

CATHARINE TOWNSHIP ORDINANCE NO. 57

AN ORDINANCE REGULATING THE INSTALLATION AND USE OF SMALL WIND ENERGY FACILITIES AND PROVIDING PENALTIES FOR THE VIOLATION OF THE ORDINANCE.

The Supervisors of Catharine Township, Blair County, Pennsylvania, in accordance with the powers granted unto them by the Second Class Township Code, 53 PS 65101 et seq as supplemented and amended, do hereby enact and ordain and it is hereby enacted and ordained as follows:

I. This ordinance shall be named and identified as the Catharine Township Small Wind Energy Facility Ordinance.

II. Definitions.

- A. Small Wind Energy Facility: A small wind energy facility consists of a wind turbine, tower and associated control or conversion electronics which has a rated capacity of not more than 60 kilowatts and which is intended to primarily reduce on site consumption of utility power. A facility may be considered a small wind energy facility only if it supplies electrical power 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 and compensation or credit may be authorized by the utility company to the owner of the small wind energy facility. If any wind energy facility in Catharine Township does not qualify as a small wind energy facility under this ordinance, then said wind energy facility shall be considered a wind energy facility and shall be subject to the requirements of Catharine Township Ordinance No. 55, the Wind Energy Facility Ordinance for Catharine Township.
- B. System Height: The vertical distance from ground level to the tip of the wind turbine blade when said tip is at its highest point.

- C. Tower Height: The height above grade of the fixed portion of the tower excluding the wind turbine.
- D. Tower: The structure that supports a wind turbine.
- E. Wind Turbine: The blades and associated mechanical and electrical conversion components mounted on top of the tower, the purpose of which is to convert kinetic energy of the wind into rotational energy used to generate electricity.

III. Any entity which proposes to construct, install, maintain, utilize or in any way have a small wind energy facility on property which they own or lease shall make application for a permit to the Board of Supervisors of Catharine Township for such small wind energy facility before any wind energy facility is constructed or installed. Said application shall include the following:

A. A site plan which includes:

1. a graphic plot of the property of the applicant including property lines and physical dimensions of the subject property
2. location, dimension and types of structures on the property
3. location of the proposed small wind energy facility
4. location of any foundation, guide anchors and associated equipment.

B.

1. tower foundation blueprints or drawings
2. tower blueprints or drawings
3. public rights of way
4. overhead utility lines
5. specific information for the small wind energy facility provided by the manufacturer of said small wind energy facility including, but not limited to the manufacturer, the model number, the rotor diameter, tower height, tower type, sound level analysis prepared by the wind turbine manufacturer; in the event that the applicant proposes to construct and install a small wind energy facility which has not been

developed by a commercial manufacturer, then the applicant may submit a detailed description of the small wind energy facility, the rotor diameter, the tower height, the tower type and sound level analysis as certified by a professional engineer certified as an engineer in the Commonwealth of Pennsylvania.

6. a fee in the amount of \$100.00 payable to the Township of Catharine.
- C. Any entity which has been issued a permit for a small wind energy facility and which desires to modify the small wind energy facility shall apply to Catharine Township for an Amended Permit and be issued such Amended Permit by Catharine Township before making the modification. The application for an Amended Permit shall state the proposed modification and the reasons therefore. There shall be no cost for the application or issuance of an Amended Permit. The Amended Permit shall expire on the same date as the original permit.
- IV. Any small wind energy facility shall meet the following requirements:
- A. If the tract of land is 5 acres or less, then the maximum tower height shall be 35 feet.
 - B. For tracts of land greater than 5 acres and not more than 10 acres the maximum tower height shall be 75 feet.
 - C. For tracts of land greater than 10 acres, the maximum tower height shall be 110 feet.
 - D. No portion of the wind turbine of the small wind energy facility shall extend within twenty feet of the ground.
 - E. No portion of the wind turbine may extend over any parking area, driveway, walkway or any structure of any type.
 - F. All small wind energy facilities shall be set back from all buildings a distance of at least 1.1 times the system height. The setback distance shall be measured from the center of the tower base to the nearest point on the foundation of a building.

- G. All small wind energy facilities shall be set back from the nearest building on lands other than the applicant's land a distance of at least 5 times the system height. The setback distance shall be measured from the center of the tower base to the nearest point on the foundation of the building.
 - H. All small wind energy facilities shall be set back from the nearest property line a distance of at least 1.1 times the system height. The setback distance shall be measured from the center of the tower base to the nearest point of the property line.
 - I. All small wind energy facilities shall be set back from the nearest public road a distance of at least 1.1 times the system height. The setback distance shall be measured from the center of the tower base to the nearest right of way line of said public road.
 - J. All small wind energy facilities shall be set back from the nearest overhead utility line a distance of at least 1.1 times the system height. The setback distance shall be measured from the center of the tower base to the nearest point of said overhead utility line or the nearest point of any utility pole, whichever is closer.
- V. All small wind energy facilities must comply with applicable federal aviation administration requirements and regulations; all small wind energy facilities must comply with all applicable federal, state and local laws, ordinances, rules and regulations.
- VI. A small wind energy facility shall not cause or contribute to any disruption or loss of radio, telephone, television or similar signals. If a small wind energy facility does cause or contribute to any disruption or loss of radio, telephone, television or similar signals, then the owner of the small wind energy facility shall immediately eliminate any disruption or loss and shall mitigate any harm caused by the small wind energy facility.
- VII. A small wind energy facility shall not exceed 55 decibels of sound level as measured at the site property line.
- VIII. The owner and/or lessee of the small wind energy facility shall make every effort to eliminate shadow flicker to any building which is not on the property upon which is

