

## CHAPTER 24

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### LARGE WIND ENERGY SYSTEMS

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#### Part I. General Provisions.

- |                      |   |
|----------------------|---|
| 24.01 Title.         | 24.05 Statutes, Regulations, and Rules. |
| 24.02 Authority.     | 24.06 Severability.                     |
| 24.03 Purpose.       | 24.07 Effective Date.                   |
| 24.04 Applicability. |   |

#### Part II. Definitions.

- 24.08 Definitions.

#### Part III. Application, Filing, and Approval Requirements.

- |                                 |   |
|---------------------------------|---|
| 24.09 Application Requirements. | 24.11 Approval and Permit Requirement.  |
| 24.10 Filing Requirements.      | 24.12 Conditions Required for Approval. |

#### Part IV. Local Regulations.

- |   |   |
|---|---|
| 24.13 Aerial Spraying.  | 24.21 Noise.                                  |
| 24.14 Airport Approach Protection.                              | 24.22 Ownership Change.                       |
| 24.15 Annual Reports.   | 24.23 Permits.                                |
| 24.16 Emergency Procedures.                                     | 24.24 Signal Interference.                    |
| 24.17 Financial Responsibility.                                 | 24.245 Emergency Communications<br>Corridors. |
| 24.18 Information.  | 24.25 Soil and Drainage System<br>Protection. |
| 24.19 Lighting.   | 24.26 Studies.                                |
| 24.20 Monetary Compensation for<br>Nonparticipating Residences. |   |

#### Part V. Local Procedure.

- |  |  |
|--|--|
| 24.27 Costs and Fees.                      | 24.33 Modifications.                       |
| 24.28 Consultants.                         | 24.34 Third-Party Construction Inspector.  |
| 24.29 Completeness Review.                 | 24.35 Postconstruction Filing Requirement. |
| 24.30 Requests for Additional Information. | 24.36 Compliance Monitoring.               |
| 24.31 Approval Review.                     | 24.37 Decommissioning Review.              |
| 24.32 Written Decision.                    | 24.38 Appeals.                             |

#### Part VI. Complaints.

- |                                      |                          |
|--------------------------------------|--------------------------|
| 24.39 Complaint Notice Requirements. | 24.41 Complaint Process. |
| 24.40 Complaint Monitoring.          |                          |

Part VII. Violations, Enforcement, and Penalties.

24.42 Violations.

24.44 Penalties.

24.43 Enforcement.

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**PART I. GENERAL PROVISIONS.**

**24.01 Title.**

This ordinance may be referred to as the Large Wind Energy Systems Ordinance, the Large Wind Ordinance, or the LWES Ordinance.

**24.02 Authority.**

This ordinance is adopted pursuant to Wis. Stat. § 66.0401 and Wis. Admin. Code § PSC 128.

**24.03 Purpose.**

The purpose of this ordinance is to adopt and incorporate the requirements of Wis. Stat. § 66.0401 and Wis. Admin. Code ch. PSC 128 as a local ordinance and to establish local regulations on the installation and use of large wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Wisconsin Public Service Commission and that serve to preserve or protect the public health or safety, do not significantly increase the cost of the system or significantly decrease its efficiency, or allow for an alternative system of comparable cost and efficiency. Local regulations on the installation and use of small wind energy systems are contained in Manitowoc County Code Chapter 25, Small Wind Energy Systems.

**24.04 Applicability.**

This ordinance applies to all lands within the boundaries of the county lying outside the limits of incorporated cities and villages.

**24.05 Statutes, Regulations, and Rules.**

- (1) This ordinance is subject to the provisions of the Wisconsin Statutes and all regulations and rules promulgated thereunder.
- (2) Wis. Stat. § 66.0401 and Wis. Admin. Code ch. PSC 128 are adopted and incorporated by reference.

#### **24.06 Severability.**

The provisions of this ordinance are severable and the invalidity of any part of this ordinance will not affect the validity of the remainder of the ordinance.

