

**LAFAYETTE TOWNSHIP
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE 2015-17

**AN ORDINANCE TO AMEND CHAPTER XIII OF THE TOWNSHIP OF
LAFAYETTE CODE, BEING THE ZONING CHAPTER, TO PROVIDE
A NEW SECTION REGARDING RENEWABLE ENERGY SYSTEMS**

WHEREAS, the Governing Body of the Township of Lafayette has determined that renewable energy systems are an abundant, renewable, and nonpolluting energy resource; converting wind and solar rays to electricity will reduce dependence on nonrenewable energy resources, and decrease air and water pollution that results from the use of conventional energy sources; distributed renewable energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the State's energy supply portfolio; and renewable energy systems make the electricity supply market more competitive by promoting customer choice; and

WHEREAS, New Jersey's Renewable Portfolio Standards require each supplier/provider, as defined at N.J.A.C. 14:8-1.2, that sells electricity to retail customers in New Jersey to provide a percentage of their retail electricity sales from renewable energy sources, increasing to 22.5 percent by 2021; and

WHEREAS, the Municipal Land Use Law, N.J.S.A. 40:55D-2 (n) provides that a purpose of zoning is utilization of renewable energy resources; and

WHEREAS, The Township finds that it is appropriate to standardize the requirements for renewable energy systems, so that they can be utilized in a cost-effective and appropriate manner in the Township.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lafayette that Chapter XIII of the Township of Lafayette Code, being the Zoning Chapter, shall be and is hereby amended as follows:

Section 1. §13-5 "Definitions" shall be and is hereby amended to include the following new definitions:

Renewable Energy System shall mean a system that engages in the production of electric energy from solar technologies, photovoltaic technologies, or wind energy.

Small Wind Energy System shall mean a wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity consistent with applicable provisions of the State Uniform Construction Code Act, N.J.S.A. 52:27D-119, *et seq.* [] and technical bulletins issued pursuant to N.J.S.A. 40:55D-66.13, and which will be used primarily for onsite consumption.

Solar Energy shall mean radiant energy (direct, diffuse, and reflected) received from the sun.

Solar Energy System shall mean any system or device which converts solar energy into a usable electrical energy, heats water or produces hot air or other similar function through the use of solar panels or collectors. It shall include panels, generators and all associated equipment, including any base, foundation, structural support, wire(s), batteries or other components necessary to fully utilize the solar energy.

Solar Panel shall mean one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy, heat water, or produce hot air or perform any other similar function by way of a solar energy system.

Solar Panel Array shall mean a combination of solar panels, including those which are ground and/or roof mounted.

System Height shall mean the height above grade of the renewable energy system.

Section 2. A new section §13-6.17 shall be and is hereby adopted as follows:

13-6.17- Renewable Energy System.

A. **Purpose.** The primary purpose of a **renewable energy system** shall be to provide power for the **principal use** of the property whereon said system is to be located and shall not be for the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a **renewable energy system** designed to meet the energy needs of the **principal use**. For the purposes of this ordinance, the sale of excess power shall be limited, so that in no event is a renewable energy system generating more energy for sale than what is otherwise necessary to power the **principal use** on the property.

B. **Applicability.** **Small wind energy** and **solar energy systems** shall be permitted as an accessory use on the same lot as the **principal use** in all districts, subject to the requirements of this section. **Renewable energy systems** shall be a permitted use on any lots comprising twenty (20) or more contiguous acres owned by the same person or entity within the LI Light Industry and EI Extractive Industry Districts. This ordinance shall not apply to roof-mounted solar energy systems which systems and equipment extend twelve (12) inches or less beyond the roofline or highest point of the roof structure on which the system is located. This ordinance shall also not apply to ground-mounted solar energy systems that consist of ten (10) or less panels, and are situated more than fifty (50) feet from the nearest property boundary line.

All **renewable energy systems** require approval from the zoning officer and the construction official prior to installation. Applications for **small wind energy** and **solar energy systems** shall include information demonstrating compliance with the provisions of this section. In the event that the zoning officer or construction official does not believe the provisions of this section are satisfied, an applicant may request and/or file a variance application with the Township Land Use Board.

1. **Small wind energy** and **solar energy systems** accessory to a permitted **principal use** shall be allowed in any zoning district and may be installed upon receipt of the necessary construction, electrical and/or mechanical permit(s). This section applies to **small wind energy** and **solar energy systems** to be installed and constructed for both residential and commercial use.

2. **Renewable energy systems** that are the **principal use** of a **lot** are governed by other sections of the Lafayette Township Zoning Ordinance, in accordance with the applicable zoning district regulations.

C. **Design and Installation.** **Renewable energy systems** shall comply with the accessory structure restrictions contained in the zoning district where the system is located, unless otherwise set forth below:

1. The systems shall conform to all current industry standards, including the National Electric Code as adopted by the NJ Department of Community Affairs.
2. All exterior electrical, utility and/or plumbing lines must be buried below the surface of the ground and be placed in a conduit. All electrical, utility and/or plumbing lines leading down the side of a structure from rooftop installations shall be installed and maintained as aesthetically as possible.

3. **Renewable energy systems** that connect to the electric utility shall comply with the applicable interconnection standards for Class I Renewable Energy Systems, as may be amended.
4. The systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the system. In no case shall any identification be visible from a **lot line**.
5. The design of **renewable energy systems** shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the system into the natural setting and existing environment.
6. The installation of a **wind or solar energy system** shall conform to the extent applicable to the Uniform Construction Code, as amended, and is subject to all local utility company requirements for interconnection.

D. Setbacks and Height Restrictions

1. A **renewable energy system** must comply with all setback and height requirements for the zoning district where the system is to be installed, unless otherwise set forth in §13-6.17.
2. When a building or cabinet is necessary for storage cells or related mechanical equipment, it must be documented as to the necessity. The building may not exceed 120 square feet in area nor fifteen (15) feet in height and must be located at least the number of feet equal to the accessory building setback requirements of the Zoning District from any **lot line**. Any mechanical equipment associated with and necessary for operation, including any building or cabinet for batteries and storage cells, shall be equipped with a functioning lock and posted with a small sign notifying the existence of **renewable energy system** equipment on the outside of the building or cabinet, in order to notify emergency personnel.

E. Abandonment

A **renewable energy system** that is out of service for a continuous 12-month period shall be deemed abandoned. The municipal zoning officer may issue a notice of abandonment to the owner of an abandoned **renewable energy system**. The owner shall have the right to respond to the notice of abandonment within 30 days from the receipt date. The municipal zoning officer shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides the municipal zoning officer with information demonstrating the **renewable energy system** has not been abandoned. If the **renewable energy system** is determined to be abandoned, the owner of the **renewable energy system** shall remove the system at the owner's sole expense within three months of receipt of notice of abandonment. If the owner fails to remove the **renewable energy system**, the Township may pursue a legal action to have the system removed at the owner's expense.

F. Solar Energy Systems

Solar energy systems shall not be permitted in a front yard, and shall be located so that any glare is directed away from an adjoining property. **Solar panels** shall not add, contribute to or be calculated to cause an increase in **impervious surface coverage or ratio** of any lot.

1. Rooftop Solar Panels

Solar panels shall be permitted as a rooftop installation in any zoning district. The **solar panels** shall not exceed a height of twelve (12) inches above the highest point of the roof structure. In no event shall the placement of **solar panels** result in a total height, including building and panels, greater than one (1) foot in excess of

what is permitted for the **principal structure** in the zoning district in which they are located. Panels installed in a rooftop configuration must be installed within the actual boundaries or edges of the roof area and cannot overhang any portion of the edge of roof. **Solar panels** installed in a rooftop configuration should be installed on the rear roof area to the extent possible.

2. Ground-Mounted **Solar Panels**

Solar panels may be installed on a ground-mounted apparatus only on lots with a minimum lot size of three (3) acres. The principal building setback as required by the applicable zone shall be required between any ground-mounted **solar panel** and any **lot line**. Ground-mounted **solar panels** shall not exceed a **height** of fifteen (15) feet.

3. No additional rights.

Any approval of a **solar energy system** does not create any actual or inferred **solar energy system** easement against adjacent property and/or structures. The owner and/or property owner of a **solar energy system** shall not infer or claim any rights to protective writs to any caused shadows or operating ineffectiveness against future development adjacent to or higher than the property location of the **solar energy system**. The approval of any **solar energy system** granted by the Township under this article shall not create any future liability or infer any vested rights to the owner and/or property owner of the **solar energy system** on the part of the Township or by any other officer or employee thereof for any future claims against said issuance of approval of the **solar energy system** that result from reliance on this article or any administrative decision lawfully made thereunder.

G. Small Wind Energy Systems.

1. Design Criteria.

- a. **Wind generators** shall be designed with an automatic brake or other similar device to prevent over-speeding and excessive pressure on the tower structure.
- b. **Small wind energy systems** shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- c. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- d. 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 (8) feet above the ground.
- e. All moving parts of the **small wind energy system** shall be a minimum of ten (10) feet above ground level.
- f. The blades on the **small wind energy system** shall be constructed of a corrosive resistant material.
- g. All guy wires or any part of the wind energy system shall be located on the same lot as the energy system.
- h. All equipment, sheds and tower bases shall be enclosed with a security chain link or wood fence of at least seven (7) feet in height, but no higher than eight (8) feet unless otherwise approved by the Zoning Officer. All fences shall include a functioning locking security gate.

- i. The connection between the **small wind energy system** and the building, electrical grid or street shall be underground.
2. Bulk requirements:
 - a. Minimum lot size ten (10) acres.
 - b. Minimum setbacks: All **wind generators** shall be setback from all setback lines a distance equal to 100% of the height of the structure plus 10 feet, including the blades.
 - c. **Wind generators** shall not be permitted in any front yards, unless application is made to and granted by the Land Use Board, based upon topographic conditions.
 - d. Maximum Height. Freestanding **wind generators** shall not exceed a height of 120 feet, plus blades but in no event higher than 145 feet. The maximum height shall include the height of the blades at its highest point. If a height variance is granted, any approved tower must be monopole construction.
 - e. No more than one **wind generator** shall be permitted on any parcel of property.
 - f. **Wind generators** shall not be allowed as rooftop installations.
 - g. **Wind generators** on properties shall have a nameplate capacity (maximum ability to generate energy) of 20 kilowatts or less. If a kilowatt variance is granted, then the approved tower must be of monopole construction.
 - h. Towers for the **wind generators** shall have footprints no larger than 13 feet x 13 feet in size.
 - i. The highest elevation (mean sea level) of small wind energy systems shall be limited to 640 feet in accordance with the Township's Ridgeline and Hillside Viewshed Protection Overlay Zone Ordinance.
3. Noise. All **small wind energy systems** shall comply with the following:
 - a. Between a residential use or zone, sound levels of the wind energy system shall not exceed a 55 dBA at a common property line and 50 dBA to the closest occupied structure.
 - b. In all other cases at a common property line sound levels of the wind energy system shall not exceed 65 dBA.
 - c. These levels may be exceeded during short-term events such as utility outages and/or severe windstorms, for a maximum of four (4) hours.
4. Site Location. It is important to preserve the scenic beauty of the Township's **ridgeline and hillside viewshed protection area**, with the understanding that the ridgeline may be optimum site location. With that understanding, the location of the **wind generators** should take into consideration **ridgelines**, scenic vistas, the size of the generator proposed, the location of the residence on the property, nearby residences and other pertinent factors.

Section 3. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason by any Court of competent jurisdiction, such provision(s) shall be deemed severable and the remaining portions of this Ordinance shall remain in full force and effect.

Section 4. All ordinances or parts of ordinances or resolutions that are inconsistent with the provisions of this Ordinance are repealed to the extent of such inconsistency.

Section 5. The Township Clerk is directed to give notice at least ten days prior to the hearing on the adoption of this ordinance to the County Planning Board and to all others entitled pursuant to the provisions of N.J.S.A. 40:55D-15. The Township Clerk is further directed to refer this Ordinance to the Township Land Use Board, pursuant to N.J.S.A. 40:55D-64. Upon the adoption of this ordinance, after public hearing, the Township Clerk is further directed to publish notice of the passage and to file a copy of this ordinance, as finally adopted, with the Sussex County Planning Board, as required by N.J.S.A. 40:55D-16.

Section 6. This Ordinance shall take effect after publication and passage according to law.

NOTICE

The above entitled Ordinance was introduced and passed at first reading by the Lafayette Township Committee at a meeting held on October 20, 2015 and after publication and a public hearing was finally adopted by the Lafayette Township Committee at a meeting held on November 4, 2015.

Mayor:

Municipal Clerk: