

## **500.7 Ordinance Regulating the Siting of Wind Energy Systems**

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### **SECTION I – TITLE AND PURPOSE**

The title of this ordinance is the Town of Berry Ordinance Regulating The Siting of Wind Energy Systems 500.7. The purpose of this ordinance is to allow the Town of Berry to regulate and permit the siting of large wind driven turbines and generators used to produce electric power and ensure any proposed wind energy system complies with applicable provisions of PSC 128, Wisconsin Administrative Code as amended, and this section. This section provides the standards and procedures for issuance of conditional use permits for wind energy systems, as defined in s. 66.0403(1)(m), Wis. Stats

### **SECTION II – AUTHORITY**

The Town Board of the Town of Berry, Dane County, Wisconsin, has the specific authority under s. 66.0113, Wis. Stats., and s. 66.0401 to adopt this ordinance.

### **SECTION III – ADOPTION OF ORDINANCE**

This ordinance, adopted by a majority of the Town Board on a roll call vote with a quorum present and voting and proper notice having been given, provides the authority for the town to regulate and permit the siting of large wind driven turbines and generators used to produce electric power.

### **SECTION IV – SUBDIVISION AND NUMBERING OF THIS ORDINANCE**

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a “section,” “subsection,” “paragraph,” or “subdivision” includes all divisions of the reference section, subsection, paragraph, or subdivision.

### **SECTION V – DEFINITIONS**

- A. **“Wind Energy System”** has the meaning given in s. 66.0403(1)(m), Wis. Stats..
- B. **“Application for approval”** means an application for approval of a wind energy system under rules promulgated by the commission under s. 196.378 (4g) (c) 1.
- C. **“Commission”** means the Wisconsin Public Service Commission.

## **SECTION VI – REGULATIONS AND PERMITTING**

- A. No restriction shall be placed, either directly or in effect, on the installation or use of a wind energy system, unless the restriction satisfies one of the following conditions:
  - (a) Serves to preserve or protect the public health or safety.
  - (b) Does not significantly increase the cost of the system or significantly decrease its efficiency.
  - (c) Allows for an alternative system of comparable cost and efficiency.
- B. Wind energy systems are a conditional use in any district in the Town of Berry. The Town will apply Wis. Stats. s. 66.0401(4) and PSC Ch 128 Wisconsin Administrative Code as amended, in the evaluation of such requests, and hereby incorporates by reference said sections.
- C. To the extent not inconsistent with state law, the procedures for consideration of conditional uses set forth in Dane County Ordinances s. 10.255(2), or any successor subsection, shall be followed.
- D. The permit application shall include a description of the electrical distribution system the applicant intends to use in conjunction with the wind energy system, including contractual commitments of third-parties necessary to the distribution plan. No application shall be considered complete until the applicant demonstrates a complete distribution system to facilities able to accept the entire maximum load of the wind energy system.
- E. Small scale wind energy systems, not requiring approval under section 196.491 Wis. Stats., and used for creating electricity to be used on the property, are not regulated by this ordinance.
- F. The application for approval shall be submitted to the Town Clerk, with 9 paper copies, together with a PDF copy and a filing fee equal to the then applicable filing fee for conditional use permits.
- G. The applicant shall offer the compensation to property owners authorized by PSC 128.33(3) & (3m) and shall file annual reports pursuant to PSC 128.33(5).

## **SECTION VII – RELATIONSHIP TO OTHER LAWS**

The adoption of this ordinance prior to the adoption of a County Ordinance on the same subject, and incorporating County Zoning regulations, is intended to make both County and Town Ordinances compatible and applicable to the conditional use permit for the property where the wind energy system is to be sited.

## **SECTION VIII – SEVERABILITY**

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

## **SECTION IX – EFFECTIVE DATE**

This ordinance is effective on publication or posting. If at any time during the life of this ordinance rules promulgated by the commission under s. 196.378(4g)(c)1 are ruled invalid

or otherwise repealed, the portions of those rules incorporated by reference into this ordinance shall remain in full effect under this ordinance until such time as new rules are promulgated by the Commission or this ordinance is declared invalid or repealed. The town clerk shall properly post or publish this ordinance as required by law.

Dated this 18<sup>th</sup> day of March, 2013

Published: March 28, 2013

Posted: March 21, 2013

Brenda Kahl, Clerk/Treasurer  
Chris Upper, Supervisor  
Jim Laubmeier, Supervisor

Anthony Varda, Chair  
Don Witmer-Kean, Supervisor  
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