#### **24.07 Effective Date.**

The effective date of this ordinance is March 31, 2013.

### **PART II. DEFINITIONS.**

#### **24.08 Definitions.**

“Department” means the Manitowoc County Planning and Zoning Department.

“Department director” or “director” means the director of the Manitowoc County Planning and Zoning Department or the department director’s designee.

“Permit” means a wind energy system permit issued by the Manitowoc County Planning and Zoning Department pursuant to this ordinance.

“Planning commission” means the Manitowoc County Planning and Park Commission.

“PSC 128” means Wis. Admin. Code ch. PSC 128, Wind Energy Systems.

### **PART III. APPLICATION, FILING, AND APPROVAL REQUIREMENTS.**

#### **24.09 Application Requirements.**

- (1) An owner shall file an original application which contains the information required by PSC 128.30(2) with the department.
- (2) The owner shall submit 11 copies of the application to the department and one copy of the application to the clerk of each town in which any wind energy system facility is located.
- (3) The owner shall submit 1 digital copy of the application to the department in a format that is acceptable to the department.
- (4) Each copy of the application shall include all documents, drawings, maps, worksheets, and other materials that are included in the original application.

#### **24.10 Filing Requirements.**

- (1) Any document or paper required to be filed with the county pursuant to PSC 128 or this ordinance must be filed at or delivered to the department's office.
- (2) Any document, paper, or other material submitted to the county that relates to an application must be delivered to the department's office or submitted to the department on the record at a public hearing.
- (3) Any document or paper filed or otherwise submitted by an owner or any other interested party that relates to an application must be 8-1/2 x 11 inches in size. A person who wishes to submit a paper that is larger than 8-1/2 x 11 inches in size shall also submit a reduced copy that is 8-1/2 x 11-inches in size.

#### **24.11 Approval and Permit Requirement.**

- (1) An owner must obtain the county's approval before constructing a wind energy system or expanding an existing or previously approved wind energy system, and no wind energy system may be installed, constructed, or expanded without a wind energy system permit issued by the department.
- (2) A wind energy system permit issued by the department expires if construction of the wind energy system is not commenced within 24 months from the date of the permit.

#### **24.12 Conditions Required for Approval.**

- (1) An owner shall provide information about whether it has consulted with and received any non-binding recommendations for construction, operating, or decommissioning the wind energy system from any federal or state agency and whether the owner has incorporated the non-binding recommendation into the design of the wind energy system.
- (2) An owner shall cooperate with any study of the effects of wind energy systems that is coordinated by a state agency.
- (3) An owner shall submit a copy of all necessary state and federal permits and approvals to the county.
- (4) An owner shall provide information showing that it has complied with the notification requirements specified in PSC 128.14(6)(b).
- (5) An owner shall provide information showing that it has complied with the notification requirements specified in PSC 128.15(5)(b).

- (6) An owner shall provide information showing that it has complied with the financial responsibility requirements specified in secs. 24.17(2) and (3).

## **PART IV. LOCAL REGULATIONS.**

### **24.13 Aerial Spraying.**

An owner shall offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within one-half mile of a constructed wind turbine if the farm operator demonstrates all of the following:

- (1) Substantial evidence of a history, before the wind energy system owner gives notice under PSC 128.105(1), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans, or sweet corn on all or part of a farm field located within one-half mile of a constructed wind turbine.
- (2) A material reduction in potato, pea, snap bean, or sweet corn production or a material increase in application costs on all or part of a farm field located within one-half mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.

### **24.14 Airport Approach Protection.**

An owner may not construct wind energy system facilities that exceed the height or setback limitations, or both, contained in Chapter 11, Airport Operations, Minimum Standards, and Approach Protection.

### **24.15 Annual Reports.**

An owner shall, on or before January 31 of each year, file an annual report with the department documenting the operation and maintenance of the wind energy system during the previous calendar year.

