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Article 1306  
Supplemental Regulations

1306.01	Nonconforming Uses and Structures	1306.07	Performance Standards
1306.02	Existing Lots of Record	1306.08	Off-Street Loading and Parking and Driveways
1306.03	Application of Yard Regulations	1306.09	Steep Slope Areas
1306.04	Landscaping Requirements	1306.10	Flood Hazard Areas
1306.05	Temporary Uses	1306.11	Satellite Dish Antennae
1306.06	Height Limitations	1306.12	Telecommunications Towers and Facilities
		1306.13	Wind Energy Systems

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**1306.01 NONCONFORMING USES AND STRUCTURES**

The following provisions shall apply to all nonconforming uses and structures. It is the intention of the City that all legal nonconforming uses and structures shall be able to continue; however, all changes in such uses shall only be as allowed in this Article; provided, however, notwithstanding the foregoing part of this section, any residential use in a Commercial District (C-1), Central Business District (CBD), or Industrial District (IN) may make such structural additions, alternations, or changes as are permitted in an R-3 Residential District.

- (a) A structure or use legally established prior to the adoption of this Ordinance may be maintained unchanged. In other than criminal proceedings, the owner, occupant or user shall have the burden to show when and how the structure or use was lawfully established.
- (b) Maintenance, repairs and structural alterations shall be permitted to be made to nonconforming structures or to a building housing a nonconforming use with valid permits.
- (c) A change of use of a nonconforming use of a structure or lot shall not be made except to that of a conforming use. Where such change is made, the use shall not thereafter be changed back to a nonconforming use. The nonconforming use of a structure or lot may be expanded throughout those parts thereof which were manifestly arranged or designed for such use at the time of the adoption of this Ordinance. Any request to not provide off-street parking and loading required for the use in the zoning district shall require approval of the Zoning Hearing Board.

- (d) A nonconforming structure may be expanded, enlarged, and/or replaced if such expansion, enlargement, and/or replacement does not occupy an area greater than fifty (50%) percent more than the structure occupied, at the time of the adoption of this Ordinance, prior to such expansion, enlargement, and/or replacement, and does not intrude into the required rear, side, and/or front yard areas for the zoning district. Any intrusion(s) into the required rear, side, and/or front yard areas, or height above the zoning district's height limitation, shall require approval of the Zoning Hearing Board, unless (1) said intrusion(s) does not encroach further towards the property line than the existing, nonconforming structure, and (2) has the written permission of the property owners who are adjacent to the proposed rear, side, and/or front yard intrusion(s) or height above the maximum height. As used in this section, the term "adjacent" property owners does not include property owners located across a public street or a public right-of-way from the nonconforming structure.
- (e) Nothing contained herein shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof for which official approval and required permits have been granted prior to the effective date of this Ordinance and where construction is started within six (6) months from the date of issuance of the permit.
- (f) Any nonconforming structure which has been damaged or destroyed by fire or any other means may be reconstructed and used as before, if such reconstruction commences within one (1) year of such damage and if the restored structure covers no greater area and contains no greater cubic content. If approved by the Board, a reconstructed structure may exceed its original lot coverage and cubic content, but must meet the minimum yard requirements of the district in which the structure is located, and it must meet the off-street parking and loading requirements of this Ordinance.
- (g) Any lot or structure, or portion thereof, occupied by a nonconforming use, which is or hereafter becomes vacant and remains unoccupied by a nonconforming use for a period of one (1) year shall not thereafter be occupied, except by a use that conforms to this Ordinance.
- (h) Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another of a different classification, this Ordinance shall also apply to any uses or structures which thereby become nonconforming.

## 1306.02 EXISTING LOTS OF RECORD

Any lot of record existing at the effective date of this Ordinance, and held in separate ownership different from the ownership of adjoining lots, may be used for the erection of a structure conforming to the use regulations of the district in which it is located, even though its lot area and width are less than the minimum required by this Ordinance; however, such lot must comply with the yard, height and coverage standards of the zoning district wherein it is located. Any multiple unit dwelling must meet the appropriate density standards of the zoning district. Where two (2) or more adjacent lots of record with less than the required area and width are held by one (1) owner, on or before the effective date of this Ordinance, the request for a permit shall be referred to the Zoning Hearing Board, which may require replatting to fewer lots, which would comply with the minimum requirements of this Ordinance.

Furthermore, the size of any existing lot of record shall not be reduced so that the area or dimensions of the lot are smaller than those required by this Ordinance. However, if adjacent lots are redefined, there shall be no net increase of nonconforming lots.

## 1306.03 APPLICATION OF YARD REGULATIONS

- (a) Where a structure exists on an adjacent lot and is within one hundred fifty (150) feet of the proposed structure, and the existing structure has a front yard less than the minimum depth required, the minimum front yard shall be the average depth of the front yard of the existing structure on the adjacent lot and the minimum depth required for the district. Where structures exist on both adjacent lots, the minimum depth of the front yard shall be the average depth of the front yards of the existing adjacent structures.
- (b) All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, carports, balconies or platforms above normal grade level, shall not project into any minimum front, side or rear yards except as follows:
  - (1) Eaves, cornices or other similar architectural features shall be permitted to project into a required yard no more than eighteen (18) inches.
  - (2) Ramps, porches, platforms or landings, whether or not covered by a roof or enclosed, shall be permitted to extend no more than six (6) feet into the required front or rear yard provided such porch does not extend above the first story and is no more than six (6) feet above grade at any point.
  - (3) Chimneys shall be permitted to project no more than two (2) feet into a required yard, provided the width of any side yard is not reduced to less than thirty (30) inches.

- (4) Bay windows and balconies shall be permitted to project no more than two (2) feet into a required yard.
  - (5) Accessory structures shall occupy the same lot as the main use or building. Except as otherwise set forth in this Article, accessory structures shall be permitted in rear yards. Accessory structures shall be at least five (5) feet from the main use or building, and three (3) feet from side or rear lines. If a side lot line is along a street, the accessory structure shall observe the required setback, but in no event shall be closer than ten (10) feet to a street.
  - (6) An accessory structure used as a private garage shall be permitted to be located in the rear or side yard provided that it is located at least five (5) feet from the main use or building, and setbacks are maintained, and the structure does not encroach into any recorded easements. The accessory structure shall be permitted to be located in the front yard of a sloping lot if the lot has more than ten (10) foot difference in elevation from midpoint of the front lot line to a point fifty (50) feet away midway between the side lot lines.
  - (7) All accessory structures used for storage or other similar use shall be permitted to be located in the rear yard or side yard provided that the accessory structure complies with the provisions of Article 1306.03(b)(5). No storage building shall be located in the front yard.
  - (8) A wall or fence under six (6) feet, six (6) inches in height, and paved terraces without walls, roofs, or other enclosures, may be erected within the limits of any yard. A fence may be permitted in a front yard area as long as the fence is no higher than three (3) feet and does not obstruct the required sight line at intersections.
  - (9) Private swimming pools shall be permitted in rear yards only, provided that the pool is located not less than ten (10) feet from any side yard line, and ten (10) feet from the rear yard line. All swimming pools shall be enclosed by a fence in accordance with applicable law and ordinances.
- (c) Through lots shall follow existing development patterns. Where other through lots exist nearby, the orientation of development (designation of front and rear yard) shall follow existing usage. Where no other through lots exist nearby, both frontages shall be considered front yards.
  - (d) For corner lots, the short frontage shall be considered the front yard, and the long frontage shall be considered a side yard. Where frontage measurements are equal the dominant orientation of surrounding properties shall determine the front yard. Corner lots shall be required to increase lot width by twenty (20) percent.

- (e) Lot width shall be measured at the building line; however, the width at the front lot line shall be no less than fifty (50) percent of the minimum lot width as set forth by Table 1303.07a.

#### 1306.04 LANDSCAPING REQUIREMENTS

- (a) Landscaping is required for all new buildings and additions over five hundred (500) square feet as defined in this Section. Said landscaping shall be completed within one (1) year from the date of occupancy of the building.
- (b) Front yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.
- (c) All flanking street-side side yards shall be completely landscaped, except for those area occupied by utilities, access driveways, paved walks, walls and structures.
- (d) All live landscaping required by this Ordinance shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized and irrigated on a regular basis.
- (e) All live landscaping shall not obstruct the required sight lines at intersections.

#### 1306.05 TEMPORARY USES

Temporary uses in conjunction with construction work shall be permitted only during the period that the construction work is in progress. Permits for temporary uses shall be issued for no more than a six (6) month period. Temporary uses shall not be used for residential purposes other than sanitation.

#### 1306.06 HEIGHT LIMITATIONS

When the following conditions are met, height limits may be increased:

- (a) Structure height, in excess of the height permitted above grade allowed in any district, may be increased, provided all minimum front, side and rear yard depths are increased by one (1) foot for each additional foot of height; however, such increase of height shall be limited to no more than ten (10) additional feet.

- (b) The following structures are exempt from height regulations provided they do not constitute a hazard: cellular antenna towers and telecommunications facilities, church spires, chimneys, elevator bulk heads, smoke stacks, conveyors, flag poles, silos, standpipes, elevated water tanks, small wind energy systems, derricks and similar structures. Satellite dish antennae, telecommunications towers and facilities, and small wind energy systems are covered by separate sections of this Ordinance. Regardless of any other provision of this Ordinance, the height of any structure shall comply with the Franklin Airport Zoning Ordinance. (Ord. 4 of 2016, Sect. 4, Passed Finally 08-01-2016)

#### 1306.07 PERFORMANCE STANDARDS

No use of land or structure in any district shall involve any element, or cause any condition, that may be dangerous, injurious or noxious to any other property or person in the City. The following performance standards must be met in all districts.

- (a) Fire Protection: All uses shall comply with applicable regulations set forth in the Franklin Fire Prevention Code.
- (b) Electric Disturbance: All sources of electromagnetic radiation shall demonstrate compliance with applicable regulations of the Federal Communications Commission (FCC). No activity shall cause electromagnetic interference adversely affecting radio, television or other communication equipment in the neighboring area. For the purpose of these regulations, electromagnetic interference shall be defined as electromagnetic disturbances which are generated by the use of electrical equipment, other than planned and intentional sources of electromagnetic energy, which interfere with the proper operation of electromagnetic receptors of proper design.
- (c) Noise: Noise which is determined to be objectionable because of volume or frequency shall be muffled or otherwise controlled, except for fire sirens and related apparatus used solely for public safety purposes.
- (d) Air Pollution and Smoke: All uses shall comply with applicable regulations set forth by the Commonwealth of Pennsylvania Department of Environmental Protection (DEP).
- (e) Odors: In any district, except the Industrial District, no malodorous or harmful gas or matter shall be permitted which is discernible on any adjoining lot or property.

- (f) Glare and Light Trespass: Luminaries which cause noticeably reduced vision or momentary blindness on adjoining properties or public roads shall not be permitted. New and replacement luminaries rated at 1,800 lumens or more shall be of a fully shielded design, and shall be positioned so as to avoid light trespass to adjoining properties and public roads. Exceptions to these requirements are as follows:
- (1) Luminaries or temporary lights required for emergency situations and public safety purposes;
  - (2) Luminaries for special requirements, such as sports facilities, the flag of the United States of America and monuments; however, all such luminaries shall be selected and installed to shield the luminaries to minimize light trespass;
  - (3) Luminaries which fulfill a compelling safety or emergency interest which cannot be addressed by any other method, for example, airport beacons, police spotlights, police, fire, and emergency vehicle lights, and vehicle headlights.
- (g) Erosion: No erosion by wind or water shall be permitted which carries objectionable substances onto neighboring properties.
- (h) Water Pollution: The discharge of all wastewater shall be in accordance with the applicable regulations of the Commonwealth of Pennsylvania Department of Environmental Protection (DEP) and the City. Surface water discharge shall be in accordance with applicable laws and regulations of the Commonwealth of Pennsylvania and the City.
- (i) Vibration: No vibration shall be produced which is transmitted through the ground and is discernable without the aid of instruments at any point beyond the lot line.

