

ORDINANCE NO. 17, 2013

AN ORDINANCE AMENDING CHAPTER 273 WIND ENERGY CONVERSION SYSTEMS, OF THE CODE OF THE CITY OF LINWOOD AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED, THE PROVISIONS OF WHICH ARE INCONSISTENT HERewith.

BE IT ORDAINED, by the Common Council of the City of Linwood, County of Atlantic and State of New Jersey as follows:

SECTION 1: Chapter 273 Wind Energy Conversion Systems, 273-1, Title, is hereby amended to read as follows:

This chapter may be referred to as the "Renewable Energy Systems Ordinance."

SECTION 2: Chapter 273-3, Purpose, is hereby amended to read as follows:

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind, solar, and other renewable energy systems installed to reduce the on-site consumption of utility-supplied electricity. In addition, these regulations are designed to consider aesthetics in the use, placement and design of Renewable Energy Systems.

SECTION 2: Chapter 273-4, Definitions, is hereby amended to delete or include the following:

DELETE: ADMINISTRATOR
The Zoning Code Officer.

OWNER

The individual or entity that intends to own and operate the renewable energy system in accordance with this chapter.

RENEWABLE ENERGY SYSTEM

Any structure or installation such as a small wind energy system, solar collecting array, or geothermal system, which is designed and intended to produce energy from natural forces such as wind, sunlight or geothermal heat.

SOLAR ENERGY SYSTEM

An accessory to the main structure and/or use which comprises of a combination of solar collector(s) and ancillary solar equipment used to generate electricity primarily for consumption on the property on which the system is located, or where multiple consumers or exceptional circumstances exist, on an adjoining property.

TOTAL HEIGHT OF SMALL WIND ENERGY SYSTEM

The vertical distance from the ground to the tip of the wind generator blade when the tip is at its highest point.

SECTION 3: Chapter 273-5, Standards, is hereby amended to read as follows:

A renewable energy system shall be erected, constructed or permitted only if it complies with the following requirements:

A. A renewable energy system shall not be the principal use on the site.

B. Economic benefit for wind energy systems. The applicant shall demonstrate through a cost/benefit analysis that the project is economically feasible and sustainable.

C. Location, setbacks, height.

(1) A renewable energy system must meet the setback requirements for principal structures for the zoning district in which the system is located.

(2) Solar energy systems are only permitted on the roof of the principal structure.

(3) In the case of a flat roof, solar panels may extend up to 10' above the roofline (so they can be angled to maximize production), shall not be visible from the street, and shall comply with the maximum height limit of the zoning district.

(4) A wind tower for a small wind energy system shall be set back a distance equal to the fall zone from:

(a) Any public right-of-way, unless written permission is granted by the government entity with jurisdiction over the road right-of-way.

(b) Any overhead utility lines.

(c) All property lines.

(d) All travel ways to include but not limited to driveways, parking lots or sidewalks.

(e) The setback shall be measured from the center of the tower's base.

(f) Guy wires used to support the tower are exempt from the small wind energy setback requirements.

D. Renewable energy systems shall be designed to blend into the architecture of the building to the extent possible. Solar roof shingles, and all exterior plumbing and electrical lines must be painted and/or coated to match the color of the adjacent walls and/or roofing material. All visible exterior plumbing and electrical lines must not be installed in any portion of the front of the property. Aluminum trim if used and visible should be anodized or otherwise color treated to blend into the surroundings.

E. Clearing. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the renewable energy system and as otherwise prescribed by applicable law.

F. Signs. There shall be no signs that are visible from any public road posted on a small wind generator system or any associated building, except for the manufacturer's or installer's identification, appropriate warning signs or owner identification.

G. Utility notification and interconnection. The small wind energy system that connects to the electric utility shall comply with the New Jersey's Net Metering and Interconnection Standards for Class I Renewable Energy Systems at N.J.A.C. 14:4-9.

H. Additional Standards for Wind Turbines:

(1) Wind turbines may only be attached to freestanding or guy wired monopole towers. Lattice towers are explicitly prohibited.