### **24.16 Emergency Procedures.**

- (1) An owner shall establish and maintain a liaison with each political subdivision within which its wind energy systems facilities are located and with fire, police, and other appropriate first responders serving the area in which the wind energy systems facilities are located in order to create effective emergency plans as required by PSC 128.18(4)(b).
- (2) An owner shall distribute a copy of its emergency plans to the following:

- (a) Manitowoc County Office of Emergency Management  
Attn: Emergency Management Director  
1024 South 9th Street  
Manitowoc, WI 54220
  - (b) Manitowoc County Sheriff's Office  
Attn: Manitowoc County Sheriff  
1025 South 9th Street  
Manitowoc, WI 54220
  - (c) Clerk for any town or village within which its wind energy systems facilities are located or that are within one-half mile of any of its wind energy systems facilities.
  - (d) Clerk for any city within one-half mile of any of its wind energy systems facilities.
  - (e) Any fire, police, or other first responder identified by the county's emergency management director or the clerk of any city, village, or town who has received a copy of the owner's emergency plans pursuant to pars. (c) and (d).
- (3) An owner shall provide annual training for the county's emergency management department, sheriff's department, and any other fire, police, or other first responder identified in the owner's emergency plans. An owner shall provide at least 8 hours of training during each calendar year and is responsible for all direct training costs.
  - (4) If an owner is required to implement its emergency plans as the result of a wind energy system emergency, it shall conduct a review of employee activities to determine whether the procedures were effectively followed. The owner shall provide the county's emergency management director with a copy of its review. If the review results in any changes to its emergency plans, the owner shall distribute the revised emergency plans as provided in sub. (2).

#### **24.17 Financial Responsibility.**

- (1) An owner with a nameplate capacity of one megawatt or larger shall provide the county with financial assurance of the owner's ability to pay the actual and necessary cost to decommission the wind energy system before commencing major civil construction activities.
- (2) An owner shall provide the county with 3 estimates of the actual and necessary cost to decommission the wind energy system. The cost estimates shall be prepared by third parties agreeable to the owner and the county. The amount of financial assurance required by the county will be the average of the 3 estimates.

- (3) An owner shall establish financial assurance that is acceptable to the county and that places the county in a secured position. The financial assurance must provide that the secured funds may only be used for decommissioning the wind energy system until such time as the county determines that the wind energy system has been decommissioned, as provided for in PSC 128.30(5)(b), or the county approves the release of the funds, whichever occurs first. The financial assurance must also provide that the county may access the funds for the purpose of decommissioning the wind energy system if the owner does not decommission the system when decommissioning is required.
- (4) The county may periodically request information from the owner regarding industry costs for decommissioning the wind energy system. If the county finds that the future anticipated cost to decommission the wind energy system is at least 10 percent more or less than the amount of financial assurance provided under this section, the county may correspondingly increase or decrease the amount of financial assurance required.
- (5) The county may require an owner to submit a substitute financial insurance of the owner's choosing if an event occurs that raises material concern regarding the viability of the existing financial assurance.

#### **24.18 Information.**

- (1) An owner shall, within 30 days of consulting with any federal or state agency about the construction, operation, or decommissioning of the wind energy system, provide the county with information about the reason for the consultation.
- (2) An owner shall, within 30 days of receiving any non-binding recommendation for the construction, operation, or decommissioning of the wind energy system from any federal or state agency, provide the county with information about the consultation and recommendation and whether the owner has incorporated the non-binding recommendation into the design of the wind energy system.

#### **24.19 Lighting.**

An owner shall use shielding or control systems approved by the federal aviation administration to reduce visibility of light to individuals on the ground.

#### **24.20 Monetary Compensation for Nonparticipating Residences.**

- (1) An owner shall offer an agreement to the owner of a nonparticipating residence, if the residence is located within one-half mile of a constructed wind turbine, that includes the following initial annual monetary compensation of \$600 for 1 turbine located within one-half mile of a nonparticipating residence, \$800 for two turbines

located within one-half mile of a nonparticipating residence, and \$1,000 for 3 or more turbines located within one-half mile of a nonparticipating residence.

- (2) The initial annual monetary compensation under this subsection shall apply to agreements entered into in 2011. For agreements entered into in 2012 and thereafter, the initial annual amounts shall increase each year by the greater of two percent or the increase in the Consumer Price Index, as described in Wis. Stat. § 196.374(5)(bm)2 from the previous year.
- (3) An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under this ordinance or PSC 128 and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under this ordinance or PSC 128.

#### **24.21 Noise.**

If an owner receives a complaint of a violation of the noise standards contained in PSC 128.14 and the owner has not provided the department with the results of an accurate test conducted within 2 years of the date of the complaint showing that the wind energy system is in compliance with the noise standard at the location relating to the complaint, the owner shall promptly conduct a noise study to evaluate compliance with the noise standards at that location using the most current version of the noise measurement protocol as described in PSC 128.50(2).

#### **24.22 Ownership Change.**

- (1) An owner shall provide the county with notice of any change in ownership of the wind energy system on or before the effective date of the change.
- (2) A notice of change in ownership of the wind energy system shall include information showing that the financial responsibility requirements specified in secs. 24.17(2) and (3) will be met following the change in ownership.

#### **24.23 Permits.**

An owner shall submit a copy of all necessary state and federal permits and approvals to the county within 30 days of the owner's receipt of any permit or approval that was not provided with the owner's application.

#### **24.24 Signal Interference.**

- (1) An owner shall use reasonable and commercially available technology to mitigate interference with personal communications that were not in use when the wind energy system began commercial operations if the wind energy system is causing



the interference and the interference occurs at a location at least one-half mile from a wind turbine. Except as provided in sub. (4), an owner shall mitigate personal communications interference caused by the wind energy system by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is decommissioned or the communication is no longer in use, whichever is earlier.

- (2) An owner shall, under a protocol established by PSC 128.50(2), implement a new technology solution that becomes commercially available before the wind energy system is decommissioned to address interference for which mitigation is required under PSC § 128.16(2) and (3) and for which the original mitigation solution is only partially effective.

**24.245 Emergency Communications Corridors.**

- (1) A tower may not be located within an emergency communication corridor, which is defined as the area within an existing line-of-sight communication path that is used by a government or military entity to provide services essential to protect public safety.
- (2) Manitowoc County provides emergency communication services that are essential to protect public safety using facilities at the following locations:

<b>MANITOWOC COUNTY COMMUNICATIONS FACILITIES</b>			
SITE	ELEVATION (FEET AT BASE)	NAD 83 LATITUDE DĒG/MIN/SEC	NAD 83 LONGITUDE DĒG/MIN/SEC
Cleveland	709.50	43°54'43.6021"N	87°45'35.7555"W
Franklin	891.84	44°10'52.0009"N	87°50'25.9638"W
Kiel	920.46	43°44'47.4850"N	88°02'18.2792"W
Liberty	964.98	44°00'35.6622"N	87°53'28.5993"W
Maribel	865.00	44°16'36.3979"N	87°48'21.9014"W
Manitowoc	607.00	44°05'15.7699"N	87°39'34.6892"W
Two Creeks	654.66	44°16'12.6567"N	87°33'08.4903"W
Two Rivers	633.32	44°11'16.1745"N	87°35'32.8609"W
Rocky Knoll	1020.01	43°48'00.0000"N	87°58'41.3000"W

- (3) Each of the following pairs of communication towers delineate a protected county emergency communication corridor:
  - (a) Franklin and Liberty;

- (b) Franklin and Maribel;
- (c) Franklin and Two Creeks;
- (d) Franklin and Two Rivers;
- (e) Liberty and Cleveland;
- (f) Liberty and Kiel;
- (g) Manitowoc and Cleveland;
- (h) Manitowoc and Franklin;
- (i) Manitowoc and Liberty;
- (j) Manitowoc and Two Creeks;
- (k) Manitowoc and Two Rivers;
- (l) Two Creeks and Maribel;
- (m) Two Creeks and Two Rivers;
- (n) Cleveland and Rocky Knoll; and
- (o) Kiel and Rocky Knoll.

#### **24.25 Soil and Drainage System Protection.**

- (1) An owner shall utilize all applicable best practices in the placement, construction, operation, and maintenance of its wind energy facilities in order to minimize soil compaction, protect the topsoil, prevent topsoil mixing, and avoid and repair any damage to drainage systems on agricultural land.
- (2) An owner shall describe the applicable best practices that it intends to use in the placement, construction, operation, and maintenance of its wind energy facilities in its application.

#### **24.26 Studies.**

An owner shall cooperate with any study of the effects of wind energy systems that is coordinated by a state agency.

## **PART V. LOCAL PROCEDURE.**

### **24.27 Costs and Fees.**

- (1) An applicant shall pay an application fee to the county at the time that it files its application. The fee will be applied to the cost of reviewing the application.
- (2) An applicant is responsible for paying all costs incurred by the county in connection with the review and processing of the application, including the cost for services provided by outside attorneys, engineers, environmental specialists, planners, and other consultants and experts.
- (3) An owner is responsible for paying all costs incurred by the county in connection with monitoring compliance during construction and assessing when wind energy facilities are not maintained in good repair and operation condition.
- (4) The county shall invoice the applicant or owner for the actual and necessary costs incurred pursuant to this ordinance. The applicant or owner shall reimburse the county for those costs within 15 days of the date of invoice.

### **24.28 Consultants.**

- (1) The department is authorized to contract with one or more engineers, environmental specialists, planners, and other consultants and experts to perform necessary services in connection with this ordinance.
- (2) The corporation counsel is authorized to contract with outside attorneys to perform necessary services in connection with this ordinance.

### **24.29 Completeness Review.**

- (1) An application is complete if it complies with the filing requirements of this ordinance and of PSC 128.30(2) and 128.50(1).
- (2) An application is considered filed the day the owner notifies the department in writing that all the application materials have been filed.
- (3) The department shall determine the completeness of an application and shall notify the owner in writing of the completeness determination no later than 45 days after the day the application is filed.
- (4) If the department determines that the application is incomplete, it shall provide the owner with written notice stating the reasons for the determination. The owner shall provide additional information specified in the notice, and an additional 45-day completeness review period will begin the day after the department receives responses to all items identified in the notice.

- (5) If the owner fails to provide additional information specified in the notice of an incomplete application within 90 days, the application will be deemed abandoned. The owner may refile the application at a later date, subject to payment of a new application fee. There is no limit to the number of times that an owner may refile an application.
- (6) If the county does not make a completeness determination within the applicable review period, the application is considered to be complete.

#### **24.30 Requests for Additional Information.**

- (1) The department may request additional information necessary to understand the wind energy system after determining that an application is complete.
- (2) An owner shall provide additional information in response to all reasonable requests.
- (3) An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete, and accurate manner.
- (4) If the owner fails to provide additional information requested within 90 days, the application will be deemed abandoned. The owner may refile the application at a later date, subject to the payment of a new application fee. There is no limit to the number of times that an owner may refile an application.

#### **24.31 Approval Review.**

- (1) The department shall have 90 days from the date that it notifies the owner that the application is complete in which to approve or disapprove the application.
- (2) The review period may be extended upon written notice to the applicant for one or more of the following reasons; but the total time for all extensions may not exceed 90 days:
  - (a) Up to 45 days if additional information is needed.
  - (b) Up to 90 days if the applicant makes a material modification to the application.
  - (c) Up to 90 days for other good cause specified in writing.
- (3) If the department fails to act within the 90 days, or within any extended time period, the application will be considered approved.
- (4) The planning commission shall hold one public hearing during the initial 90-day application review period for the purpose of receiving public comments on the application. A hearing notice will be published and the hearing will normally be

held at the first commission meeting following notice to the applicant that the application is complete.

