

CHAPTER 25

SMALL WIND ENERGY SYSTEM ORDINANCE

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25.01 Title. This ordinance may be referred to as the Small Wind Energy System Ordinance.

25.02 Authority. This ordinance is adopted pursuant to authority granted by Wis. Stat. secs. 59.69, 59.694, and 66.0401.

25.03 Purpose. The purpose of this ordinance is to establish regulations for small wind energy systems in order to protect the public health and safety.

25.04 Applicability. This ordinance applies to all lands within the boundaries of Manitowoc County lying outside the limits of incorporated cities and villages, but will not take effect in a town until approved by the Town Board in accordance with Wis. Stat. sec. 59.69.

25.05 Definitions. In this ordinance:

(1) “Administrator” means the Code Administrator appointed pursuant to sub. 8.18(2) and his or her designee.

(2) “Met tower” means a tower, including any anchor, base, base plate, boom, cable, electrical or electronic equipment, guy wire, hardware, indicator, instrument, telemetry device, vane, or wiring, that is used to collect or transmit meteorological data, including wind speed and wind flow information, in order to monitor or characterize wind resources at or near a small wind energy system.

(3) “Owner” means the person that owns a small wind energy system or met tower and the property on which the small wind energy system or met tower is located.

(4) “Small wind energy system” means a wind energy system that has a nameplate capacity of 100 kilowatts or less, has a total height of 170 feet or less, and is primarily used to generate energy for use by its owner.

(5) “Total height” means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

(6) “Tower” means either the freestanding, guyed, or monopole structure that supports a wind generator or the freestanding, guyed, or monopole structure that is used as a met tower.

(7) “Wind energy system” means equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system.

(8) “Wind generator” means the mechanical and electrical conversion components mounted at the top of a tower in a wind energy system.

25.06 Standards - Small Wind Energy System. A small wind energy system is a permitted use in any district subject to the following requirements:

(1) Set backs. A tower in a small wind energy system must be set back:

(a) at least 1.2 times its total height from the property line of the property on which it is located;

(b) at least 1.2 times its total height from any public road or power line right-of-way.

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(2) Noise. The noise generated by the operation of a small wind energy system may not exceed 5 dB(A) as measured at any point on property adjacent to the parcel on which the small wind energy system is located. The noise level generated by the operation of a small wind energy system will be determined during the investigation of a noise complaint by comparing the sound level measured when the wind generator blades are rotating to the sound level measured when the wind generator blades are stopped.

(3) Blade Clearance. The vertical distance from ground level to the tip of a wind generator blade when the blade is at its lowest point must be at least 30 feet.

(4) Access. All ground-mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within 8 feet of the ground that is readily accessible to the public.

(5) Electrical Wires. All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, must be located underground.

(6) Lighting. A wind tower and generator may be artificially lighted only if lighting is required by the Federal Aviation Administration.

(7) Appearance, Color, and Finish. The exterior surface of any visible component of a small wind energy system must be a non-reflective, neutral color.

(8) Signs. No sign, other than a warning sign or installer, owner, or manufacturer identification sign, may be placed on any component of a small wind energy system if the sign is visible from a public road.

(9) Code Compliance. A small wind energy system must comply with the National Electrical Code and all applicable state construction and electrical codes. The owner must provide certification from a state licensed inspector showing that the small wind energy system complies with all applicable codes before placing the small wind

energy system into operation.

(10) Signal Interference. (a) The owner of a small wind energy system or met tower must take reasonable steps to prevent and eliminate any interference with the transmission and reception of electromagnetic communications, such as microwave, radio, telephone, or television signals.

(b) A small wind energy system or met tower may not be located within an emergency communication corridor, which is defined as the area within 500 feet of a line connecting a specified pair of communication towers. Each of the following pairs of communication towers, whose locations are described using Manitowoc County coordinates, delineate a protected emergency communication corridor:

(a) Cato (X-180750; Y-309973) and Kiel (X-133284; Y-236071);

(b) Manitowoc (X-233381; Y-299218) and Cato (X-180750; Y-309973);

(c) Manitowoc (X-233381; Y-299218) and Mishicot (X-244031; Y-355404);

(d) Maribel (X-194925; Y-368319) and Cato (X-180750; Y-309973);

(e) Maribel (X-194925; Y-368319) and Manitowoc (X-233381; Y-299218); and

(f) Maribel (X-194925; Y-368319) and Mishicot (X-244031; Y-355404).

(11) Utility Interconnection. A small wind energy system that connects to the electric utility must comply with Wis. Admin. Code § PSC 119 "Rules for Interconnecting Distributed Generation Facilities."

