subject to the following requirements:

- (1) Set backs. A wind tower for a small wind energy project must be set back:
  - (a) A distance equal to 1.1 times its total height from any public road right of way, unless written permission is granted from the governmental entity with jurisdiction over the road;
  - (b) A distance equal to 1.1 times its total height from any overhead utility lines, unless written permission is granted from the affected utility;
  - (c) A distance equal to 1.1 times its total height from all property lines, and  
The Owner shall provide for a “clear fall zone” that shall be maintained at all times the turbine or tower is standing. A diagram of the “clear fall zone”, along with the manufacturer’s recommendations of such a zone, must be attached to the engineering report submitted as part of the application.
- (2) Sound. The noise generated by the operation of a small wind energy project may not exceed 5 decibels above background noise measured at the closest neighboring property line, except during short-term events such as severe windstorms.
- (3) Blade Clearance. The vertical distance from ground level to the tip of a wind generator blade when the blade is at its lowest point shall be at least 30 feet.
- (4) Access. All ground-mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within 16 feet of the ground that is readily accessible to the public.
- (5) Electrical Wires. All electrical wires associated with a small wind energy project, 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, must be located underground.
- (6) Lighting. A wind tower and generator shall be artificially lighted only if lighting is required by the Federal Aviation Administration or Ohio Department of Transportation.
- (7) Appearance, Color, and Finish. The wind generator and tower shall remain painted or finished the color or finish in compliance with the Federal Aviation Association (FAA).
- (8) Code Compliance. A small wind energy project, including tower, shall comply with all applicable state construction and electrical codes, and the National Electrical Code.
- (9) Signal Interference. The owner of a small wind energy project or met tower must take reasonable steps to prevent and eliminate any interference with the transmission and reception of electromagnetic communications, such as microwave, radio, telephone, or television signals.

(10) Utility Interconnection. A small wind energy project that connects to the electric utility must comply with all pertinent provisions of the Ohio Revised Code.

**Section 2205 Standards - Met Tower.** A met tower is a conditional use in any district subject to the same standards as a small wind energy project set forth in Section 2204.

**Section 2206 Permit Requirements.**

(1) Conditional Use Permit. A Conditional Use permit is required for the installation of a small wind energy project or a met tower.

(2) Site Plan Review. The Conditional Use Permit application shall be accompanied by a site 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 wind project tower;
- (d) Location of any overhead utility lines on or adjacent to the property;
- (e) The right-of-way of any public road that is contiguous with the property;
- (f) Description and specifications of the components of the small wind energy project, met tower, or both, including the manufacturer, model, capacity, blade length, rotor diameter, and total height of any small wind energy project; and
- (g) A statement from the applicant that all Wind Energy Project(s) will be installed in compliance with manufacturer's specifications, and a copy of those manufacturer's specifications.

(3) Fees. The application for a Conditional Use permit for a small wind energy project must be accompanied by the appropriate fee required.

(4) Expiration. A Conditional Use permit issued pursuant to this regulation shall expire if:

- (a) The small wind energy project or met tower is not installed and functioning within 18 months from the date the Conditional Use permit is approved by the Board of Appeals; or
- (b) The small wind energy project is out of service or otherwise unused for a continuous 12-month period.

(5) Building Permits- Applicants for all small wind energy projects and parts thereof shall obtain all applicable Building Permits from the State of Ohio, as required.

(6) The system shall comply with all applicable Federal Aviation Administration (FAA) requirements, including Part 77 of Title 14 of the Code of Federal Aviation Regulations regarding installations close to airports.

(7) The Conditional Use Permit application for a small wind energy project shall include standard drawings and an engineering analysis and report of the system's tower and certification by a professional engineer.

**Section 2207 Maintenance.** Wind turbines must be maintained in good working order.

**Section 2208 Abandonment.**

(1) The owner shall, within 30 days of permanently ceasing operation of a met tower or small wind energy project, provide written Notice of Abandonment to the Zoning Inspector.