- (2)** The tower height shall not exceed 150 feet.
- (3)** The applicant shall provide evidence that the proposed tower height does not exceed the height recommended by the manufacturer of the wind turbine.
- (4)** Sound level. The small wind energy system shall not exceed 50 decibels using the A scale (dBA), as measured at the property line, except during short-term events such as severe windstorms and utility outages.
- (5)** Shadowing/flickers. Small wind energy systems shall be sited in a manner that does not result in significant shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
- (6)** All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- (7)** The tower shall be designed and installed so as not to provide step bolts, a ladder, or other publicly accessible means of climbing the tower, for a minimum height of eight feet above the ground.
- (8)** Lighting. A small wind energy system shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
- (9)** Visual impacts. It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access the wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the wind resources.
- (a)** The applicant shall demonstrate that through the project site planning that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to, information regarding site selection, turbine design or appearance, buffering, and screening of ground-mounted electrical and control equipment. All electrical conduits shall be underground.
- (b)** Appearance, color and finish. The wind generator and the tower shall remain painted or finished in the color or finish that was originally applied by the manufacturer's or installer's identification, unless a different color of finish is approved in the zoning approval.
- (10)** Aviation. The small wind energy system shall be built to comply with all applicable Federal Aviation Administration and state regulations.
- (11)** Met tower. A met tower shall be permitted under the same standards, permit requirements, restoration requirements and permit procedures as a small wind energy system. Met towers shall be permitted on a temporary basis not to exceed three years.

SECTION 4: Chapter 273-6, Permit requirements, is hereby amended to read as follows:

A. Permit. A zoning permit shall be required for the installation of a renewable energy system.

B. No change

- (1)** No change
- (2)** No change
- (3)** Location of the proposed renewable energy system and all associated equipment;
- (4)** No change
- (5)** No change
- (6)** No change

(7) Renewable energy system specifications, including manufacturer and model, and the manufacturer's specification sheet in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code;

(8) No change

(9) No change

(10) The application shall meet all the requirements of a building permit, include standard drawings and an engineering analysis, and certification by a professional mechanical, structural or civil engineer as required by the Construction Official;

(11) For a small wind energy system, tower foundation and tower blueprints or drawings. The foundation shall be signed and sealed by a professional engineer, registered in the State of New Jersey, certifying that the foundation complies with all of the standards set forth for safety and stability in all applicable codes in effect in the State of New Jersey;

(12) Estimated costs of physically removing the renewable energy system to comply with surety standards;

(13) No change

C. Fees. The application for a zoning permit for a renewable energy system must be accompanied by the fee required.

D. No change

(1) The renewable energy system is not installed and functioning within 24 months from the date the permit is issued; or

(2) The renewable energy system is out of service or otherwise unused for a continuous twelve-month period.

SECTION 5: Chapter 273-7, Abandonment, is hereby amended to read as follows:

A. A renewable energy system that is out of service for a continuous twelve-month period will be deemed abandoned.

B. The Zoning Officer may issue a notice of abandonment to the owner of a renewable energy system that is deemed to have been abandoned. The notice shall be sent return receipt requested.

C. No change

D. If the owner provides information that demonstrates the renewable energy system has not been abandoned, the Zoning Officer shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn.

E. If the Zoning Officer determines that the renewable energy system has been abandoned, the owner of the renewable energy system shall remove the at the owner's sole expense within three months after the owner receives the Notice of Abandonment.

F. If the owner fails to remove the renewable energy system in the time allowed under Subsection **E** above, the Zoning Officer may pursue legal action to have it removed at the owner's expense, or if the Zoning Officer facilitates the removal, all costs, fees and interest shall be payable by the owner and shall be a lien on the property until satisfied.

SECTION 6: Chapter 273-8, Zoning permit procedure, is hereby amended to read as follows:

A. An owner shall submit an application to the Zoning Officer for a permit for a renewable energy system.

B. The Zoning Officer shall issue a permit or deny the application as consistent with the Municipal Land Use Law.

SECTION 7: Chapter 273-9, Unlawful acts; exemption, is hereby amended to read as follows:

A. It is unlawful for any person to construct, install, or operate a renewable energy system that is not in compliance with this chapter.

B. Renewable energy systems installed prior to the adoption of this chapter are exempt from the requirements in this chapter, except for the provisions in § [273-7](#) regarding abandonment.

SECTION 8: Chapter 273-10, Administration and enforcement, is hereby amended to read as follows:

A. This chapter shall be administered by the Zoning Officer or other official as designated.

B. The Zoning Officer may enter any property for which a permit has been issued under this chapter to conduct inspections to determine whether the conditions stated in the permit have been met.

C. The Zoning Officer may issue orders to abate any violation of this chapter, may issue a citation for any violations and may refer any violations of this chapter to legal counsel for enforcement.

SECTION 9: Chapter 273-11, Violations and penalties, is hereby amended to read as follows:

A. Any person adjudged guilty of a violation of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$1,500 at the discretion of the Municipal Judge of the City of Linwood.

B. Nothing in this section shall be construed to prevent the City of Linwood from requiring abatement and using any other lawful mean to enforce this chapter.

SECTION 10: All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 11: Should any sentence, clause, sentence, phrase or provision of this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 12: This ordinance shall take effect upon its final passage, publication and adoption in the manner prescribed by law.

FIRST READING: September 11, 2013

PUBLICATION: September 16, 2013

PASSAGE: September 25, 2013

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on, September 11, 2013 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on September 25, 2013.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR