

**BOROUGH OF MOUNT POCONO
MONROE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2 of 2011

**AN ORDINANCE AMENDING CHAPTER 215 - ZONING OF THE CODE OF THE
BOROUGH OF MOUNT POCONO, MONROE COUNTY, PENNSYLVANIA, TO
ALLOW ACCESSORY SOLAR ENERGY SYSTEMS IN ALL ZONING DISTRICTS
AND TO ADD RELATED DEFINITIONS AND STANDARDS.**

BE IT HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Mount Pocono, Monroe County, Pennsylvania, by the authority of and pursuant to the provisions of Act of July 31, 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, as reenacted and amended, known and cited as the *Pennsylvania Municipalities Planning Code*; that the Borough of Mount Pocono's Zoning Ordinance, Chapter 215 of the Code of the Borough of Mount Pocono, is hereby amended as follows:

ITEM 1: Add the following definitions to § 215-12:

SOLAR ACCESS - A property owner's right to have sunlight shine on the owner's land

SOLAR ENERGY SYSTEM, ACCESSORY - An energy conversion system, including appurtenances, which converts solar energy to a usable form of energy to meet all or part of the energy requirements of the on-site user. This definition shall include the terms passive solar and active solar systems.

SOLAR GLARE - The effect produced by light reflecting from a solar panel with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

MECHANICAL EQUIPMENT (relating to accessory solar energy systems and accessory wind turbine generators) - Any device, such as an outdoor electrical unit/control box, that transfers the energy from the energy system to the intended on-site structure.

WIND TURBINE GENERATORS, ACCESSORY - A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower or other support structure, and pad transformer, if any, and which is sized and intended to be used to generate electricity for the principal structure to which it is accessory.

ITEM 2: Add the following § 215-21.O:

- O. Solar energy systems, accessory. It is the purpose of this regulation to promote the safe, effective and efficient use of solar energy systems (herein referred to as *systems*) installed to reduce the on-site consumption of utility supplied energy and/or hot water as a permitted accessory use while protecting the health, safety and welfare of adjacent and surrounding land uses through appropriate zoning standards. In addition to the other applicable standards of this Chapter 215, the specific standards in this § 215-21.O shall apply. Where said other applicable standards and the specific standards overlap, the specific standards shall supersede the other applicable standards.
- (1) Standards. The installation and construction of an accessory solar energy system shall be subject to the following development and design standards:
 - (a) Districts. A solar energy system is permitted in all zoning districts as an accessory structure to a principal use.
 - (b) On-site use. The system shall provide power for the principal use and/or accessory use of the property on which the system is located and shall not be used for the generation of power for the sale of energy to other users, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time to the local utility company.
 - (c) Utility company. The owner of a system proposed to be connected to the utility grid shall provide written authorization from the local utility company to the Borough of Mount Pocono acknowledging and approving such connection.
 - (d) Mounting. A solar energy system may be roof mounted or ground mounted.
 - (e) Roof mounted. A roof mounted system may be mounted on a principal building or accessory building. A roof mounted system, whether mounted on the principal building or accessory building, shall not exceed the maximum principal building height or accessory building height specified for the building type in the underlying zoning district. In no instance shall any part of the solar energy system extend beyond the edge of the roof.
 - (f) Ground mounted. A ground mounted system shall not exceed the maximum building height for accessory buildings.
 - (g) Lot Coverage. The surface area of a ground mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
 - (h) Front yard setback. A ground mounted system or system attached to an accessory building shall not be located within the required front yard setback.

- (i) Property lines. The minimum system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.
- (j) Mechanical equipment. All mechanical equipment associated with and necessary for the operation of the system shall comply with the following:
 - [1] Mechanical equipment shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other non-invasive plant species which provides a visual screen. In lieu of a planting screen, a decorative fence or an accessory structure meeting the requirements of the Zoning Ordinance may be used.
 - [2] Mechanical equipment shall not be located within the minimum front yard setback of the underlying zoning district.
 - [3] Mechanical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district.
- (k) Radiation or glare. Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.
- (l) Airports. Solar panels shall not be placed in the vicinity of any airport in a manner that would interfere with airport flight patterns. The Zoning officer may require acknowledgement from the Federal aviation Administration in cases where any solar panel may interfere with airport flight patterns.
- (m) Transmission lines. All power transmission lines from a ground mounted system to any building or other structure shall be located underground.
- (n) Industry standards. The design of the system shall conform to applicable. A building permit shall be obtained for a solar energy system per the Pennsylvania Uniform Construction Code (UCC), Act 45 of 1999, as amended, and the regulations adopted by the Department of Labor and Industry. All wiring shall comply with the applicable version of the National Electric Code (NEC). The local utility provider shall be contacted to determine grid interconnection and net metering policies. The Applicant shall submit certificates of design compliance obtained by the equipment manufacturer from a certifying organization and any such design shall be certified by an Engineer registered in the Commonwealth of Pennsylvania.
- (o) Ordinances and codes. The system shall comply with all applicable Borough of Mount Pocono Ordinances and Codes so as to ensure the structural integrity of such system
- (p) Ownership and maintenance. Before any construction can commence on any system the property owner must acknowledge that he/she is the responsible party for owning and maintaining the system.
- (2) Removal and earth disturbance. If a ground mounted solar energy system is removed, any earth disturbance as a result of the removal shall be graded and reseeded.
- (3) Abandoned, defective or unsafe. If a ground mounted solar energy system has been abandoned (meaning not having been in operation for a period of six months) or is defective or is deemed to be unsafe by the Borough of Mount Pocono Zoning Officer, the solar energy system shall be required to be repaired by the owner to meet federal, state and local safety standards, or be removed by the owner within the time period established by the Zoning Officer. If the owner fails to remove or repair the defective or abandoned solar energy system, the Borough of Mount Pocono may pursue a legal action to have the system removed at the owner's expense.

ITEM 3: Add the following § 215-21.P:

- P. Wind turbine generators, accessory. An accessory wind turbine generator is a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower or other support structure, and pad transformer, if any, and which is sized and intended to be used to generate electricity for the principal structure to which it is accessory.
 - (1) Districts and standards. Accessory wind turbine generators and associated energy storage facilities are permitted in all districts. In addition to the other applicable standards of this Chapter 215, the specific standards in this § 215-21.O shall apply. Where said other applicable standards and the specific standards overlap, the specific standards shall supersede the other applicable standards.
 - (2) Height.
 - (a) The applicant shall demonstrate that the accessory wind turbine generator and support structure is no higher than recommended by the manufacturer's standards.
 - (b) The lowest portion of the wind rotor shall not be less than 25 feet above ground level.
 - (3) Setback.

- (a) No part of the wind turbine generator structure shall be located less than 1.25 times the total height of the wind turbine from property lines and public road rights-of-way as measured from the highest point of the rotor plane or support structure, whichever is higher.
 - (b) Guy wire anchors shall not extend closer than 10 feet to any property line or road-right-of-way.
- (4) Uniform Construction Code; manufacturer's standards.
 - (a) Applications for accessory wind turbine generators shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings, documenting compliance with the Uniform Construction Code.
 - (b) The generator and support structure shall be installed in accord with all Uniform Construction Code and manufacturer requirements.
 - (c) Prior to the issuance of a certificate of use the applicant shall provide certification from a Pennsylvania Registered Professional Engineer that the generator and support structure have been installed in accord with all Uniform Construction Code and manufacturer requirements. If deemed necessary by the Zoning Officer, the Zoning Officer may require certification from a registered professional engineer or a representative of the manufacturer
- (5) Climb prevention, locks, and fence.
 - (a) Wind turbines shall not include attached ladders or other such attachments that would allow access to the first 15 feet of the turbine above ground level.
 - (b) All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent access by non-authorized persons
- (6) Noise and shadow flicker.
 - (a) Audible sound from an accessory wind turbine generator shall comply with the requirements of § 215-35.G.
 - (b) Best efforts shall be used to minimize shadow flicker to any occupied building on any other parcel.
 - (c) For the purposes of this Subsection (6), occupied building shall mean a residence, school, hospital, church, public library or other building used for public gathering that is occupied or in use when the permit application is submitted.
- (7) Color and lighting; FAA. Accessory wind turbine generators and support structures, including rotors, shall be a non-obtrusive color such as white, off-white or gray. Wind turbines shall comply with all applicable Federal Aviation Administration (FAA) regulations. No wind turbine shall be artificially lighted, except as required by FAA.
- (8) Speed control. All wind turbine generators shall be equipped with manual and automatic over-speed controls to limit rotation of the wind rotor to a speed below the designed limits of the system.
- (9) Number on property. No more than one wind turbine generators shall be permitted on a single property.
- (10) Mechanical equipment. All mechanical equipment associated with and necessary for the operation of the system shall comply with the following:
 - (a) Mechanical equipment shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of shrubbery, trees, or other non-invasive plant species which provides a visual screen. In lieu of a planting screen, a decorative fence or an accessory structure meeting the requirements of the Zoning Ordinance may be used.
 - (b) Mechanical equipment shall not be located within the minimum front yard setback of the underlying zoning district.
 - (c) Mechanical equipment shall comply with the setbacks specified for accessory structures in the underlying zoning district.
- (11) Drawings; site plan. Permit applications shall be accompanied by detailed drawings of the wind turbine generator including the supporting structure, footings, electrical details and required equipment. The proposed installation shall be in compliance with manufacturer's standards, all applicable codes and be certified by a professional engineer. A plot plan shall be provided to document all required setbacks, and a survey may be required.
- (12) Certification. Upon completion of constructing a wind turbine generator, and prior to operation, the installer shall certify that all components have been installed in accordance with the plans and specifications that were submitted with the permit application.
- (13) Utility company. The owner of a system proposed to be connected to the utility grid shall provide written authorization from the local utility company to the Borough of Mount Pocono acknowledging and approving such connection.
- (14) Transmission lines. All power transmission lines from the generator to any building or other structure shall be located underground.

- (15) Ownership and maintenance. Before any construction can commence on any wind turbine generator the property owner must acknowledge that he/she is the responsible party for owning and maintaining the system.
- (16) Removal and earth disturbance. If a ground mounted wind turbine generator is removed, any earth disturbance as a result of the removal shall be graded and reseeded.
- (17) Abandoned, defective or unsafe. If a wind turbine generator has been abandoned (meaning not having been in operation for a period of six months) or is defective or is deemed to be unsafe by the Borough of Mount Pocono Zoning Officer, the wind turbine generator shall be required to be repaired by the owner to meet federal, state and local safety standards, or be removed by the owner within the time period established by the Zoning Officer. If the owner fails to remove or repair the defective or abandoned wind turbine generator, the Borough of Mount Pocono may pursue a legal action to have the system removed at the owner's expense.

SEVERABILITY

Should any section, subsection, clause, provision or other portion of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance; the Borough Council having adopted this Ordinance as if such invalid portions had not been included therein.

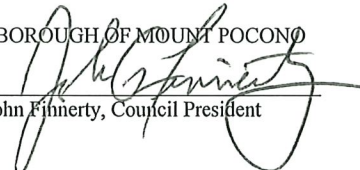
EFFECTIVE DATE

This Ordinance shall become effective immediately upon adoption.

ADOPTION

ORDINANCE ORDAINED AND ENACTED this 4th day of April, 2011, by the Borough Council of the Borough of Mount Pocono, Monroe County, Pennsylvania, to be effective immediately.

BOROUGH OF MOUNT POCONO

By: 
John Finnerty, Council President

ATTEST:


Lori Noonan, Borough Secretary

APPROVED this 4th day of April, 2011

By: 
Dan McDavitt, Mayor