

**ORDINANCE NO. 2009 \_\_\_\_\_**

**AN ORDINANCE OF THE TOWNSHIP OF EAST PENNSBORO TOWNSHIP CUMBERLAND COUNTY, PENNSYLVANIA, AMENDING CHAPTER 27, “ZONING,” OF THE TOWNSHIP OF EAST PENNSBORO CODE OF ORDINANCES FOR THE PURPOSES OF REGULATING WIND TURBINES AND, AMENDING §27-2413, “DUTIES OF THE ZONING HEARING BOARD CONCERNING 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 make 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:** §27-202, “Definitions,” of Chapter 27, “Zoning,” is hereby amended to add the following 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* - 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 but is not limited to a nacelle, wind rotor, tower, vertical axis and pad transformer.

**SECTION 3:** §27-502, “F-S Forest Slope District; Permitted Uses,” is amended to add paragraph .H as follows:

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

An \* indicates that additional regulations found in Part 19 apply.

**SECTION 4:** §27-602, “R-C Residential Conservation District; Permitted Uses,” is amended to add paragraph .H as follows:

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

An \* indicates that additional regulations found in Part 19 apply.

**SECTION 5:** §27-702, “A-1 Agricultural District; Permitted Uses,” is amended to add paragraph .N as follows:

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

An \* indicates that additional regulations found in Part 19 apply.

**SECTION 6:** §27-802, “R-1A Residential Single-Family Agricultural District; Permitted Uses,” is amended to add paragraph .L as follows:

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

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

**SECTION 7:** §27-902, “R-1 Single-Family Residential District,” is amended to add paragraph .L as follows::

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

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

**SECTION 8:** §27-1302, “PRO Professional Office District; Permitted Uses,” is amended to add paragraph .R as follows:

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

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

**SECTION 9:** §27-1402, “O-A Office-Apartment District; Permitted Uses,” is hereby amended to add paragraph .BB as follows:

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

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

**SECTION 10:** §27-1602, “C-G Commercial General District; Permitted Uses,” is hereby amended to add paragraph .OO as follows:

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

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

**SECTION 11:** §27-1702, “CPL Comercial Park Limited District; Permitted Uses,” is hereby amended to add paragraph .BB as follows:

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

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

**SECTION 12:** §27-1802, “IP Industrial Park District; Permitted Uses,” is hereby amended to add paragraph .R as follows:

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

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

**SECTION 13:** §27-1902, “Special Use Regulations,” is hereby amended to add subsection .21, “Wind Turbines,” as follows:

21. *Wind Turbines.* When listed in a district as permitted by special exception under §27-2406, the standards outlined in §27-2394.V shall apply.

**SECTION 14:** §27-2304, “Specific Criteria,” is hereby amended to add paragraph .V as follows:

**V.** *Wind Turbines.*

(1) 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 §27-2406.

(a) 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.

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

(c) The minimum height of the lowest position of the wind rotor shall be 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 turbine hub height shall not exceed 3 feet above the peak of the roof to which it is mounted.

(d) Wind turbines shall not be climbable up to 12 feet above the ground surface.

(e) All wind turbines shall comply with the Pennsylvania Uniform Construction Code, Act 45 of 1999, as amended [Chapter 5, Part 1], and the regulations adopted by the Department of Labor and Industry.

(f) 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.

(g) 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.

(h) 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.

(i) Wind turbines shall be a non-obtrusive color such as white, off-white or gray.

(j). 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.

(k) Wind turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, which sign shall have an area of less than 200 square inches.

(l) On-site transmission and power lines shall, to the maximum extent practicable, be placed underground.

(m) A clearly visible warning sign concerning voltage must be placed at the base of all pad mounted transformers and substations.

(n) 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 10 feet from the ground.

(o) 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.

(p) The applicant shall be responsible for obtaining all State, Federal permits if required.

(q) When a building is necessary for storage cells or related mechanical equipment, the building must not exceed 199 square feet in area, 15 feet in height, and must not be located within any required front, side or rear setbacks.

(r) The wind turbine shall comply with all other applicable regulations and requirements as set forth in the this Chapter. However, land development approval shall not be required under the East Pennsboro Township Land Development Ordinance [Chapter 22] for a single wind turbine. A zoning permit shall be required from East Pennsboro Township prior to the erection of a wind turbine.

(s) The landowner shall, at his/her expense, complete decommissioning of the wind turbine within 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 12 months.

(t) 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 1 year after the end of its useful life.

(u) The wind turbine shall be subordinate to and located on the same lot occupied by the principal use to which it relates.

(v) No more than one wind turbine shall be located on any one lot.

(w) Audible sound from a wind energy facility shall not exceed 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 prevision 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.

(x) The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's

property.

(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 and 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 and 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 and Council shall fail to file its report within 30 days, such application shall be deemed to have been approved by said Planning Commission and Environmental Advisory Council. The Planning Commission and 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 and 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 Chapter. 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 §27-2303 and, if applicable, §27-2304.

**SECTION 15:** 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