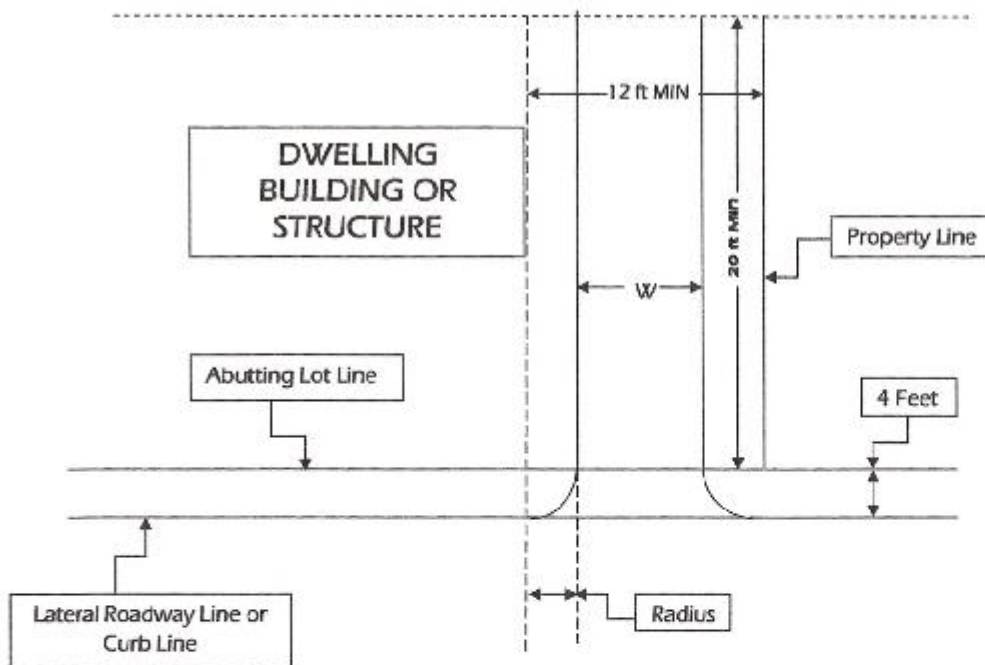
#### 1306.08 OFF-STREET LOADING AND PARKING AND DRIVEWAYS

- (a) A person shall first obtain a zoning permit from the Zoning Officer before making any cut in or alteration of a curb, or constructing or installing any driveway or parking lot or off-street parking space. If the driveway abuts a federal or state highway or route, the applicant must also obtain a permit from the appropriate state agency.
- (b) No person shall construct or install, or permit to be constructed or installed, any driveway or parking lot or parking space, except in conformity with this Ordinance.
- (c) No off-street parking space, other than a driveway, shall be installed or constructed within any public street right-of-way.

- (d) A driveway shall extend from the public way onto the subject abutting lot on a line generally perpendicular to the nearer lateral street line and shall, in no case, extend less than twenty (20) feet from the nearest street line except where the driveway leads into a garage structure permitted under the Zoning Ordinance of the City of Franklin. See Figures 1306.08.1 and 1306.08.2. Parking in a driveway shall not obstruct any kind of sidewalk or roadway. Notwithstanding the foregoing, where the grade from the public way to the abutting lot line is ten (10) percent or more, an applicant shall apply to the Zoning Officer for approval of a plan for the driveway, not generally perpendicular to the street line, which permits construction and installation of a driveway without hazard to traffic operation on the public way or from the driveway onto the public way. If the Zoning Officer refuses or fails within fourteen (14) business days from the date of an application to approve the plan (which approval, if any shall be in writing and filed with the application for a zoning permit), the applicant shall have the right to apply to the Board for a variance. The Board may grant a variance for a driveway not generally perpendicular to the nearer street line, so long as the plan provides for entrance and exit from the driveway in a manner consistent with the public safety and, in particular, for the operation of motor vehicles on and along the public way and at the approach to the junction of the said driveway and public way and from the driveway onto the public way.
- (e) Driveways extending onto lots abutting the public way shall be located so as to extend onto the side of a main building on a lot if at least twelve (12) feet are available measured from said main building to the adjacent side line of the lot; provided, however, a driveway may extend to a garage door of a private garage rather than to the side of said main building.

See Figures 1306.08.1 and 1306.08.2. No driveway shall be permitted to extend onto a lot other than at the side of a main building, except as heretofore provided. No parking space shall be installed or constructed on that portion of a lot between the nearest part of a main building in residential districts, excluding the TRC district, and the nearest street line generally parallel thereto.





Orientation	Residential and TRC Use	Commercial and Industrial Use
<b>W</b> Width (feet)	10-22	12-24
<b>R</b> Radius (feet)	5-10	12-15

Figure 1306.08.1

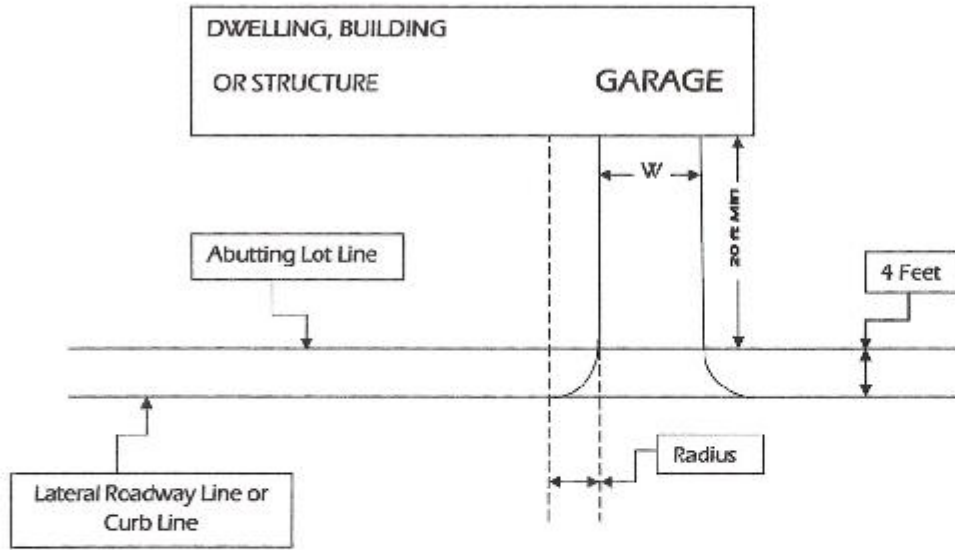


Figure 1306.08.2

Orientation	Residential Use	Commercial Use
W Width (feet)	10-22	12-24
R Radius (feet)	5-10	12-15

- (f) Driveways in TRC and residential districts shall not be constructed or maintained less than twelve (12) feet in width and shall not exceed twenty-two (22) feet in width in the area between the abutting lot line and the nearest street line, except within four (4) feet thereof and shall not exceed ten (10) additional feet in width at the street line. See Figures 1306.08.1 and 1306.08.2. There shall be at least five (5) feet between a driveway flare, or driveway if no flare, and a fire hydrant.
- (g) Driveways in commercial or industrial districts shall not be constructed or maintained less than twelve (12) feet in width and shall not exceed twenty-four (24) feet in width in the area between the abutting lot line and the nearest street line, except within four (4) feet thereof and shall not exceed fifteen (15) additional feet in width at the street line. See Figures 1306.08.1 and 1306.08.2.