25.07 Standards - Met Tower. A met tower is a permitted use in any district subject to the same standards as a small wind energy system set forth in sec. 25.06, except for the standards contained in subs. 25.06(2) and (3).

25.08 Zoning Permit. (1) Permit Requirement. A zoning permit is required for the installation of a small wind energy system or a met tower, and the

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owner must apply for a zoning permit and pay the fee for a permitted accessory use. The application will be processed following the procedures set forth in par. 8.18(2)(b).

(2) **Site Plan Review.** A site plan must be submitted and include information as specified in sub. 8.18(2)(b) and provide the following additional information as part of the permit application:

- (a) Location of any overhead utility lines on or adjacent to the property;
- (b) Description and specifications of the components of the small wind energy system, met tower, or both, including the manufacturer, model, capacity, blade length, and total height of any small wind energy system; and
- (c) Blueprints or drawings which have been approved by a registered professional engineer for any tower and tower foundation.

(3) If the permit application is denied, the Administrator will notify the owner in writing and provide a written statement of the reason why the application was denied. The owner may appeal the Administrator's decision to the Board of Adjustment as provided by sub. 8.19(7).

(4) **Expiration.** A permit expires if the small wind energy system or met tower is not installed and functioning within 12 months from the date the permit is issued.

25.09 Abandonment. (1) A small wind energy system or met tower that is out-of-service for a continuous period of 12 months will be deemed abandoned and the Administrator may issue a Notice of Abandonment to the owner.

(2) If, within 30 days of receipt of a Notice of Abandonment, the owner provides the Administrator with information showing that the small wind energy system or met tower has not been abandoned, the Administrator will withdraw the Notice.

(3) Unless the Administrator withdraws the Notice of Abandonment, a small wind energy system or met tower must be removed within 90 days of the Notice of Abandonment and the site must be reclaimed to a depth of 4 feet. If the owner fails to

remove a small wind energy system or met tower and reclaim the site, the county may remove or cause the removal of the small wind energy system or met tower and the reclamation of the site. The cost of removal and reclamation will become a lien upon the property and may be collected in the same manner as property taxes.

25.10 Violations. (1) It is unlawful for any person to construct, install, or operate a small wind energy system or met tower that is not in compliance with this ordinance or with any condition contained in a zoning permit issued pursuant to this ordinance. A small wind energy system or met tower that was installed prior to the effective date of this ordinance is exempt from the requirements of this ordinance.

(2) It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist an order issued pursuant to this ordinance.

(3) A separate offense is deemed committed on each day that a violation occurs or continues.

25.11 Enforcement. (1) The Administrator may enter any property for which a zoning permit has been issued under this ordinance to conduct an inspection to determine whether there is any violation of this ordinance or whether the conditions stated in the permit have been met. The Sheriff or the Sheriff's designee may enter any property for which a zoning permit has been issued under this ordinance to conduct an inspection to determine whether there is any violation of sec. 25.06(3).

(2) The Administrator may issue an order to abate any violation of this ordinance. The Sheriff or the Sheriff's designee may issue an order to abate a violation of sec. 25.06(3).

(3) The Administrator may issue a citation for any violation of this ordinance. The Sheriff or the Sheriff's designee may issue a citation for any violation of sec. 25.06(3).

(4) The Administrator may refer a violation of this ordinance to Corporation Counsel for legal action. The Sheriff may refer a violation of sec. 25.06(3) to Corporation Counsel for legal action.

(5) Nothing in this section may be construed to prevent the county from using any other lawful

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means to enforce this ordinance.

25.12 Penalties. (1) A person will, upon conviction for a 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. 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.

(2) The failure of any employee, official, or officer of the County to perform any official duty imposed by this code will not subject the employee, official, or officer to the penalty imposed for violation of this code unless a penalty is specifically provided.

25.13 Relationship to Other Ordinances. This ordinance does not abrogate, annul, impair, interfere with, or repeal any existing ordinance.

25.14 Severability. The provisions of this ordinance are severable, and the invalidity of any section, subsection, paragraph, or subdivision will not affect the validity or effectiveness of the remainder of the ordinance.

HISTORY

12/20/2005: Chapter 25 created by Ord. No. 2005/2006-140 effective January 1, 2006.

2/13/2007: Sec. 25.06(10) amended by Ord. No. 2006/2007-123 effective February 21, 2007.

10/07/2008: Sec. 25.06(1)(c) repealed and Sec. 25.08(2) amended by Ord. No. 2008/2009-79 effective October 15, 2008.