

**CITY OF RHOME**

**ORDINANCE NO. 2008-26**

**AN ORDINANCE OF THE CITY OF RHOME, TEXAS; ESTABLISHING SECTION 30 OF THE COMPREHENSIVE ZONING ORDINANCE, PROVIDING FOR RULES AND REGULATIONS REGARDING USE OF SMALL WIND TURBINES; PROVIDING DEFINITIONS; ESTABLISHING AUTHORITY TO ENFORCE; PROVIDING FOR A PENALTY CLAUSE; REPEALING AND REPLACING CONFLICTING PROVISIONS OF ORDINANCES HEREWITH; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Rhome, Texas, finds that wind energy is an abundant, renewable, and non-polluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources;

**WHEREAS**, distributed small wind energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands;

**WHEREAS**, small wind systems will also make electricity supply market more competitive by promoting customer choice;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RHOME, TEXAS:**

**Section 1.** Section 30 of the Comprehensive Zoning Ordinance of the City of Rhome is hereby amended and the following attached Exhibit "A" is hereby substituted.

**Section 2.** Any person, firm or corporation violating any provision of this Ordinance shall be punished by a penalty of fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense.

**Section 3.** If any section or provision of this Ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid, the adjudication shall not affect any other section or provision of this Ordinance or the application of any other section or provision to any other person, firm, corporation, situation or circumstance,

nor shall adjudication affect any other section or provision of the Zoning Ordinance of the City of Rhome, Texas, and the City Council declares that it would have adopted the valid portions and applications of the Ordinance without the invalid parts and to this end the provisions of this Ordinance shall remain in full force and effect.


**Section 4.** Any ordinances of the City of Rhome in conflict with the provisions of this Ordinance are repealed to the extent of that conflict.

**Section 5.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption of said Ordinance as the law in such cases provides.

**PASSED AND ADOPTED** by the City Council of the City of Rhome, Texas, this the 12<sup>th</sup> day of December, 2008.

  
\_\_\_\_\_  
MARK LORANCE, MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
WALTER W. LEONARD  
CITY ATTORNEY

EXHIBIT "A"

SECTION 30

SMALL WIND TURBINES

30.1 PURPOSE

- A. It is the purpose of this Section to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.
- B. This Section authorizes the City of Rhome, Texas, to provide, by ordinance, for the installation of small wind energy systems, as specified, and to issue a permit for this purpose. This section authorizes the City of Rhome, Texas, to permit installation of these systems, as specified. No other local ordinance, policy or regulation shall be the basis to deny the siting and operation of a small wind energy system. This Section also requires the City of Rhome, Texas, to approve an application for a small wind energy system by right if the criteria below are met and authorizes the City of Rhome to charge a fee of not more than fifty dollars (\$50.00) per small wind energy system. If any portion of the proposed small wind system does not meet the requirements set under this Section, a zoning variance will be required.

30.2 DEFINITIONS

Unless the context requires otherwise, the following terms and phrases, as used in this Section, shall have the meanings hereinafter designated:

- A. *Ordinance*: Shall mean this Section Establishing Rules and Regulations Regarding Use of Small Wind Turbines.
- B. *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 appropriate to the on-site electric usage of the end user.
- C. *Tower Height*: The height of the fixed portion of the tower, wind turbine and the blades above grade.

D. *Turbine*: The parts of a wind system including the blades, generator and tail.

### 30.3 OVERLAY ZONING

Use of small wind turbines pursuant to the provisions of this Section shall be permissible in all zones of the City of Rhome and shall be considered a valid use in all such districts.

### 30.4 PERMITTED USES

Small wind energy systems with a rated capacity of not more than one hundred kilowatts (100 KW) shall be permitted use in all zoning classifications where structures of any type are allowed subject to the following requirements:

- A. Tower heights of not more than one hundred fifty feet (150') shall be allowed on parcels between one (1) and five (5) acres. For property sizes of five (5) acres or more, there is no limitation to tower height, except as imposed by Federal Aviation Administration (FAA) regulations, provided that the application includes evidence that the proposed height does not exceed the height recommended by the manufacturer, distributor or designer of the system.
- B. Setbacks for the system tower shall be no closer to the property line than one hundred twenty-five percent (125%) or the height of the system and no part of the system, including guy wire anchors, may extend closer than ten feet (10') of the property boundary. Additionally, all guy wires must be marked and clearly visible to a height of six feet (6') above the guy wire anchors.
- C. Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code.
- D. Decibel levels for the system shall not exceed sixty decibels (60 dB), or in excess of five decibels (5 dB) above background noise whichever is greater, as measured at the closest neighboring inhabited dwelling, except during short-term events such as utility outages and severe windstorms.
- E. The application shall include standard drawings and an engineering analysis of the system's tower, and certification by a professional mechanical, structural or civil engineer. The application must demonstrate that the system is designed to meet the most stringent wind requirements. The minimum design wind speed shall not be less than ninety miles per hour (90 mph).

- F. The system shall comply with all applicable Federal Aviation Administration (FAA) requirements, including Part 77 of Title 14 of the Code of Federal Aviation Regulations regarding installations close to airports.
- G. No grid-interconnected wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install a grid-connected customer-owned generator. Off-grid systems shall be exempt of this requirement.
- H. All small wind energy systems shall be properly maintained and operational. Upon abandonment or discontinuation of use, the owner shall notify the City of Rhome by certified U.S. mail of the proposed date of abandonment or discontinuation of use and physically remove the small wind energy system within ninety (90) days from that date. "Physically remove" shall include, but not be limited to:
  - 1. Removal of the wind turbine and tower and related above grade structures.
  - 2. Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after conditions.

In the event that an owner fails to give such notice, the system shall be considered abandoned or discontinued if the system is out of service for a continuous twelve (12) month period. After the twelve (12) months of such abandonment or discontinued use, the City of Rhome may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice within thirty (30) days of receipt. The City of Rhome shall withdraw the Notice of Abandonment and notify the owner if the owner provides information that demonstrates the small wind energy system has not been abandoned or neglected.

If the owner fails to respond to the Notice of Abandonment or if, after review by the City Inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind turbine and tower at the owner's sole expense within three (3) months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the City shall have the authority to enter the subject property and physically remove the small wind energy system.

The City of Rhome may require the applicant to provide a form of surety (i.e., post a bond, letter of credit or establish an escrow account or other) at the time of construction to cover the costs of the removal in the event the City must remove the facility. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified

engineer. The amount shall include a mechanism to accommodate the rate of inflation over fifteen (15) years.

- I. It is unlawful for any person to construct, install or operate a small wind energy system that is not in compliance with this Section or with any condition contained in the site plan review issued pursuant to this Section.
- J. Any person who fails to comply with any provision of this Section or a building permit issued pursuant to this Section shall be subject to enforcement and penalties determined by the City of Rhome.