

CHAPTER 2019-52

No. 498 AN ORDINANCE IN AMENDMENT OF CHAPTER 27 OF THE CODE OF ORDINANCES OF THE CITY OF PROVIDENCE ENTITLED: "THE CITY OF PROVIDENCE ZONING ORDINANCE," APPROVED NOVEMBER 24, 2014, AS AMENDED, TO CHANGE CERTAIN TEXT IN ARTICLE 12 REGARDING WIND ENERGY SYSTEMS

Approved November 26, 2019
Be it ordained by the City of Providence:

SECTION 1: Chapter 27 of the Code of Ordinances of the City of Providence entitled "The City of Providence Zoning Ordinance," approved November 24, 2014, as amended, is hereby further amended by changing the following text in Article 12:

ARTICLE 12. USES

1201 USE MATRIX

Table 12-1: Use Matrix																					
Key: P = Permitted // S = Special Use																					
Use	R-1A	R-1	R-2	R-3	R-4	RP	C-1	C-2	C-3	D-1	W-2	W-3	M-1	M-2	M-MU	I-1	I-2	P S	O S	C D	Use Standard
Wind Energy System (Principal Use)											S	P	P	P			S				Sec. 1202.CC

1202 PRINCIPAL USE STANDARDS

CC. Wind Energy System (Principal Use)

9. The height of a wind energy system shall be measured from grade to the highest point of a rotor blade when in its uppermost position. Allowable height shall be a function of the setbacks from nearby structures and nearby property lines. Wind turbines shall be set back from all structures on a participating property owner's property a distance of no less than the turbine wind energy system height. The setback distance is measured from the nearest point on the outside edge of a tower to the nearest point on the foundation of the occupied building.
10. All wind turbines shall be set back from the nearest property line a distance of not less than the normal setback requirements for that zoning district or 110% of the turbine wind energy system height, whichever is greater. The setback distance is measured from the property line to the nearest point on the outside edge of a tower. Operation and maintenance building(s) and substations shall be located in accordance with zoning district yard requirements. All wind farm structures, except for wind turbines, shall comply with the regulations of the zoning district.
11. All wind turbines shall be set back from the nearest public right-of-way a distance of 110% of the turbine wind energy system height, as measured from the right-of-way line to the nearest point on the outside edge of a tower.
12. The facility owner or operator shall comply with all applicable codes and ordinances regulating sound generation. In the event that any sound levels from a wind turbine are found to be in excess of permissible levels, the facility owner or operator shall take necessary measures to bring sound levels down to a level acceptable.

13. Wind Turbine shadow flicker shall not exceed 30 hours per year on any window of an existing residential structure located on a parcel owned by an entity other than the parcel owner where the turbine is to be located. A wind turbine's shadow flicker shall not fall on any window of an existing structure or within the buildable area of an adjacent lot, as defined by current setback requirements.
14. The facility owner and operator shall, at their sole expense, complete decommissioning of the wind energy system, or individual wind turbines, within one year after the end of the useful life of the wind energy system or individual wind turbines. The wind energy system or turbine shall be deemed to be at the end of its useful life if it is abandoned for a period of time in excess of 180 days. Decommissioning includes removal of wind turbines, structures, roads and foundations to a depth of 48 inches, and any other element constructed by facility owner or operator for the purpose of maintaining or operating the wind energy system.
15. Wind Energy Systems are permitted in the I-2 Zone by special use permit, provided the parcel abuts a W-3 Zone and the Wind Energy System is not less than 1,000 feet from a Residential Zone.

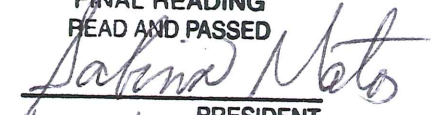
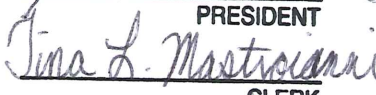
SECTION 2: This Ordinance shall take effect upon passage.