- (5) Written comments will be accepted for 10 days following the close of the hearing.

#### **24.32 Written Decision.**

- (1) The department shall issue a written decision to grant or deny an application for a wind energy system. The written decision must include findings of fact supported by evidence in the record. If an application is denied, the decision must specify the reason for the denial.
- (2) The department shall provide a duplicate original of its written decision to the owner and the commission.
- (3) The owner shall record the duplicate original of a decision approving an application with the register of deeds.

#### **24.33 Modifications.**

- (1) An owner shall comply with PSC 128.35 before making any material change to a wind energy system.
- (2) The department will conduct a review of any application for a material change in a wind energy system as provided for in PSC 128.35(2).

#### **24.34 Third-Party Construction Inspector.**

- (1) The department may contract with a third-party inspector to monitor and report to the department regarding the owner's compliance with permit requirements during construction.
- (2) The inspector monitoring compliance under this section shall also report to a state permitting authority upon the state permitting authority's request.
- (3) The inspector shall make monthly written reports to the department.
- (4) The owner shall reimburse the county for the actual and necessary cost of the inspector.

#### **24.35 Postconstruction Filing Requirement.**

- (1) Within 90 days of the date a wind energy system commences operation, the owner shall file with the department and the commission an as-built description of the wind energy system, an accurate map of the wind energy system showing the

location of all wind energy system facilities, geographic information system information showing the location of all wind energy system facilities, and current information identifying the owner of the wind energy system.

- (2) An owner shall label each wind turbine location described in its filing and shown on the map of the wind energy system with a unique identifier consistent with the information posted at the wind turbine location under PSC 128.18 (1).

#### **24.36 Compliance Monitoring.**

- (1) An owner shall maintain a maintenance log for each wind turbine. The log must contain the following information regarding any maintenance performed on the wind turbine:
  - (a) date and time maintenance was performed.
  - (b) nature of the maintenance performed.
  - (c) reason for the maintenance.
- (2) An owner shall, at the owner's expense, provide the department with a copy of the maintenance log for each wind turbine for each month within 5 calendar days after the end of the month.
- (3) The department may retain such consultants or experts as it deems necessary to assess and determine whether the wind energy system facilities are compliant or to assess whether the wind energy system facilities are being maintained in good repair and operating condition.

#### **24.37 Decommissioning Review.**

- (1) An owner shall file a notice of decommissioning completion with the county and any political subdivision within which its wind energy systems facilities are located when a wind energy system approved by the county has been decommissioned and removed.
- (2) The department shall conduct a decommissioning review to determine whether the owner has decommissioned and removed the wind energy system as required by PSC 128.29(1)(a) and whether the owner has complied with its site restoration obligation under PSC 128.29(4).
- (3) The owner shall cooperate with the county by participating in the decommissioning review process.

### **24.38 Appeals.**

- (1) A decision by the department that the application is incomplete, to approve or disapprove the application, or to impose a restriction on a wind energy system may be appealed to the commission.
- (2) Any action by the county to enforce a restriction on a wind energy system may be appealed to the commission.
- (3) An appeal must be filed with the commission within 30 days after the date of the decision or the start of the enforcement action that is being appealed.

## **PART VI. COMPLAINTS.**

### **24.39 Complaint Notice Requirements.**

- (1) An owner shall comply with the notice requirements contained in PSC 128.42(1).
- (2) An owner shall, before construction of a wind energy system begins, provide the department with a copy of the notice issued pursuant to PSC 128.42(1), along with a list showing the name and address of each person to whom the notice was sent and a list showing the name and address of each political subdivision to which the notice was sent.
- (3) An owner shall, before construction of a wind energy system begins, file with the department the name and telephone number of the owner's contact person for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning. The owner shall keep the name and telephone number of the contact person on file with the department current.

