

CHAPTER 147  
FORMERLY  
HOUSE SUBSTITUTE NO. 1 FOR  
HOUSE BILL NO. 70  
AS AMENDED BY  
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING  
TO WIND ENERGY SYSTEMS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF  
DELAWARE:

Section 1. Amend Chapter 80, Title 29 of the Delaware Code by adding a new “§ 8060” to read as follows:

“§ 8060. Restrictions.

(a) No county or municipal government, homeowner association, or association formed for the management of commonly-owned elements and facilities or for regulating use of private property shall adopt any covenant, restriction, deed restriction, zoning restriction, or subdivision restriction which prohibits or restricts the owner of a property from using a system for obtaining wind energy for a residential single family dwelling unit. Any such restriction adopted after the effective date of this section shall be void and unenforceable.

(b) A county or municipal government, homeowner association, or an association formed for the management of commonly-owned elements and facilities or for regulating use of private property may place restrictions on wind energy system installations subject to subsection (a) of this section, provided such restrictions shall not be more restrictive than the following:

1. Wind turbines shall be setback 1.0 times the turbine height from adjoining property line. Turbine height means the height of the tower plus the length of one blade.

2. The aggregate noise or audible sound of a wind system shall not exceed five (5) decibels above the existing average noise level of the surrounding area and shall be restricted to a maximum of 60 decibels measured at any location along the property line to the parcel where the wind system is located.

3. Wind systems shall be free from signage, advertising, flags, streamers, any decorative items or any item not related to the operation of the wind turbine. Electric wiring for the turbines shall be placed underground for non-building integrated systems.

4. This section shall not be applicable in any county or municipal designated historic district or historic zoning district.

5. Any wind energy system shall be buffered from any properties or structures included on the Historic Register.

(c) The provisions of this section shall apply to wind energy systems and wind facilities that qualify for support from the Green Energy Fund, as authorized under § 8057 of this Title, or other such similar programs administered by the State Energy Office.”.

Section 2. This Act shall become effective 30 days after enactment.

Approved July 09, 2009