IN CITY COUNCIL
NOV 07 2019
FIRST READING
READ AND PASSED

 CLERK

IN CITY
COUNCIL

NOV 21 2019
FINAL READING
READ AND PASSED

 PRESIDENT
 CLERK
ACTING

I HEREBY APPROVE.

 Mayor
Date: 11/26/19

*John O. Mancini, Esq.
Shareholder
Admitted in RI, MA and CT
jmancini@mancinicarter.com*

July 16, 2019

City of Providence City Council
Attn: Department of the City Clerk
Providence City Hall
25 Dorrance Street
Providence, RI 02903

Re: Zone Text Amendment

Ladies and Gentlemen,

Enclosed please find a copy of the Petition to the City Council requesting an amendment to the City of Providence Zoning Ordinance and a check in the amount of One Hundred Fifty and 00/100 (\$150.00) Dollars made payable to the City of Providence. Pursuant to State law, the City Council is required to hold a public hearing on the matter at its next scheduled meeting.

Importantly, after your preliminary review of the Petition, should you feel it is any way incomplete, to the extent that proceeding on September 5, 2019 is not foreseeable, please contact me as soon as practical.

In the meantime, should you have any questions or require additional information, please do not hesitate to contact me.

Very truly yours,



John O. Mancini

Encs.

PETITION TO THE CITY COUNCIL

TO THE HONORABLE CITY COUNCIL OF THE CITY OF PROVIDENCE:

The undersigned respectfully petitions your honorable body

Green Development LLC, hereby petitions the City Council to amend the Official Zoning Ordinance of the City of Providence, Sections 1201 and 1202, regarding Principal Use Wind Energy Systems, as indicated below:

ARTICLE 12. USES

1201 USE MATRIX

Table 12-1: Use Matrix																					
Key: P = Permitted // S = Special Use																					
Use	R-1A	R-1	R-2	R-3	R-4	R-P	C-1	C-2	C-3	D-1	W-2	W-3	M-1	M-2	M-MU	I-1	I-2	P-S	O-S	C-D	Use Standard
Wind Energy System (Principal Use)											S	P	P	P			<u>S</u>				Sec. 1202.CC

1202 PRINCIPAL USE STANDARDS

CC. Wind Energy System (Principal Use)

9. The height of a wind energy system shall be measured from grade to the highest point of a rotor blades when in its uppermost position. Allowable height shall be a function of the setbacks from nearby structures and nearby property lines. Wind turbines shall be set back from all structures on a participating property owner's property a distance of no less than the turbine wind energy system height. The setback distance is measured from the nearest point on the outside edge of a tower to the nearest point on the foundation of the occupied building.
10. All wind turbines shall be set back from the nearest property line a distance of not less than the normal setback requirements for that zoning district or 110% of the turbine wind energy system height, whichever is greater. The setback distance is measured from the property line to the nearest point on the outside edge of a tower. Operation and maintenance building(s) and substations shall be located in accordance with zoning district yard requirements. All wind farm structures, except for wind turbines, shall comply with the regulations of the zoning district.
11. All wind turbines shall be set back from the nearest public right-of-way a distance of 110% of the turbine wind energy system height, as measured from the right-of-way line to the nearest point on the outside edge of a tower.
12. The facility owner or operator shall comply with all applicable codes and ordinances regulating sound generation. In the event that any sound levels from a wind turbine are found to be in excess of permissible levels, the facility owner or operator shall take necessary measures to bring sound levels down to a level acceptable.
13. Wind Turbine shadow flicker shall not exceed 30 hours per year on any window of an existing residential structure located on a parcel owned by an entity other than the parcel owner where the turbine is to be located. A wind turbine's shadow flicker shall not fall on any window of an existing structure or within the buildable area of an adjacent lot, as defined by current setback requirements.

14. The facility owner and operator shall, at their sole expense, complete decommissioning of the wind energy system, or individual wind turbines, within one year after the end of the useful life of the wind energy system or individual wind turbines. The wind energy system or turbine shall be deemed to be at the end of its useful life if it is abandoned for a period of time in excess of 180 days. Decommissioning includes removal of wind turbines, structures, roads and foundations to a depth of 48 inches, and any other element constructed by facility owner or operator for the purpose of maintaining or operating the wind energy system.
15. Wind Energy Systems are permitted in the I-2 Zone by special use permit, provided the parcel abuts a W-3 Zone and the Wind Energy System is not less than 1,000 feet from a Residential Zone.

Green Development, LLC, by and through its
Attorney,

Signature: _____

Name: John O. Mancini, Esq.

Title: Attorney

Telephone: (401) 343-7000

Email Address: jmancini@mancinicarter.com



City Plan Commission
Jorge O. Elorza, Mayor

August 21, 2019

Councilwoman Jo-Ann Ryan
Chair, Committee on Ordinances
Providence City Hall
25 Dorrance Street
Providence, RI 02903

Attn: Shawn Selleck, City Clerk

Re: Referral 3455-Petition to amend Sections 1201 and 1202 CC of the zoning ordinance regarding Principal Use Wind Energy Systems

Petitioner: Green Development LLC

Dear Chairwoman Ryan,

The City Plan Commission (CPC) reviewed the petition to amend sections 1201 and 1202 CC of the zoning ordinance pertaining to Principal Use Wind Energy Systems. The CPC voted as described below to make certain findings of fact and to recommend that the petition be approved.

FINDINGS OF FACT

The petitioner is proposing to amend Section 1201—use matrix and Section 1202 CC pertaining to wind energy system as a principal use. The amendment would change language pertaining to the design and use of a wind energy system and the use matrix will be updated to permit wind energy systems in certain areas of the I-2 zone with a special use permit.

The changes to 1202 CC specify that the height of wind energy systems will be measured from grade to the highest point of a rotor. Shadow flicker is proposed to be limited to 30 hours per year on any property not owned by the owner of the parcel where the wind energy system is located. The amendment also proposes that wind energy systems be permitted by special use permit in the I-2 zone provided the parcel abuts the W-3 zone and is not less than 1,000 feet from a residential zone.

The CPC found that defining the height limit of wind turbines and limiting shadow flicker would clarify regulations pertaining to the installment and operation of wind turbines and ensure that their location will not affect surrounding property. Should the City Council consider approving the change, the CPC recommends that the approval be subject to the applicant demonstrating how shadow flicker will be limited to 30 hours a year, particularly on residences in the vicinity of the installations.

DEPARTMENT OF PLANNING AND DEVELOPMENT
444 Westminster Street, Providence, Rhode Island 02903
401 680 8400 ph | 401 680 8492 fax
www.providenceri.com

The W-3 zone is intended for marine-industrial development where wind energy systems are permitted by right. The CPC found that permitting the installation of wind energy systems adjacent to the W-3 zone would be appropriate as they are compatible with the activities of the W-3 zone. The requirement to maintain a 1,000 foot buffer from residential zones for a special use permit would be beneficial in limiting the effects of the wind energy system on residences.

The CPC found that the amendment will conform to objectives SE-4 and SE-5 of the comprehensive plan which encourages the promotion of environmentally sustainable design and development and education of residents and business owners to adopt environmentally sound practices. By promoting the use of wind energy, the CPC found that the amendment also conforms to objectives SE-1 and SE-2 of the plan, which aim to implement measures to mitigate the effects of climate change and promote environmental sustainability. The CPC found that amending regulations for installation of wind energy systems is not expected to negatively affect health, safety and welfare and is consistent with the purposes of zoning in Section 101 of the Zoning Ordinance.

RECOMMENDATION

Based on the foregoing discussion, the CPC recommends approval of the amendment of regulations pertaining to installation of wind energy systems subject to the following condition:

The applicant shall demonstrate how shadow flicker will be limited to 30 hours a year.

Sincerely,



Choyon Manjrekar
Administrative Officer