

500.7 Regulating the Siting of Wind Energy Systems Ordinance

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SECTION I – PURPOSE

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 Wisconsin Statute 66.0403(1)(m).

SECTION II – AUTHORITY

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

SECTION III – ADOPTION OF ORDINANCE

This ordinance, adopted by a majority of the Town Board 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 – DEFINITIONS

- A. Wind Energy System. Has the meaning given in Wisconsin Statute 66.0403(1)(m).
- B. Application for approval. An application for approval of a wind energy system under rules promulgated by the commission under section 196.378 (4g) (c) 1.
- C. Commission. The Wisconsin Public Service Commission.

SECTION V – 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:
 - 1. Serves to preserve or protect the public health or safety.
 - 2. Does not significantly increase the cost of the system or significantly decrease its efficiency.
 - 3. 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 Wisconsin Statute 66.0401(4) and PSC Chapter 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 Town of Berry Ordinance Section 1.095, 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 Wisconsin Statute 196.491 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 VI – 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 VII – EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the day after passage and publication as required by law. 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.

Dated this 15th day of April, 2019

Posted: April 17, 2019

Published: April 25, 2019

Brenda Kahl, Clerk/Treasurer
Jeff Davis, Supervisor
Joe Kruchten, Supervisor

Anthony Varda, Chair
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