### **24.40 Complaint Monitoring.**

- (1) An owner shall maintain a complaint log as required by PSC 128.40(2)(d).
- (2) An owner shall, at the owner's expense, provide the department with a copy of the complaint log for each month within 5 calendar days after the end of the month.
- (3) An owner shall, before construction of a wind energy system begins, provide the department with a written copy of the owner's complaint resolution process. An owner shall provide the department with a written copy of any changes to the complaint resolution process at least 30 days prior to implementing the change.

#### 24.41 Complaint Process.

- (1) An aggrieved person who has made a complaint to an owner in accordance with PSC 128.40 may petition the county for review of the complaint if it has not been resolved within 45 days of the day the owner received the original complaint.
- (2) The petition for review must be filed with the department within 90 days of the date of the original complaint.
- (3) The petition must include the following:
  - (a) name, address, and telephone number of the person filing the petition.
  - (b) copy of the original complaint to the owner.
  - (c) copy of the owner's initial response.
  - (d) statement describing the unresolved complaint.
  - (e) statement describing the desired remedy.
  - (f) any other information the complainant deems relevant to the complaint.
  - (g) notarized signature of the person filing the petition.
- (4) The department shall forward a copy of the petition to the owner by certified mail within 10 days of the department's receipt of the petition.
- (5) The owner shall file an answer to the petition with the department and provide a copy of its answer to the complainant within 30 days of its receipt of the petition.
- (6) The answer must include the following:
  - (a) name, address, and telephone number of the person filing the answer.
  - (b) statement describing the actions taken by the owner in response to the complaint.
  - (c) statement of the reasons why the owner believes that the complaint has been resolved or why the complaint remains unresolved.
  - (d) statement describing any additional action the owner plans or is willing to take to resolve the complaint.
  - (e) any other information the owner deems relevant to the complaint.
  - (f) notarized signature of the person filing the answer.



- (7) The complainant and the owner may, within 30 days following the owner's filing of its answer, file such additional information with the department as each deems appropriate.
- (8) The department may request such additional information from the complainant and the owner as it deems necessary to complete its review.
- (9) The department may retain such consultants or experts as it deems necessary to complete its review.
- (10) The department shall issue a written decision and may take such enforcement action as it deems appropriate with respect to the complaint.
- (11) The department's decision and enforcement action is subject to review under Wis. Stat. § 66.0401(5).

## **PART VII. VIOLATIONS, ENFORCEMENT, AND PENALTIES.**

### **24.42 Violations.**

- (1) It is unlawful for any person to violate any provision of this ordinance.
- (2) It is unlawful for any person to knowingly provide false information, make a false statement, fail to provide, or misrepresent any material fact to a county agent, board, commission, committee, department, employee, official, or officer acting in an official capacity under this ordinance.
- (3) It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist a permit or order issued pursuant to this ordinance.
- (4) A separate offense is deemed committed on each day that a violation occurs or continues.

### **24.43 Enforcement.**

- (1) Department Authority. The department shall enforce this ordinance and may conduct inspections and investigate complaints relating to compliance with this ordinance.
- (2) Inspection Authority. The department may request permission to inspect, at a reasonable time and date, any premises or structure for which a permit has been applied for or granted to determine compliance with this ordinance. Refusal to grant permission is grounds for denial or revocation of a permit. If permission is not given, the department may apply for, obtain, and execute a special inspection warrant pursuant to Wis. Stat. § 66.0119.