erected the small wind energy facility. The small wind energy facility and any equipment used in connection with the small wind energy facility shall be enclosed within a fence at least 6 feet high. The fence shall be constructed and maintained so that said fence prohibits entry to the small wind energy facility except through a secure gate.

IX. In addition to the permit required under Paragraph III of this ordinance, a building permit shall be required for the construction of a small wind energy facility or the modification of the wind turbine or tower of a small wind energy facility, but no building permit shall be required for the modification of the associated mechanical and electrical conversion components of the wind turbine.

X. No small wind energy facility shall be constructed, installed, maintained, or utilized without a permit from the Township of Catharine. Any owner and/or lessee of lands upon which a small wind energy facility is constructed, installed, maintained, or utilized without a valid permit from Catharine Township shall be in violation of this Ordinance. A permit, once issued, shall be valid for three years from the date of issuance unless said permit is revoked as provided in this ordinance. At the expiration of a permit, it shall be necessary to apply for renewal of the permit and for the permit to be renewed by Catharine Township in order to continue operation of the small wind energy facility. A valid permit may be transferred to a new owner or new lessee for the unexpired time of said permit at no cost upon application by the new owner or new lessee to the Secretary of Catharine Township; however, the new owner or new lessee shall provide to the Secretary of Catharine Township his or her name, address and telephone number; a permit may then be issued by the Secretary of Catharine Township to the new owner or new lessee for the unexpired portion of the previously approved permit. Upon conveyance of lands for which a permit has been granted pursuant to this ordinance or termination of the lease, the previously approved permit shall be null and void unless the new owner or new lessee makes application for transfer of the permit as provided in this ordinance.

XI. A representative or representatives of Catharine Township may enter upon the premises in order to inspect the small wind energy facility at any time on or after the

filing of an application for a permit, at any time during which there is a valid permit and at any time during the decommissioning of a small wind energy facility.

XII. The permit of any person or other entity who violates this ordinance two or more times within a time period of twelve months shall be and is hereby revoked immediately and said person or other entity shall not be issued another permit for at least twelve months after the date of revocation.

XIII. The owner and/or lessee of a small wind energy facility shall, at the expense of the owner and/or lessee, complete the decommissioning of the small wind energy facility within twelve months after the end of the useful life of the small wind energy facility. A small wind energy facility shall be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve months or at the time that there is no valid permit for the small wind energy facility. Decommissioning shall include the removal of the wind turbine towers, building, cabling, electrical components, foundations to a depth of 36 inches and any other associated facilities. If the small wind energy facility owner and/or lessee does not complete decommissioning within twelve months after the useful life of the small wind energy facility as herein required, then Catharine Township may take such measures as are necessary to complete decommissioning, at the expense of the owner and/or lessee. The application for a permit to Catharine Township and the issuance of a permit by Catharine Township for a small wind energy facility shall constitute agreement and consent on the part of the owner and/or lessee, their heirs, successors and assigns, that Catharine Township may take such action as is necessary and that Catharine Township and/or its representatives may enter upon the premises in order to implement and complete decommissioning at the expense of the owner and/or lessee and their heirs, successors and assigns.

XIV. The owner and/or lessee of any premises who does any act in violation of this ordinance shall be subject to a fine of \$300.00 for each violation. Each day that a violation continues unabated, shall constitute a separate violation. In the event of nonpayment of the above mentioned fine for violation, Catharine Township or the Supervisors of Catharine shall institute civil proceedings before the magisterial district judge for collection of all fines, costs and fees pursuant to the applicable provisions of

the Second Class Township Code and specifically 53 PS 66601 as supplemented and amended.

XV. All ordinances, resolutions or parts thereof inconsistent herewith are hereby repealed.

XVI. The effective date of this ordinance shall be five days after the enactment and ordaining thereof.

XVII. If any section, portion or provision of this ordinance is judicially held to be illegal, unconstitutional or unenforceable, such decision shall not effect the remainder hereof and it is hereby declared to be the intent and purpose of the Board of Supervisors of the Township of Catharine that this ordinance would have been adopted if any such illegal, unconstitutional or unenforceable provisions had not been included herein.

CATHARINE TOWNSHIP BOARD OF SUPERVISORS

Joseph J. Russo
David A. Bigelow Sr.
Bennie Lyland