

**WEST AMWELL TOWNSHIP**  
**Ordinance 3, 2011**

**AN ORDINANCE TO AMEND CHAPTER 109 OF THE CODE OF THE TOWNSHIP OF WEST AMWELL TO PROVIDE REGULATIONS REGARDING RENEWABLE ENERGY FACILITIES**

**WHEREAS**, the Township of West Amwell recognizes the growing trend of residential and commercial properties installing solar and wind structures to produce renewable energy, and

**WHEREAS**, use of renewable energy is one way for a property to reduce its impact on the environment and solar and wind energies are abundant, non polluting and renewable energy resources, and

**WHEREAS**, in recognition of the above statements the New Jersey Legislature has recently amended the Municipal Land Use Law (N.J.S.A. 40:55D) to permit renewable energy facilities in industrial zones on sites of 20 acres or larger and to recognize renewable energy facilities as inherently beneficial uses, and

**WHEREAS**, the Planning Board and the Environmental Commission have determined that there exists the need to regulate the use and placement of renewable energy facilities and structures in light of the current national and regional trend toward the development of renewable energy generating systems. And that existing zoning regulations do not address this emerging trend as it may impact the use of valuable natural resources, rural character and farmland in West Amwell Township; and

**WHEREAS**, the Planning Board and the Environmental Commission have considered recent legislation enacted in the State of New Jersey declaring certain renewable energy generating systems inherently beneficial uses to the citizens of this State and the Planning Board and the Environmental Commission believe there is a need to balance the development of these uses with State and local land use goals and objectives to protect the natural resources, including farmland, and the rural character of West Amwell Township, while allowing for the development of renewable solar or photovoltaic and wind energy facilities and structures in an orderly way; and

**WHEREAS**, the West Amwell Township Committee acknowledges that existing ordinance standards do not adequately provide for the orderly use and development of lands in the Township of West Amwell for solar or photovoltaic and wind energy facilities and structure installations for individual homeowners and business establishments and for larger installations that are capable of generating electrical power for the general citizenry of the State, region, and community, and concurs with the recommendations of the Planning Board.

**NOW, THEREFORE**, be it ordained by the Mayor and Township Committee of the Township of West Amwell that the Land Use Code of the Township of West Amwell shall be amended as follows:

**SECTION I - SOLAR, DEFINITIONS**

CHAPTER 109 – Zoning, of the Ordinances of West Amwell Township, Article I, General Provisions, 109-4, Definitions is hereby amended and supplemented with the following new definitions:

**MINOR SOLAR OR PHOTOVOLTAIC ENERGY FACILITY OR STRUCTURE -**  
"Minor solar or photovoltaic energy facility or structure " or "minor solar or photovoltaic energy system" means a solar or photovoltaic panel or system of panels for the production of energy that:

1. Uses solar energy as its fuel; is located on the power beneficiary's premises; is designed and intended primarily to offset part or all of the beneficiary's requirements for energy consumption on site; and is secondary to the beneficiary's use of the premises for other lawful purpose(s); or,
2. Is intended to mitigate electrical system improvement requirements; and
3. Generates not more than 110% of the power consumed by the beneficiary's premises, which shall be documented through the submission of power company electricity usage bills for the twelve months prior to the date of application, or another form of documentation acceptable to the West Amwell Township Zoning Officer. This documentation shall be provided at the time of application.

**MAJOR SOLAR OR PHOTOVOLTAIC ENERGY FACILITY OR STRUCTURE -**  
Major solar or photovoltaic energy facility or structure or major solar or photovoltaic energy system means a system of solar or photovoltaic panels and equipment for the production of energy that is not a minor solar or photovoltaic energy facility or structure.

**PANEL -** A solar panel is an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes, but is not limited to, flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy or array.

**SECTION II – SOLAR, ZONING**

Chapter 109 of the Ordinances of West Amwell Township, Article II, District Regulations, permitted Accessory uses and Conditional uses in 109-79, the SRPD District; 109-80, the RR-6 District; 109-81, the RR-5 District; 109-82, the RR-4 District; 109-83, the R-9 District; 109-84, the NC District; 109-86, the HC District and 109-87, the

LHC District is hereby amended and supplemented, by adding the following new subsections in the above Districts, as follows:

1. Permitted Accessory Uses – Minor solar or photovoltaic energy facilities or structures. Minor solar facilities shall be permitted to be ground mounted and mounted to principal and accessory structures and buildings, provided however that in the case of a roof mounted system, the photovoltaic solar panels and all necessary equipment shall not extend more than 12” beyond the edge of the roofline or 12” above the highest point of the roof surface or structure. Flat roofs shall be exempt from the height requirement. However, panels on a flat roof shall not extend more than 5 feet above the roof line. Minor solar facilities shall have a setback requirement consistent with building regulations. In the case of a surface level or ground mounted system, the system shall be situated more than 50 feet from the nearest property boundary line. Minor solar ground mounted facilities located less than 50 feet from the nearest property line shall require minor site plan approval prior to obtaining a zoning permit and shall have setback requirements consistent with building regulations. Notwithstanding, these systems shall not exceed the maximum building height in the zoning district. Cadmium telluride solar panels shall not be permitted due to the highly carcinogenic nature of cadmium and the possible detrimental effects on children, wildlife, water supplies and the environment.
2. Conditional Uses - Major solar or photovoltaic energy facilities or structures.

Chapter 109 of the Ordinances of West Amwell Township, Article II, District Regulations, Permitted Uses, Accessory and Conditional uses in the 109-85, the LI District is hereby amended and supplemented, by adding the following new subsections in the above District, as follows:

1. Permitted Uses - Major solar or photovoltaic energy facilities or structures on a parcel or parcels of land comprising 20 or more contiguous acres that are owned by the same person or entity.
2. Permitted Accessory Uses - Minor solar or photovoltaic energy facilities or structures. Minor solar facilities shall be permitted to be ground mounted and mounted to principal and accessory structures and buildings, provided however that in the case of a roof mounted system, the photovoltaic solar panels and all necessary equipment shall not extend more than 12” beyond the edge of the roofline or 12” above the highest point of the roof surface or structure. Flat roofs shall be exempt from the height requirement. However, panels on a flat roof shall not extend more than 5 feet above the roof line. Minor solar facilities shall have a setback requirement consistent with building regulations. In the case of a surface level or ground mounted system, the system shall be situated more than 50 feet from the nearest property boundary line. Minor solar ground mounted facilities located less than 50 feet from the nearest property line shall require minor site plan approval prior to obtaining a zoning permit and shall have setback requirements consistent with building regulations. Notwithstanding, these systems shall not exceed the maximum

building height in the zoning district. Cadmium telluride solar panels shall not be permitted due to the highly carcinogenic nature of cadmium and the possible detrimental effects on children, wildlife, water supplies and the environment.

3. Conditional Uses - Major solar or photovoltaic energy facilities or structures on a parcel of land comprising less than 20 acres.

### **SECTION III – SOLAR, CONDITIONAL USE STANDARDS**

All major solar or photovoltaic energy facilities or structure installations shall comply with all applicable state and federal laws and regulations and shall also comply with the following standards. Preliminary and final site plan approval shall be obtained prior to obtaining a zoning permit.

1. Minimum lot size: 20-acres. In the LI Zone the 20 acre minimum lot size does not apply for conditional use standards. Solar installations on preserved and commercial farmland shall be subject to the State Agriculture Development Committee (SADC) regulations.
2. No soil shall be removed from any site upon which major solar or photovoltaic energy facilities and structures or other necessary equipment required for the solar facility are constructed as per the West Amwell Township Soil Removal Ordinance (138, 1-6). Grading within Prime Farmland and Farmlands of Statewide Significance shall be limited to only that necessary to construct access roads and for construction of inverter and switching equipment pads.
3. Except pursuant to a permit issued by the New Jersey Department of Environmental Protection (NJDEP), no portion of major solar or photovoltaic energy facilities and structures shall occupy areas of land designated and regulated by NJDEP as floodplains, flood hazard areas, wetlands, wetland transition areas or riparian corridors. An applicability determination from the NJDEP shall be provided to document the presence and/or absence of these regulated areas. Buffer maintenance shall be consistent with the West Amwell Stream Corridor Protection Ordinance (109-146).
4. Major solar or photovoltaic energy facilities and structures shall not occupy any area beyond the required principal building setbacks for the zone in which the facility is located, exclusive of poles for interconnection of the facility to the electrical grid. Setback requirements shall be equal to the principal building setback in the zone or the minimum vegetated visual and security buffer requirement, whichever is greater. A minimum 50 foot wide vegetated visual screen shall separate solar or photovoltaic facilities from properties in residential zone districts, a minimum 30 foot wide visual screen shall separate such facilities from public roads, and a 20 foot wide visual screen shall separate such facilities from properties in a nonresidential zone district.

5. Major solar or photovoltaic energy facilities and structures shall be visibly screened from the public traveled way (public roads, trails, navigable waterways, scenic highways and by-ways), open space, preserved farmland, publicly owned properties and historic resources, including sites and buildings listed or eligible for listing on the State and National Registers of Historic Places.
  - a. To the extent achievable, solar or photovoltaic energy facilities and structures shall be sited using the natural topography to screen the energy project from public view and the view of any adjoining residences.
  - b. If the property is adjacent and contiguous to a permanently preserved farm, open space and/or public access easements it shall buffer the farm, open space and/or easements from view.
  - c. The following minimum screening requirements shall be met. However, notwithstanding the minimum requirements, the applicant shall demonstrate, to the satisfaction of the Planning Board or Zoning Board, whichever has jurisdiction, that the proposed screening provides a visual screen of the facility from neighboring properties. Additional screening may be needed to meet this requirement as determined by the board of jurisdiction.
    - (1) Screening shall consist of a combination of native plantings, to the extent possible. Alternately, an earthen berm may be employed if existing vegetated screening and native plantings will not suffice to provide the necessary buffer and maintain the rural character of the Township. The need for and location of vegetative screens includes the identification of appropriate species and varieties of vegetation to ensure that there is adequate visual screening throughout the year.
    - (2) The landscaping plantings shall be designed for enhancing the quality of the soil and the ability of the land to absorb rainwater.
    - (3) Landscaping shall be limited to the extent possible of native species of deciduous and coniferous trees and shrubs that are indigenous to the area, as listed in the Natural Resource Inventory, and shall not include invasive species as listed in Natural Resource Inventory of West Amwell Township. Such plantings shall be depicted on a plan prepared by a licensed professional. The applicant shall rely upon existing vegetation, including existing hedgerows or windbreaks that provide screening, to the maximum extent practical. The appropriate height or caliper of the vegetation to be planted shall ensure that there is a 75 percent screening of the solar energy generation facilities within five years of completing the installation of the facilities. A photo simulated exhibit depicting screening at key locations at the projected five year period shall be required.
    - (4) A barrier shall be installed behind the required screen which shall:

- (a) Secure the facility at all times.
  - (b) Restrict access to all electrical wiring that may be readily accessible.
  - (c) All electrical control equipment shall be labeled and secured to prevent unauthorized access.
  - (d) Conform to the Uniform Construction Code and other applicable standards.
  - (e) One or more access gates to the facility shall be provided. Each access gate shall include a sign identifying the property owner as well as responsible parties for operation of the major solar and photovoltaic energy facilities and structures; for maintenance of the facility; and for maintenance of the visual screen, landscaping and security fence. Contact information for all of the above responsible parties shall be provided on each access gate sign.
  - (f) No signs shall be posted on a solar facility or any associated building, structures, or fencing with the exception of access gate signs, appropriate warning signs, and manufacturer's or installer's identification.
  - (g) All transformers and high voltage equipment shall be situated within a compound, which shall be enclosed within a security fence and access gate, which shall remain locked at all times. If appropriate, the entire facility shall be enclosed within a security fence and access gate.
  - (h) The height of security fences and access gates shall not exceed 8'. Barbed wire fences are not permitted except in cases where it is demonstrated to the satisfaction of the board of jurisdiction that barbed wire fencing is required for security purposes. In such cases the total height of the fence and access gates including barbed wire shall not exceed 8'. Approval of barbed wire fencing for solar facilities is at the discretion of the board of jurisdiction.
6. A Maintenance Plan shall be submitted by the applicant for the continuing maintenance of all required plantings, including a schedule of specific maintenance activities to be conducted. A Maintenance Plan narrative shall also be included on the site plans in note form. Maintenance of the required landscaping and fencing shall be a continuing condition of any approval that may be granted. A cost estimate for required plantings shall be presented as part of any application and a 5 year maintenance bond approved by the Township Engineer shall be a condition of approval. The Maintenance Plan shall be environmentally responsible.
7. All ground areas occupied by a major solar or photovoltaic energy facility or structure installation that are not utilized for access to operate and maintain the installation shall be planted and maintained with shade tolerant grasses for the purpose of soil erosion control and soil stabilization:

- a. A seed mixture of native, non-invasive shade tolerant grasses shall be utilized and specified in a landscaping plan that shall be provided.
  - b. If it can be demonstrated by the applicant that an alternative vegetative ground cover consisting of a seed mix of native, non-invasive plant species and non-native, non-invasive shade tolerant species shall be accepted for soil erosion control and soil stabilization, and the alternative can be better sustained over the life of the facility, the reviewing Board may approve such an alternative to the requirement for native, non-invasive shade-tolerant grasses or mix of grasses.
  - c. To the extent possible, roadways within the site shall not be constructed of impervious materials in order to minimize the amount of soil compaction. Roadways shall be constructed to the minimal extent possible.
  - d. The bed and banks of existing drainage ditches, brooks, streams and drainage swales shall be maintained in their natural condition, except that where soil erosion is evident in these features due to a lack of suitable stabilized vegetation. The Board of jurisdiction may require such areas to be planted and stabilized in accordance with the recommendations found in Chapter 8, Restoration Design, of the publication entitled Stream Corridor Restoration, Principles, Processes and Practices, 10/98 Published Version. Revised 8/2001, prepared by the Natural Resource Conservation Service and available at [www.nrcs.usda.gov/technical/stream\\_restoration/newtofc.htm](http://www.nrcs.usda.gov/technical/stream_restoration/newtofc.htm).
  - e. The components of this plan may be combined with the requirements of the Grading and Drainage Plan. See Section III, 8, below.
8. The required landscaping plan shall include the provision of adequate and appropriate drainage features, which shall be designed such that site grading and construction maximizes the natural drainage patterns of stormwater originating within the property boundaries and beyond property boundaries. If grading is proposed, then a grading and drainage plan shall be submitted, which shall demonstrate that the project is in compliance with the Township's stormwater ordinance and other applicable state standards.
- a. A grading and drainage plan, including a soil erosion, a soil stabilization and a soil grading plan shall be submitted under the seal of a licensed professional engineer prior to any permits being issued. The plan shall adequately demonstrate to the board of jurisdiction's engineer that no stormwater runoff or natural water shall be diverted as to overload existing drainage systems or create flooding. Such plan shall also address the need for additional drainage structures on other private properties or public lands.
  - b. The grading and drainage plan shall show, among other things:

- (1) All existing and proposed natural and artificial drainage courses and other features for the control of drainage, erosion, and water generally;
  - (2) The calculated volume of water run-off from the slope and from the lot in question, as proposed to be improved; the existence of all natural and artificial drainage courses and facilities within 500 feet of the lot, which are or will be used to carry or contain the run-off from the slope and the lot; and
  - (3) The effect of any increased water runoff on all adjacent properties and any other property which will be materially affected by increased water run-off.
- c. Calculations shall be provided to adequately demonstrate that existing preconstruction stormwater drainage velocities shall not be exceeded in the post development condition.
  - d. The use of stone shall not be permitted for soil erosion control and soil stabilization unless as part of an overall plan approved by the board of jurisdiction.
9. In addition to those items required for an application to be deemed complete, a site plan application shall depict the following:
- a. Location, dimensions, and types of existing structures on the property.
  - b. Location of proposed and existing overhead and underground utility and transmission lines.
  - c. Location of any proposed or existing substations, inverters or transformers.
  - d. Details of solar panels and arrays. Cadmium telluride solar panels shall not be permitted due to the highly carcinogenic nature of cadmium and the possible detrimental effects on children, wildlife, water supplies and the environment
  - e. Description of how the energy generated by the facility will be connected to the electrical distribution or transmission system or the electrical system of the intended energy user. This description shall also address the ability to disconnect the system in the event of an emergency or maintenance.
  - f. Description of shielding of any electric equipment to prevent interference of radio or television reception at the property line.
  - g. Description of any necessary upgrades or modifications to existing substations or the necessity for a new substation.
  - h. For projects over 2MW, the location and elevations of all transmission lines, support structures and attachments to a substation(s).

- i. Location and condition of existing hedgerows and vegetated windbreaks.
  - j. A description of any lighting and its impact on neighboring residences and properties.
  - k. A construction plan to include, but not limited to mounting techniques and a description of on site construction.
  - l. A description of glare on neighboring properties and residences.
10. An as-built plan shall be provided prior to activation.
11. Permitted height – the maximum permitted vertical height above ground for solar and photovoltaic energy panels shall be 15’.
12. The use of lead-acid batteries shall not be permitted in major solar energy systems and facilities except as standby power supplies for control systems. Cadmium telluride solar panels shall not be permitted due to the highly carcinogenic nature of cadmium and the possible detrimental effects on children, wildlife, water supplies and the environment.
13. Solar energy generation facilities shall be designed to comply with either of the following standards for sound emission:
- a. The sound level shall not exceed 40 dBA when measured at any point on the property line of the solar facility; or
  - b. The sound level shall not exceed the ambient sound levels measured at locations at the property line of the solar facility that reasonably represent current or potential off-site sensitive receptors in accordance with the following requirements:
    - (1) Ambient sound level measurements shall be made with an octave band sound level meter during daylight hours for periods of at least one half hour and on three separate occasions, a minimum of four hours apart, representing morning, mid-day and evening, at least one of which shall be during a non-rush hour. The meter shall be set for slow response with a one second sampling interval; and
    - (2) The data reported for each occasion shall be the octave band values (31.5 Hz to 8,000 Hz) from the one second sample that represents the L90 or Lmin broadband value (“unweighted” or “flat” response, e.g., dBZ).
14. Any disturbance of wooded or forested areas shall be in compliance with the West Amwell Woodlands Protection Ordinance (109-264).

15. All applications for a major solar facility shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of solar energy systems. The decommissioning plan shall be submitted in accordance with the requirements of this section. The decommissioning plan shall also be documented on the site plans in note form. Prior to removal of solar energy systems a demolition permit for removal activities shall be obtained from the West Amwell Township construction official. Disconnection of solar energy systems shall be supervised by an electrician licensed in the State of New Jersey. The Zoning Official shall be responsible for compliance with the decommissioning plan.
- a. Solar and photovoltaic energy facilities and structures which have not been in active and continuous service for a period of 18 months shall be removed from the property to a place of safe and legal disposal in accordance with a Decommissioning Plan.
  - b. If the applicant ceases operation of the energy project for 18 months; or begins, but does not complete, construction of the project within 18 months of receipt of final site plan approval, the applicant shall restore the site according to a decommissioning plan prepared by the applicant and approved by the Board. The applicant shall submit a decommissioning plan that ensures that the site will be restored to a useful, non-hazardous condition without significant delay, including but not limited to the following:
    - (1) Removal of aboveground and underground equipment, structures and foundations. The plan shall describe the means by which all equipment and components of the system(s) shall be disposed of in an environmentally responsible manner and in accordance with prevailing Federal, State and local regulations.
    - (2) Restoration of the surface grade and soil after removal of aboveground structures and equipment.
    - (3) Revegetation of restored soil areas with native seed mixes, plant species suitable to the area, which shall not include any invasive species. In farmland areas, the revegetation component of the decommissioning plan may include provisions to resume agricultural use of the site.
    - (4) The plan must provide for the protection of public health and safety and for protection of the environment and natural resources during site restoration. The decommissioning of all solar energy generation facilities shall be done in accordance with a conservation plan designed to address the impacts of the decommissioning process.
    - (5) The plan must include a timeline for completion of site restoration work.