- (3) Notice of Noncompliance. If the department finds a violation of any provision of this ordinance, the department may issue a written notice to the owner stating the conditions of non-compliance, specifying the action required to come into compliance, and providing a reasonable amount of time within which compliance is required.
- (4) Permit Revocation Authority. The department may revoke a permit for substantial noncompliance with any provision of this ordinance, refusal to permit inspection of wind energy systems facilities for which a permit has been granted, or failure to comply with the action requirement contained in a notice of noncompliance.
- (5) Citation Authority. The department may issue a citation for any violation of this ordinance. The department is not required to issue a notice of noncompliance or take any other action prior to issuing a citation.
- (6) Legal Referral. The department may refer a violation of this ordinance to corporation counsel for legal action, including an action seeking injunctive relief. The department is not required to issue a notice of noncompliance or take any other action prior to referring a violation to corporation counsel.
- (7) Other Enforcement Means. Nothing in this section may be construed to prevent the county from using any other lawful means to enforce this ordinance.

#### **24.44 Penalties.**

- (1) A person will, upon conviction for any violation of this ordinance, forfeit not less than \$100 nor more than \$1,000 for each offense, together with the costs of prosecution for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time.
- (2) The minimum and maximum forfeitures specified in this section are doubled each time that a person is convicted for the same violation of this ordinance within any 12 month period.
- (3) A person who has the ability to pay a forfeiture entered pursuant to this ordinance, but who fails or refuses to do so may be confined in the county jail until the forfeiture and costs are paid, but the period of confinement may not exceed 30 days. In determining whether a person has the ability to pay, all items of income and all assets may be considered regardless of whether the income and assets are subject to garnishment, lien, or attachment by creditors.
- (4) The failure of a county employee, official, or officer to perform an official duty imposed by a section of this code will not subject the employee, official, or officer to a penalty unless the section imposing the duty also specifies the penalty.

## HISTORY

09/21/2004: Created by Ord. No. 2004/2005-77 effective September 29, 2004.

05/17/2005: Sec. 24.16 created by Ord. No. 2005/2006-38 effective May 17, 2005.

12/20/2005: Sec. 24.16 amended by Ord. No. 2005/2006-140 effective January 1, 2006.

04/12/2006: Title, Table of Contents, secs. 24.01-24.03 and secs. 24.05-24.07 amended; sec. 24.08 amended and renumbered as sec. 24.10; sec. 24.09 amended and renumbered as sec. 24.08; sec. 24.10 amended and renumbered as sec. 24.09; secs. 24.11-24.14 amended; and secs. 24.145 and 24.16(3) created by Ord. No. 2005/2006-192 effective May 1, 2006.

02/13/2007: Sec. 24.11 amended by Ord. No. 2006/2007-123 effective February 21, 2007.

09/18/2007: Sec. 24.06(14) amended by Ord. No. 2007/2008-64.

09/18/2007: Sec. 24.11(3) created by Ord. No. 2007/2008-65 effective September 25, 2007.

10/18/2011: Sec. 24.11(2) amended by Ord. No. 2011/2012-59 effective October 24, 2011.

03/13/2012: Appendix A added showing the date each town adopted Chapter 24.

09/18/2012: Repealed by Ord. No. 2012/2013-48 effective September 30, 2012.

03/19/2013: Recreated by Ord. No. 2012/2013 101 effective March 31, 2013.

05/21/2013: Secs. 24.03, 24.20(3) 24.20(1), and 24.39(2) amended by Ord. No. 2013/2014-24 effective June 1, 2013.

05/21/2013: Sec. 24.27(1) amended by Ord. No. 2013/2014-25 effective August 1, 2013.

07/16/2013: Secs. 24.24(1) and (2) repealed, secs. 24.24(3) and (4) renumbered, and sec. 24.245 created by Ord. No. 2013/2014-37 effective August 1, 2013.

04/24/2018: Sec. 24.245 amended by Ord. No. 2018/2019-7 effective May 3, 2018.

02/15/2022: Typographical corrections made to Table of Contents, Part I, II, III, IV, and IV headings, and secs. 25.03 and 25.05(2).