(2) A small wind energy project or met tower that is out-of-service for a continuous 12 month period will be deemed to have been abandoned. The Zoning Inspector may issue a

Notice of Abandonment to the owner of the small wind energy project or met tower that is deemed to have been abandoned. The owner shall have the right to respond to the Zoning Inspector's Notice of Abandonment within 30 days from the Notice date. The Zoning Inspector shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides verification that demonstrates the small wind energy project or met tower has not been abandoned.

(3) If the small wind energy project or met tower is determined to be abandoned or the Zoning Inspector receives a Notice of Abandonment from the owner, the small wind energy project or met tower must be removed within 90 days of the Notice of Abandonment and the site must be reclaimed. "Reclamation includes removal of all equipment and apparatuses, supports and or other hardware associated with the existing wind turbine, including the removal of the above mentioned items to a depth of three (3) feet below grade. If the owner fails to remove a small wind energy project or met tower and reclaim the site, the Township may remove or cause the removal of the small wind energy project or met tower and cause the site to be reclaimed. The cost of removal and reclamation shall become a lien upon the property and may be collected in the same manner as property taxes.

#### **Section 2209 Conditional Use Permit Procedure.**

(1) An Owner shall submit an application to the zoning inspector for a conditional use permit for a small wind energy project. The application must be on a form approved by the Township and must be accompanied by seven (7) copies of the site plan identified in Section 2206 above.

(2) The Board of Zoning Appeals shall authorize issuance of a permit or deny the application within the time provisions set out in the Zoning Ordinance.

(3) The Board of Zoning Appeals may authorize the issuance a conditional use permit for a small wind energy project after a public hearing on the application if the application and supporting materials show that the proposed small wind energy project meets the requirements of this regulation and the use is otherwise authorized by the Board of Zoning Appeals. The Board may condition the issuance of the conditional use permit upon the filing a bond or other surety with the Township in an amount set by said board.

(4) The maximum permitted height shall be controlled by the setback constraints. The Board of Appeals shall not issue a variance to the minimum required setbacks for a small wind energy project

(5) The Owner shall conspicuously post the conditional use permit on the premises upon issuance so as to be visible to the public at all times until construction or installation of the small wind energy project is complete.

**Section 2210 Violations.** (1) It is unlawful for any person to construct, install, or operate a small wind energy project or met tower that is not in compliance with this regulation or with any condition contained in a permit issued pursuant to this regulation. A small wind energy project or met tower that was installed prior to the effective date of this regulation is exempt from the requirements of this regulation.

(2) It is unlawful for a person to disobey, fail, neglect, or refuse to comply with or otherwise resist an order issued pursuant to this regulation.

**Section 2211 Signage.** No signage or advertising shall be permitted on any wind turbine device or met tower, provided however, that each wind turbine, shall have a visible mounted energy placard no larger than 24 inches by 24 inches containing the name and emergency contact information of the owner and individual or firm responsible for service and the date of installation of the facility.

**Section 2212 Enforcement.**

(1) The Zoning Inspector may enter any property for which a permit has been issued under this regulation to conduct an inspection to determine whether there is any violation of this regulation or whether the conditions stated in the permit have been met.

(2) The Zoning Inspector may issue an order to abate any violation of this regulation.

(3) The Zoning Inspector may issue a citation for any violation of this regulation.

(4) The Zoning Inspector may refer a violation of this regulation to the Mahoning County Prosecutor or to outside legal counsel approved by a majority vote of the Board of Trustees for legal action.

**Section 2213 Penalties.**

(1) Any person who fails to comply with any provision of this regulation shall be subject to enforcement and penalties as stipulated in the Zoning Ordinance.

(2) Nothing in this section shall be construed to prevent the township from using any other lawful means to enforce this regulation.

**Section 2214 Relationship to Other Regulations.** This regulation does not abrogate, annul, impair, interfere with, or repeal any existing regulation.

**Section 2215 Severability.** The provisions of this regulation are severable, and the invalidity of any section, subsection, paragraph, or subdivision will not affect the validity or effectiveness of the remainder of the regulation.