- c. Upon cessation of activity for a cumulative period of 18 months of construction or installation activities of an approved major solar or photovoltaic energy system, the Township may notify the owner and/or the operator of the facility to complete construction and installation of the facility. If the owner and/or operator fail to complete construction and installation activities within 180 additional days, the Township may order the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or or operator shall substantially complete all activities in the decommissioning plan.
- d. Upon cessation of activity of a fully constructed major solar or photovoltaic energy system for a cumulative period of one year, the Township may notify the owner and/or the operator of the facility to implement the decommissioning plan. The Township Zoning Official shall be responsible for enforcement.
- e. If the operator fails to fully implement the decommissioning plan subject to the procedures and timelines set forth in subsections (e) and (f) above, or is otherwise unable to restore the site as required within 180 days of the Township's service of notice in accordance with this section, the Township may, at its own expense, provide for the restoration of the site in accordance with the decommissioning plan and may in accordance with the law recover all expenses incurred for such activities from the defaulted operator and/or the property owner. The costs incurred by the municipality shall be assessed against the property, shall become a lien and tax upon the said property, shall be added to and be a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officers and in the same manner as other taxes.

**SECTION IV – WIND, DEFINITIONS**

CHAPTER 109 – Zoning, of the Ordinances of West Amwell Township, Article I, General Provisions, 109-4, Definitions is hereby amended and supplemented with the following new definitions:

**WIND TOWER** - means the monopole, freestanding, or guyed structure that supports a wind generator.

**WIND GENERATOR** - means blades and associated mechanical and electrical conversion components mounted on top of the tower.

**MET TOWER** – means a meteorological tower to measure wind speeds and determine whether a site qualifies for a wind turbine.

**SMALL WIND ENERGY SYSTEM**- means an energy conversion system, consisting of a wind turbine, a tower, and associated control or conversion electronics, that is

used to generate electricity and has a nameplate capacity of 100 kilowatts or less which converts wind energy by means of a rotor into electrical power for the primary purpose of meeting all or a part of a dwelling's energy requirements and has a rated capacity consistent with applicable provisions of the State Uniform Construction Code promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119).

As used in these regulations, the primary application of a wind energy system is the conversion of wind by a machine with turbine apparatus (includes base, rotor blades, nacelle, tower, inverter, batteries or other component used in the system) capable of producing electricity by converting the kinetic energy of wind into electrical energy. The term does not include electrical distribution or transmission lines, or electrical substations.

SYSTEM HEIGHT - means the height above grade of the tower plus the wind generator.

## **SECTION V – WIND, ZONING**

Chapter 109 of the Ordinances of West Amwell Township, Article II, District Regulations, Conditional Uses in 109-79, the SRPD District; 109-80, the RR-6 District; 109-81, the RR-5 District; 109-82, the RR-4 District; 109-83, the R-9 District; 109-84, the NC District; 109-86, the HC District and 109-87, the LHC District; is hereby amended and supplemented, by adding the following new subsections in all Districts, as follows:

1. Conditional Uses - A small wind energy system.

Chapter 109 of the Ordinances of West Amwell Township, Article II, District Regulations, Permitted and Conditional Uses in the 109-85, the LI District, is hereby amended and supplemented, by adding the following new subsections in the above District, as follows:

1. Permitted Uses – Small wind energy systems on a parcel or parcels of land comprising 20 or more contiguous acres that are owned by the same person or entity.
2. Conditional Uses – A small wind energy system on a parcel or parcels of land comprising less than 20 acres.

## **SECTION VI – WIND, CONDITIONAL USE STANDARDS**

All wind energy systems, facilities or structure installations shall comply with all applicable state and federal laws and regulations and shall also comply with the following standards:

1. A small wind energy system shall be set back from the nearest property boundary a distance at least equal to 150 percent of the system height. The minimum lot size for free standing wind energy systems shall be 10 acres; there is no minimum lot size for roof mounted systems.
2. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.
3. A small wind energy system including tower shall comply with all applicable construction and electrical codes, and the National Electrical Code.
4. Small wind energy systems that connect to the electric utility shall comply with New Jersey's Net Metering and Interconnection Standards for Class I Renewable Energy Systems.
5. Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a wind energy system.
6. The noise level of any small wind energy system shall not exceed 55 decibels as measured at the closest property line. These levels may be exceeded during short term events such severe windstorms.
7. The wind generator and the tower shall remain painted in the color that was originally applied by the manufacturer, unless a different color is approved by the board of jurisdiction.
8. Maximum Height:
  - a. Roof top wind turbines shall not exceed a height of 10 feet from the peak of the roof.
  - b. System height of free standing wind turbines shall be as high as necessary to capture the wind energy resource, but shall not exceed 140 feet.
9. Any disturbance of wooded or forested areas shall be in compliance with the West Amwell Woodlands Protection Ordinance (109-264).
10. Permit requirements for a small wind energy system:
  - a. Site Plan approval from the Planning Board or Board of Adjustment, as appropriate, shall be required for the installation of a wind energy system.
  - b. Documents: The site plan application shall be accompanied by a plot plan which includes the following:

- (1) Property lines and physical dimensions of the property.
- (2) Location, dimensions, and types of existing structures on the property.
- (3) Location of the proposed wind energy system tower.
- (4) The right-of-way of any public road that is contiguous with the property.
- (5) Any overhead utility lines.
- (6) Wind energy system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed).
- (7) Stamped, engineered tower and tower foundation drawings signed and sealed by an engineer licensed in the State of New Jersey.
- (8) Noise levels of the proposed wind energy system at all property lines.
- (9) Proposed screening of the wind energy system from adjoining properties.
- (10) A description of any lighting and its impact on neighboring residences and properties.
- (11) A Wildlife Habitat Assessment Report shall be prepared, either as part of an Environmental Impact Statement or as a separate report that specifically addresses the wildlife habitat affected by the installation of a wind energy system. This report shall address the impacts to existing bird and bat populations by the wind energy system. Additionally, the report shall address the environmental resources of the New Jersey Department of Environmental Protection's Landscape Project and impacts to habitats ranked 3, 4, or 5 that indicate the presence of threatened or endangered species, including consideration for reducing or mitigating the effect of the wind energy system on the wildlife resources of the Township. This report shall document that the wind energy system will not endanger/kill the varied Threatened and Endangered species, bats and migratory birds of the Township.

11. A small wind energy system that is out-of-service for a continuous 12 month period shall be deemed to have been presumptively abandoned. The Zoning Officer may issue a Notice of Abandonment to the owner of a wind energy system that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. The Zoning Officer shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the wind energy system has not been abandoned. In the event that the Zoning Officer, after investigation, determines that a wind energy system has been abandoned, the Zoning Officer may issue a Notice of Abandonment during the presumptive 12 month period and the owner shall have the right to respond to the Notice of Abandonment.

If the wind energy system is determined to be abandoned, the owner of a wind energy system shall remove the tower and wind generator at the owner's sole expense within 3 months of receipt of Notice of Abandonment. If the owner fails to remove the tower and wind generator, the Zoning Officer may, at the option of the Township Committee, have the tower and wind generator removed at the owner's expense. The costs incurred by the municipality shall be assessed against the property, shall become a lien and tax upon the said property, shall be added to and be a part of the taxes to be levied and assessed thereon, and enforced and collected with interest by the same officers and in the same manner as other taxes.

**SECTION VII - VIOLATIONS**

It is unlawful for any person to construct, install, or operate a wind energy system or solar energy system that is not in compliance with this Ordinance or with any condition contained in a building permit issued pursuant to this Ordinance. Solar energy systems and wind energy systems approved and/or installed prior to the adoption of this Ordinance are exempt.

**SECTION VIII - SEVERABILITY**

The provisions of this Ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

**SECTION IX**

All other provisions of Chapter 109 – Zoning, of the Ordinances of West Amwell Township not modified herein shall remain unchanged and in full force and effect.

**SECTION X**

This ordinance may be renumbered for codification purposes.

**SECTION XI**

This Ordinance shall take effect immediately upon final passage, publication according to law, and filing with the Hunterdon County Planning Board.

APPROVED BY TOWNSHIP COMMITTEE

\_\_\_\_\_  
Thomas J. Molnar, Mayor

ATTEST:

\_\_\_\_\_  
Lora L. Olsen, RMC  
Township Clerk

## NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed on first reading at a meeting of the governing body of the Township of West Amwell, in the County of Hunterdon, State of New Jersey, held on February 23, 2011. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held in the municipal building, 150 Rocktown-Lamb. Rd., Lambertville NJ on March 23, 2011 at 7:00 p.m. All interested parties will be heard at this time.