- (h) Parking areas in the C-1 Commercial and IN Industrial Districts shall be permitted anywhere on the lot, but must comply with the Screening and Landscaping requirements listed in this Ordinance.
- (i) In a TRC and residential districts, no one lot shall be permitted more than one (1) driveway from a public way, except where the lot is bounded by two or more public ways, then one (1) driveway shall be permitted for each public way.
- (j) In C-1 Commercial and IN Industrial Districts, no more than one (1) driveway shall be permitted for each fifty (50) feet between adjacent driveway flares or driveways without flares.
- (k) Off-street loading and parking space shall be provided in accordance with the specifications in this section in all districts, whenever any new use is established or an existing one is enlarged, except where a single family dwelling is enlarged. Because of its developed nature and the location of service alleys, on-street and public parking facilities, off-street loading and parking requirements shall not apply in the CBD Central Business District.
  - (1) Off-Street Loading: Except in the CBD Central Business District, every use which requires the receipt or distribution by vehicle, of material or merchandise, shall provide a minimum of off-street loading spaces in accordance with its size per the following Table 1306.08(k)(1):

TABLE 1306.08(k)(1) OFF-STREET LOADING SPACE REQUIREMENTS

Note: All figures are given in gross feet of floor area for each listed use.

<u>Use</u>	<u>First Space</u>	<u>Second Space</u>
<u>Industrial:</u>		
Manufacturing (All)	5,000	40,000
Wholesale or Storage Warehouse	5,000	40,000
Industrial or Research Park	5,000	40,000
Recycling Facility	5,000	40,000
<u>Commercial:</u>		
Heavy or Light Commercial	10,000	40,000
Commercial Centers (All)	10,000	40,000
Commercial Retail Sales and Service	10,000	40,000
Automotive Motor Fuel Dispensing Facilities (All)	10,000	40,000
Restaurants	10,000	25,000
Business or Financial Services	10,000	100,000
Motel, Hotel	10,000	100,000
<u>Residential:</u>		
Apartment House	25,000	100,000
Multiple Unit Dwelling	25,000	100,000
<u>Institutional:</u>		
Group Day Care	10,000	40,000
Schools (All)	10,000	100,000
Hospitals	10,000	100,000
Group Care Facilities	10,000	100,000
<u>Public Buildings:</u>		
Indoor and Outdoor Recreation	10,000	100,000
Theaters	10,000	100,000
Mortuary, Funeral Homes	10,000	100,000
Public Services	10,000	100,000
Public Swimming Pool	10,000	100,000
Rehabilitation Centers	10,000	100,000
Religious, Cultural and Fraternal Activities	10,000	100,000

- (2) **Off-Street Loading Size and Access:** Each off-street loading space shall be not less than ten (10) feet in uniform width and forty (40) feet in length. It shall be so designed so the vehicles using loading spaces are not required to back onto a public way. Such spaces shall abut a public way or have an easement or access thereto. Where an existing lot does not abut on a public way, or easement of access, there shall be provided an access driveway, minimum ten (10) feet wide, leading to the loading spaces.
- (3) **Off-Street Parking Size and Access:** Each off-street parking space shall have an area not less than one hundred sixty-two (162) feet, being at least eighteen (18) feet long with a uniform width of nine (9) feet, exclusive of access driveways or aisles and shall be in usable shape and condition. Except in the case of single family and two family dwelling units, no parking lot shall contain less than three (3) spaces. Where an existing lot does not abut on a public way, or easement of access, there shall be provided an access driveway, minimum ten (10) feet wide, leading to the parking areas.
- (4) **Parking Within Yards:** In residential districts, required parking spaces shall be permitted only in the rear or side yards and in driveways as provided this Ordinance.
- (5) **Number of Parking Spaces Required:** The number of off-street parking spaces required is set forth on the following Table 1306.08(k)(5). Where the use of the premises is not specifically mentioned, requirements shall be one (1) space for each two hundred (250) feet of gross floor area. Where more than one (1) use exists at any one time on a lot, parking regulations for each use must be met. No parking spaces shall be required of existing or future uses in the CBD Central Business District, except where the lot is for residential use or the lot is of sufficient size to accommodate the parking space requirements set forth in this Ordinance.

TABLE 1306.08(k)(5) PARKING

<u>USE SPACES</u>	<u>REQUIRED PARKING</u>
1. Auto Sales and Service	1 for each 200 sq. ft. GFA
2. Automotive Motor Fuel Dispensing Facilities (All)	1 for each 200 sq. ft. GFA
3. Single-Family and Two-Family Dwelling Units	2 per dwelling unit
4. Multiple Unit Dwellings and Apartment Houses	2 per dwelling unit*
5. Mobile Home Parks	2 per each mobile home lot
6. Hotels, Motels and Bed and Breakfasts	1 per guest room**
7. Funeral Home and Mortuaries	25 for the first parlor; 10 for each additional parlor
8. Hospitals, Group Care Facilities and Rehabilitation Centers	1 for each 200 sq. ft. GFA
9. Religious, Cultural and Fraternal Activities, and Theaters	1 for each 50 sq. ft. GFA
10. Schools (All)	1 for each teacher and staff, plus 1 for each 4 classrooms, plus 1 for each 4 high school students
11. Group Day Cares	1 for each teacher and staff, plus 1 for each 200 sq. ft. GFA
12. Indoor and Outdoor Recreation	1 for each 200 sq. ft. GFA
13. Business or Financial Services	1 for each 250 sq. ft. GFA
14. Medical Offices and Clinics	1 for each 200 sq. ft. GFA
15. Dental Offices	1 for each 200 sq. ft. GFA
16. Commercial Retail Sales and Service and Light Commercial	1 for each 200 sq. ft. GFA
17. Commercial Centers (All) and Supermarkets	1 for each 400 sq. ft. GFA
18. Heavy Commercial	1 for each 2,500 sq. ft. lot area
19. Restaurants, Taverns, Nightclubs and Adult-Oriented Businesses	1 for each 100 sq. ft. GFA**
20. Manufacturing (All), Industrial or Research Park	1 for each 200 sq. ft. GFA
21. Wholesale or Storage Warehouses	1 for each 400 sq. ft. GFA
22. Recycling Facilities	1 for each 2,500 sq. ft. lot area
23. Public Services	1 for each 250 sq. ft. GFA

\* Multiple unit dwellings devoted to the elderly shall only be required to provide 0.5 parking spaces per unit. Such uses must supply adequate proof they will be dedicated to elderly tenants and shall be required to follow normal parking standards if they revert to non-elderly use.

\*\* Plus one (1) space per employee and staff on major shift.

Note: GFA means gross floor area.

- (6) Location and Parking: Required parking spaces shall be located on the same lot with the principal use; however, the required parking spaces may be on an adjacent lot only if the owner combines the lots into one lot. Additional parking spaces that are not required for the principal use may be located on an adjacent lot. The Board may permit required parking spaces to be located not more than four hundred (400) feet from the lot of the principal use, and the Board finds that it is impractical to provide required parking on the same lot with the principal use.
- (7) Stacking Capacity: On-site stacking capacity for various uses shall be as follows:
- (a) Drive-Through Restaurants: Six (6) vehicle stacking capacity measured from the pickup window.
  - (b) Drive-Through Distributors: Four (4) vehicle stacking capacity measured from the pickup window or area.
  - (c) Drive-Through Banks: Per drive-through lane, five (5) vehicle stacking capacity measured from the drive-through window or bank machine.
  - (d) Car Washes: Per car wash bay, six (6) vehicle stacking capacity measured from the car wash bay.
  - (e) For the other drive-through uses, similar requirements will be imposed, using the above as a guide or by reference to Commonwealth of Pennsylvania Department of Transportation regulations.

For purposes of this section, stacking capacity shall be measured based on a vehicle length of eighteen (18) feet. Under all circumstances, in no event shall vehicles be required to back onto the public right-of-way, or use the public right-of-way for stacking capacity.

- (8) Screening and Landscaping: Off-street parking areas for more than five (5) vehicles, and off-street loading areas, shall be screened by a fence or screen planting, at least six (6) feet in height, on any side which adjoins a residential district. Any fence or screen planting must block the line of sight to prevent or substantially reduce light trespass.

- (9) Surfacing: All driveways and parking areas shall be constructed and maintained with a surface of concrete, brick, or bituminous material, washed gravel or limestone, or similar material sufficient to prevent mud or driveway material from being washed or carried by vehicles from the driveway or parking area onto the public way. They shall be graded with positive draining to dispose of surface water. Parking areas larger than five hundred (500) square feet shall submit a plan, including draining provisions, to the Zoning Officer for approval. Lots shall be designed to provide for orderly and safe loading and parking.
- (10) Lighting: Any lighting used to illuminate off-street parking or loading areas shall be arranged so as to reflect the light away from the adjoining premises of any residential district or use and away from the public way. Any lighting shall meet the requirements of this Ordinance.

#### 1306.09 STEEP SLOPE AREAS

Any development of slopes of more than five (5) percent must be submitted on a plan prepared by a registered engineer or architect showing how the development will treat the slope problem. The Zoning Officer shall refer the plan to the City Engineer or a consulting engineer for review and advice before issuing any permit. The cost for review and advice shall be paid by the developer.

#### 1306.10 FLOOD HAZARD AREAS

The City of Franklin has adopted an ordinance regulating development within a floodplain. All development within designated areas are required to follow the regulations contained in Article 1314.

#### 1306.11 SATELLITE DISH ANTENNAE

Satellite dish antennae shall meet the following conditions:

- (a) In all districts, satellite dish antennae that can transmit and/or receive shall be allowed in rear yards or attached to the main building only; provided, however, that:
  - (1) The satellite dish antenna shall be at least ten (10) feet from any lot line; and



- (2) In industrial and commercial districts, the satellite dish antenna shall not exceed twelve (12) feet in diameter and shall not exceed fifteen (15) feet in height from the ground to the top of the satellite dish antenna in a rear yard, or, if attached to the main building, from the base structure of the satellite dish antenna to the top of the satellite dish antenna; and
  - (3) In industrial and commercial districts, all satellite dish antennae that exceed forty (40) inches in diameter shall be allowed in rear yards or on top of the main building only; and
  - (4) In residential districts, all satellite dish antennae shall not exceed forty (40) inches in diameter and shall not exceed six (6) feet in height from the ground to the top of the satellite dish antenna in a rear yard, or, if attached to the main building, from the base structure of the satellite dish antenna to the top of the satellite dish antenna; and
  - (5) When attached to the main building, a satellite dish antenna shall be located at least ten (10) feet above grade.
- (b) If the height of the satellite dish antenna to be placed on the top of a main building increases the height of that structure above the maximum height allowance for the district as set forth in this Ordinance, then a variance is required before installation of the satellite dish antenna.

#### 1306.12 TELECOMMUNICATIONS TOWERS AND FACILITIES

- (a) Purpose: The purpose of this section is to protect the safety and orderly development of the community through the regulation of telecommunications towers and facilities.
- (b) Definitions: The specific terms set forth in Section 1302.02 shall be applicable to this section, except the following words and phrases shall have the meaning given in this section, for the purposes of this section and as used elsewhere in this Ordinance:

**CELLULAR ANTENNA.** Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips, at frequencies on the electromagnetic spectrum as the Federal Communications Commission (FCC) from time to time may designate, used for cellular telecommunications services and/or personal communications services; provided, however, this does not include such structures or devices when used for broadcast of television, of AM or FM radio stations, or for citizens' band or amateur radio use. Examples of cellular telecommunications or personal communications services include, without limitation, cellular telephone, paging, public safety, data transmission, and specialized mobile radio, enhanced specialized mobile radio, or other commercial private radio services.

**CELLULAR ANTENNA TOWER.** Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more cellular antennae. This includes guyed towers, lattice towers, monopoles, alternative cellular antenna tower structures, distributed antenna systems (DAS), mini cellular towers, and towers taller than fifteen (15) feet constructed on top of another structure or building, along with any separate structure or building on a lot to be used to house any supporting electronic equipment.

**CO-LOCATION.** Locating one (1) or more cellular antennas for more than one (1) provider on a single cellular antenna tower or alternative cellular antenna tower structure on a single lot.

**HEIGHT, ANTENNA TOWER.** The distance from the anchored base of the tower, whether on the top of another structure or building or at grade, to the highest point of the structure, even if the highest point is the top of an antenna.

**TELECOMMUNICATIONS FACILITY.** The lot, tract, or parcel of land that contains the telecommunications antenna, its support structure, any accessory buildings, and parking, including, without limitation, a cellular antenna, a cellular antenna tower, and other uses associated with and ancillary to telecommunications transmission.

- (c) Conditional Use Permit Required. The installation, construction, reconfiguration, enlargement or reconstruction of the following structures or facilities may be allowed in any district after receiving a conditional use permit in accordance with this Ordinance, and any permits, certificates or other approval required under federal and state law:
- (1) A cellular antenna tower;
  - (2) A telecommunications facility;
  - (3) A cellular antenna installed on any existing structure or building, including, without limitation, a water or other tower, a light or electric pole, or similar structure; provided, however, that co-location on an existing structure or building shall not require a conditional use permit, unless the co-location increases the height of the existing structure or building.

Co-location of service facilities is preferred. Co-location objectives may be satisfied by configuration of new facilities for multiple carriers or by co-location on existing facilities. A conditional use permit shall not be required for co-location.

- (d) Permit Application. In addition to the information required under Sections 1304.02, 1304.03 and 1309.03 of this Ordinance, an applicant for a conditional use permit required in accordance with Section 1306.12(c) of this Ordinance shall include the following information:
- (1) Unless co-locating, certification, supported by evidence, that co-location of the proposed telecommunications facility with an existing approved tower facility cannot be reasonably accommodated or that a new facility can be configured for multiple carriers. The applicant's certification shall include a listing of all existing towers and facilities, a description of each existing site, and a discussion of the availability or inability to reasonably co-locate on each existing site according to the following table:
    - (a) For a tower proposed to be 200 or more feet tall, all towers and facilities within a two (2.0) miles radius of the proposed site; and

- (b) For a tower proposed to be less than 200 feet tall, all towers and facilities within a two (2.0) miles radius of the proposed site.
- (2) Reasons for not co-locating on a site would include, without limitation, the following:
- (a) No existing towers or facilities are located within the above radius of the site.
  - (b) Existing towers or facilities are of insufficient height to meet the applicant's engineering requirements.
  - (c) Existing towers or facilities have insufficient structural strength to support the applicant's proposed antenna and related equipment.
  - (d) The applicant's planned antenna and equipment would cause radio frequency interference with other existing or planned equipment of the tower or facility, or the existing or planned equipment of the tower or facility would cause interference with the applicant's planned antenna and equipment which cannot be reasonably prevented.
  - (e) Unwillingness of the owner of the existing tower or facility to entertain a reasonable co-location proposal.
  - (f) Existing towers or facilities do not provide an acceptable location for requisite coverage for the applicant's communication network.
- (3) Unless co-locating, certification, supported by evidence, that there is no other site which is materially better from a land use perspective within the immediate area for the location of the telecommunications facility. The applicant's certification shall include a listing of potential sites, a description of each potential site, and a discussion of the ability or inability of the site to host a telecommunications facility according to the following table:
- (a) For a tower proposed to be 200 or more feet tall, all potential sites within a two (2.0) mile radius of the proposed site; and

- (b) For a tower proposed to be less than 200 feet tall, all potential sites within a two (2.0) mile radius of the proposed site.
- (4) Potential sites that should be considered (in order from most preferred to least preferred) include: highway rights-of-way, existing towers that are not cellular antenna towers, industrial districts, commercial districts, Central Business District buildings, and residential districts.
- (5) Reasons for not locating on a potential site would include, without limitation, the following:
  - (a) Unwillingness of the site owner to entertain a telecommunications facility.
  - (b) Economically impractical.
  - (c) Topographic limitations of the site.
  - (d) Adjacent impediments that would obstruct adequate cellular telecommunications.
  - (e) Physical site constraints that would preclude the construction of a telecommunications facility.
  - (f) Technical limitations of the telecommunications system.
  - (g) Existing potential sites do not provide an acceptable location for requisite coverage for the applicant's communications network.
- (6) At the time the applicant files an application for review under this Ordinance, a listing of the applicant's present locations of the applicant's telecommunications towers and facilities in Venango County, Pennsylvania, to include co-location sites.
- (7) A pictorial representation, such as a silhouette drawing, photograph, etc., of the proposed telecommunications facility from a point 150 feet to 600 feet from the facility for at least two (2) of the four (4) compass directions (to the extent practicable considering vegetation, buildings, or other obstructions) showing the relationship of the tower and facility against the massing of the surrounding structures, trees, or other intervening visual masses. Notwithstanding

the foregoing, the applicant shall not be required to purchase temporary easement or license rights to allow it to make drawings or photographs from particular vantage points. A reasonable pictorial representation of the site may be substituted for the aforementioned specified compass direction representations if it is not practical to comply with the express terms of this paragraph and the City Council is notified in writing of such practical difficulty.

- (8) A justification statement demonstrating that the proposed construction is in agreement with the existing comprehensive plan and any other relevant City plans or studies.
  - (9) All new telecommunications facilities shall be configured to accommodate at least two (2) telecommunications providers.
  - (10) Unless co-locating, certification, with supporting evidence, that the proposed telecommunications facility is in compliance with Section 1315 of this Ordinance concerning the prevention of the creation or establishment of airport hazards.
- (e) Design Standards. At the time of filing the conditional use permit application, the applicant shall provide information demonstrating compliance with the requirements listed below. Where City Council finds that the conditions or circumstances related to the particular application are such that one (1) or more of the requirements listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, or welfare, either at the time of application or in the foreseeable future, and that such special conditions and circumstances make one (1) or more said requirements unduly burdensome, the City Council may modify or waive such requirement, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver. The design standard requirements include the following:
- (1) The site shall be landscaped in accordance with Section 1306.04 of this Ordinance, and shall be compatible with, and preserve the character of, the neighboring uses.
  - (2) Any monopole, guyed, lattice or similar type cellular antenna tower, or any alternative cellular antenna tower similar to these towers such as light poles, shall be maintained in either galvanized steel finish or be painted light grey or light

blue in color; provided, however, that alternative colors or appearances can be required by City Council to make the tower compatible with, and preserve the character of, the neighboring uses. Alternate sections of aviation orange and aviation white paint may be used ONLY with the Federal Aviation Administration (FAA) finds that none of the alternatives to such marking are acceptable.

- (3) Towers shall not be artificially lighted, except as required by the FAA. Upon commencement of construction of a cellular antenna tower, in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the tower measured from the base of the tower, and when required by federal law, dual mode lighting shall be requested from the FAA.
- (4) The site shall not be staffed. Personnel may periodically visit the site for maintenance, equipment modification, or repairs. To accommodate such visits, access shall be only from access points approved by the City, and there shall be provided on site an area sufficient to accommodate the parking of the service vehicle.
- (5) The site shall be enclosed by a security fence in accordance with the requirements of this Ordinance.
- (6) The only signs allowed at the site, including, without limitation, on the cellular antenna tower, shall be emergency information signs, owner contact information, warning or safety instructions, and signs required by a federal, state or local agency. Such signs shall not exceed five (5) square feet in area.
- (7) If the use of any cellular antenna, cellular antenna tower, alternative cellular antenna structure, or telecommunications facility (hereinafter referred collectively or individually as "the discontinued use") is discontinued, the owner shall provide the City with a copy of the notice to the FCC of intent to cease operations within thirty (30) days of such notice to the FCC. If the discontinued use will not be reused, the owner shall have one hundred eighty (180) days from the submission of the FCC notice to the City to obtain a demolition permit and remove the discontinued use that will not be reused. If the discontinued use is to be reused, the owner shall have no more than twelve (12) months from the

submission of the FCC notice to the City in which to commence new operation of the discontinued use. Upon failure to commence new operation of the discontinued use that is to be reused within twelve (12) months, the discontinued use shall be presumed abandoned, and the owner shall obtain, within ninety (90) days of the expiration of the 12-month period, a demolition permit and remove the discontinued use that is presumed abandoned within sixty (60) days of obtaining the demolition permit. If the owner fails to remove the discontinued use within the time frame designated above, the City may, on the grounds of public health, safety, and welfare, cause the demolition and removal of the discontinued use and recover its cost of demolition and removal. The City, at the time of application of construction, may require positing of a bond covering the cost of removal of the discontinued use, such that the bond shall be forfeited to the City upon failure to remove the discontinued use in a timely manner as designated above.

- (f) Existing Telecommunications Facilities. Telecommunications facilities in existence as of August 1, 2016, which do not comply with this Ordinance (hereinafter referred to as ‘existing telecommunications facilities’) are subject to the following provisions:
- (1) Existing telecommunications facilities may continue in use for the purpose now used, but may not be expanded or replaced without complying with this Ordinance, except as further provided in this section.
  - (2) Existing telecommunications facilities which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored to their former use, location and physical dimensions subject to obtaining a municipal permit from the City, but without otherwise complying with this Ordinance.
  - (3) The owner of any existing telecommunications facility may replace, repair, rebuild or expand such telecommunications facility to accommodate co-located antennae or facilities, or to upgrade the facilities to current engineering, technological or communications standards by obtaining a municipal permit therefor, and without having to conform to the provisions of this Ordinance, (including, without limitation, provisions of this Ordinance regarding notice to the Code Enforcement Officer or posting of signs), or to otherwise



request local zoning approvals, so long as such facilities are not increased in height by more than Fifty Percent (50%) or setbacks are not decreased by more than Fifty Percent (50%).

- (4) Any such replacement, repair, reconstruction or enlargement shall not violate the design standards described in Section 1306.12(e) of this Ordinance beyond that existing as of August 1, 2016.

(Ord. No. 4 of 2015, Sect. 5, Passed Finally 08-01-2016)

### 1306.13 WIND ENERGY SYSTEMS

- (a) **Purpose:** The purpose of this section is to accommodate distributed generation/small wind energy systems in appropriate locations, while minimizing any adverse visual, safety and environmental impacts of the system. In addition, this section provides a permitting process for small wind energy systems to ensure compliance with provisions of the requirements and standards established herein.
- (b) **Definitions:** The specific terms set forth in Section 1302.02 shall be applicable to this section, except the following words and phrases shall have the meaning given in this section, for the purposes of this section and as used elsewhere in this Ordinance:

**FALL ZONE.** The potential fall area for the small wind energy system. It is measured by using 110% of the total height as the radius around the center point of the base of the tower.

**FLICKER.** The moving shadow created by the sun shining on and through the rotating blades of the wind turbine.

**METEOROLOGICAL TOWER (MET TOWER).** Includes the tower, base plate, anchors, guyed wire and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given locations.

**NET METERING.** The difference between the electricity supplied over the electric distribution system and the electricity generated by the wind energy system, which is fed back into the electric distribution system over a billing period.

**POWER GRID.** The transmission system, managed by the applicable electricity generator, created to balance the supply and demand of electricity for consumers.

**SHADOW.** The outline created on the surrounding area by the sun shining on and through the small wind energy system.

**SMALL WIND ENERGY SYSTEM.** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of one hundred (100) kilowatts or less, and will be used primarily for onsite consumption.

**TOWER.** The monopole or guyed monopole structure that supports a wind turbine.

**TOTAL HEIGHT.** The vertical distance from ground level to the tip of the wind turbine blade when it is at its highest point.

**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.

(c) Conditional Use Permit Required. The installation, construction, reconfiguration, enlargement or reconstruction of small wind energy systems may be allowed in any district after receiving a conditional use permit in accordance with this Ordinance, and any permits, certificates or other approval required under federal and state law. A conditional use permit shall not be required for the construction of a met tower for the purpose of collecting data to develop a small wind energy system; however, such construction shall comply with the following requirements:

- (1) The construction, installation or modification of a met tower shall require a municipal permit and shall comply with applicable building code requirements.
- (2) Met towers shall be permitted on a temporary basis not to exceed three (3) years.

- (3) Met towers shall adhere to the small wind energy system design standards.
- (d) Permit Application. In addition to the information required under Sections 1304.02, 1304.03 and 1309.03 of this Ordinance, an applicant for a conditional use permit required in accordance with Section 1306.13(c) of this Ordinance shall include the following information:
- (1) A building permit shall be required for the installation or modification of a small wind energy system.
  - (2) Property lines and physical dimensions of the applicant's property.
  - (3) Location, dimensions and types of existing major structures on the property.
  - (4) Location of the proposed small wind energy systems, foundations, guyed wire anchors and associated equipment.
  - (5) Setback requirements as outlined in this Ordinance.
  - (6) The right-of-way of any public road that is contiguous with the property.
  - (7) Any overhead utility lines.
  - (8) Small wind energy system specifications, including, without limitation, manufacturer, model, rotor diameter, tower height, tower type (freestanding or guyed).
  - (9) If the small wind energy system will be connected to the power grid, documentation shall be provided regarding the notification of the intent with the applicable electric generator regarding the applicant's installation of a small wind energy system.
  - (10) Tower foundation blueprints or drawings.
  - (11) Tower blueprint drawings.
  - (12) Sound level analysis prepared by the wind turbine manufacturer or qualified engineer.

- (13) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to applicable building code requirements.
  - (14) Estimated costs of physically removing the small wind energy system to comply with surety standards.
  - (15) Evidence of compliance or non-applicability with Federal Aviation administration (FAA) requirements.
  - (16) Certification, with supporting evidence, that the proposed small wind energy is in compliance with Section 1315 of this Ordinance concerning the prevention of the creation or establishment of airport hazards.
  - (17) A pictorial representation, such as silhouette drawing, photograph, etc., of the proposed small wind energy system from a point 150 feet to 600 feet from the facility for at least two (2) of the four (4) compass directions (to the extent practicable considering vegetation, buildings, or other obstructions) showing the relationship of the tower and wind turbine against the massing of the surrounding structures, trees, or other intervening visual masses. Notwithstanding the foregoing, the applicant shall not be required to purchase temporary easement or license rights to allow it to make drawings or photographs from particular vantage points. A reasonable pictorial representation of the site may be substituted for the aforementioned specified compass direction representations if it is not practical to comply with the express terms of this paragraph and the City Council is notified in writing of such practical difficulty.
  - (18) To address visual impacts on the surrounding neighbors and community, information regarding site selection, turbine design or appearance, buffering and screening of ground mounted electrical and control equipment.
- (e) Design Standards. At the time of filing the conditional use permit application, the applicant shall provide information demonstrating compliance with the requirements listed below. Where the City Council finds that the conditions or circumstances related to the particular application are such that one (1) or more of the requirements listed below are not necessary or desirable for the protection of surrounding property or the public health, safety, or welfare, either at the time of application or in the foreseeable future, and that such special conditions and circumstances make one (1)

or more said requirements unduly burdensome, the City Council may modify or waive such requirement, either permanently or on a temporary basis. Any such modification or waiver shall be requested by the applicant, and the applicant shall submit a written justification for each requested modification or waiver. The design standard requirements include the following:

- (1) Small wind energy systems shall be setback a distance equal to 110% of the total height from:
  - (a) Any public right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road; and
  - (b) Any overhead utility lines; and
  - (c) All property lines, unless the affected landowner provides written permission through a recorded easement allowing the small wind energy system's fall zone to overlap with the abutting property; and
  - (d) All travel ways to include, without limitation, driveways, parking lots, natural trails or sidewalks.
- (2) If an abutting landowner disapproves of the small wind energy system, the said system shall be setback a distance equal to 220% of the total height from all property lines.
- (3) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
- (4) The setback shall be measured to the center of the tower's base.
- (5) Guyed wires used to support the tower are exempt from the small wind energy system setback requirements.
- (6) Wind turbines may only be attached to freestanding or guyed wire monopole towers. Lattice towers are explicitly prohibited.
- (7) The tower height shall not exceed one hundred fifty (150) feet.

- (8) The applicant shall provide evidence that the proposed tower height does not exceed the height recommended by the manufacturer of the wind turbine.
- (9) The small wind energy system shall not exceed sixty (60) decibels using the A scale (dBA), as measured at the property line, except during short-term events such as severe wind storms and utility outages.
- (10) 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 a significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
- (11) The only signs allowed at the site, including, without limitation, on the cellular antenna tower, shall be emergency information signs, owner contact information, warning or safety instructions, and signs required by a federal, state or local agency. Such signs shall not exceed five (5) square feet in area.
- (12) Small wind energy systems shall be built to comply with all applicable FAA rules and regulations as well as Section 1315 of this Ordinance concerning the prevention of the creation or establishment of airport hazards.
- (13) The site shall be landscaped in accordance with Section 1306.04 of this Ordinance, and shall be compatible with, and preserve the character of, the neighboring uses.
- (14) All electrical conduits shall be underground.
- (15) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a nonreflective, unobtrusive color that blends in with surrounding environment.
- (16) Small wind energy systems shall not be artificially lighted, except as required by the FAA. Upon commencement of construction of small wind energy system, in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the tower measured from the base of the tower, and when required by federal law, dual mode lighting shall be requested from the FAA.

- (17) If the small wind energy system is to be connected to the power grid through net metering, it shall adhere all applicable building code requirements concerning electricity.
- (18) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- (19) 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 eight (8) feet above the ground.
- (20) Clearing of natural vegetation shall be limited to that which is necessary for construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations and ordinances.
- (21) If the use of any small wind energy system (hereinafter referred as “the discontinued use”) is discontinued, the owner shall provide notice to the City of intent to cease operations within thirty (30) days. If the discontinued use will not be reused, the owner shall have one hundred eighty (180) days from the submission of notice to the City to obtain a demolition permit and remove the discontinued use that will not be reused. If the discontinued use is to be reused, the owner shall have no more than twelve (12) months from the submission of notice to the City in which to commence new operation of the discontinued use. Upon failure to commence new operation of the discontinued use that is to be reused within twelve (12) months, the discontinued use shall be presumed abandoned, and the owner shall obtain, within ninety (90) days of the expiration of the 12-month period, a demolition permit and remove the discontinued use that is presumed abandoned within sixty (60) days of obtaining the demolition permit. If the owner fails to remove the discontinued use within the time frame designated above, the City may, on the grounds of public health, safety and welfare, cause the demolition and removal. The City, at the time of application of construction, may require posting of a bond covering the cost of removal of the discontinued use, such that the bond shall be forfeited to the City upon failure to remove the discontinued use in a timely manner as designated above.

(Ord. 4 of 2016, Sect, 6, Passed Finally 8-01-2016)