

CHAPTER 13: WIND ENERGY SYSTEMS

13.01 LARGE WIND ENERGY SYSTEMS

- A. Applicability. This Section applies to all large wind energy systems, as defined by Wis. Stat. § 66.0403(1)(m), used to convert wind energy to electrical energy, except for small wind energy systems, as defined in Wis. Admin. Code § PSC 128.01(20). This Section applies to the construction of a large wind energy system or the expansion of an existing or previously approved large wind energy system.
- B. Definitions. The definitions set forth in Wis. Admin. Code Chapter PSC 128 are incorporated herein by reference. The following additional definitions shall apply:
- (1) Town Board: the Board of Supervisors of the Town of Mosel.
 - (2) Town: the Town of Mosel, Sheboygan County, Wisconsin.
- C. Permitted Uses. Large wind energy systems are permitted uses in all zoning districts, except in areas that are primarily designated for future residential or commercial development, as shown on the Town's comprehensive plan that was in existence as of June 2, 2009, or as shown in such maps after December 31, 2015, as part of a required update to a comprehensive plan. This subsection applies only to wind energy systems having a total nameplate capacity of at least one megawatt (1000 kilowatts).
- D. Owner Requirements. The owner requirements specified in Wis. Admin. Code PSC 128.13-128.19 related to the following are hereby incorporated in their entirety:
- (1) Siting criteria, including setback and height requirements.
 - (2) Noise criteria.
 - (3) Shadow flicker.
 - (4) Signal interference.
 - (5) Stray voltage.
 - (6) Construction and operation.
 - (7) Decommissioning.
- E. Application and Notice Requirements.
- (1) At least 90 days before an owner files an application to construct a wind energy system, an owner shall provide written notice of the planned system to all of the following:
 - (a) Landowners within one (1) mile of a planned wind turbine host property.
 - (b) Town Clerk-Treasurer;
 - (c) Emergency first responders and air ambulance providers servicing the Town.
 - (d) Wisconsin Department of Transportation.
 - (e) Public Service Commission.
 - (f) Wisconsin Department of Natural Resources.

- (2) At least 90 days after filing the notice required under the preceding Subsection (1), an owner shall file with the Town Clerk-Treasurer twelve (12) copies of an application to construct a large wind energy system. Such application shall include the information specified in Wis. Admin. Code § PSC 128.30(2). The owner shall also provide documentation showing that the real property owners consent to the installation of the proposed wind energy system on their property and copies of any wind energy system easements that have been recorded in the Register of Deeds Office. The owner shall ensure that all information contained in the application is correct.
- (3) On the same day an owner files an application with the Town Clerk-Treasurer, the owner shall provide written notice of the filing to property owners and residents located within one (1) mile of the proposed location of the wind energy system facility. Such notification shall meet the requirements of Wis. Admin. Code § PSC 128.30(5)(a).
- (4) As soon as possible after receiving the application for a large wind energy system, the Town Clerk-Treasurer will publish a Class 1 Notice, under Wis. Stat. Chapter 985, stating that an application for a wind energy system has been filed with the Town. The notice will include the following:
 - (a) Brief description of the proposed wind energy system and its proposed location.
 - (b) Locations where the application is available for public review.
 - (c) Method and time period for public comments.
 - (d) Approximate schedule for reviewing the application by the Town.
- (5) Within 45 days of receiving an application, the Town Board will determine whether the application is complete and notify the applicant as to the determination. An application is complete if it meets the requirements of Subsection (E)(2), above. If the Town Board determines that the application is incomplete, it will provide notice to the owner stating the reason for the determination, and the owner shall provide the information necessary to complete and re-file the application. There is no limit on the number of times an applicant may supplement and refile an application. If the Town Board fails to make a determination as to the completeness within 45 days after the application is filed, it will be deemed complete. Each time an owner supplements an incomplete application and re-files it, an additional 45-day completeness review period will begin the day after the owner re-files the application.
- (6) The Town Clerk-Treasurer will make the application for a wind energy system available for public review at the Town Hall and at Mead Public Library, 710 N. 8th Street, Sheboygan WI 53081.
- (7) The Planning and Zoning Commission will review and make a recommendation as to the approval of the application. At the Town Board's option, the public meeting may be held by the Planning and Zoning Commission.
- (8) The Town Board or Planning and Zoning Commission may request additional information necessary to understand the wind energy system after the Town Board has determined an application is complete. An owner shall provide additional information in response to all reasonable requests in a timely, complete and accurate manner.

(9) The Town Board will hold at least one public meeting prior to making a decision on the application to inform the public about the proposed wind energy system and to obtain public comments thereon. At least one business day prior to the public meeting, the public may submit written comments to the Town Clerk-Treasurer during the Town Clerk-Treasurer's regular office hours, by mail, email, or at the drop-box at the Town Hall.

(10) The Town Board will approve or disapprove an application no later than 90 days after the day on which the Town Board notifies the applicant that the application is complete. If the Town Board fails to act within the 90 days, or within the extended review period, the application is considered approved. The review period may be extended if within the initial 90-day review period, the Town Board authorizes, in writing, any combination of the following extensions, except that the total amount of time for all extensions granted hereunder may not exceed 90 days:

(a) Up to 45 days if the Town Board needs additional information to determine whether to approve or deny the application.

(b) Up to 90 days if the owner makes a material change to the application for approval.

(c) Up to 90 days for other good cause specified, in writing, by the Town Board.

(11) If the wind energy system is proposed to be located in more than one political subdivision, the Town may conduct a joint application review process in accordance with Admin. Code § PSC 128.30(7).

F. Conditions of Approval. The Town Board may place conditions on the approval of a large wind energy system application or require any of the provisions as outlined in Wis. Admin. Code § PSC 128.33.

G. Written Decision.

(1) The Town Board will issue a written decision to grant or deny an application for a wind energy system. The decision will include findings of fact supported by evidence in the record. Any denial will specify the reason for denial.

(2) The Town Clerk-Treasurer will provide the written decision to the owner and to the Public Service Commission. If approved, the Town will provide the owner with a duplicate original of the decision, and the owner shall record such original with the Sheboygan County Register of Deeds Office.

(3) Change in ownership does not affect the approval of a wind energy system. The owner shall provide not less than 90 days prior written notice to the Town Clerk-Treasurer advising of the transfer of ownership.

H. Compliance Monitoring. The Town Board, or its designee, will act as a monitoring committee to determine compliance with any condition established as a condition of approval or to assess when wind energy system facilities are not maintained in good repair and operating condition. The monitoring committee may establish a compliance monitoring procedure including timelines, provide for payment of reasonable fees, and notice requirements, as it deems appropriate.

I. Post-Construction Filing Requirements. Within 90 days of the date a wind energy

system commences operation, the owner shall file with the Town Clerk-Treasurer and the Public Service 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 facilities, geographic information system showing the location of all wind energy systems and current information identifying the owner of the wind energy system. Each wind turbine location shall be labeled with a unique identifier.

- J. Modifications. An owner may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of the Town. The owner shall submit an application for the material change, along with the appropriate fee, to the Town Clerk-Treasurer. The application and notice requirements, except the pre-application notice, the conditions of approval, and the written decision requirements of this Section applies to any application for a material change.
- K. Complaint Process. The complaint process and notice requirements set forth in Wis. Admin. Code § PSC 128.40 and 128.42 are incorporated herein.
- L. Fees.
 - (1) An owner shall submit a non-refundable application fee as set forth in the Town of Mosel Fee Schedule (Section 11.05).
 - (2) An owner shall be responsible for all reasonable fees and costs incurred by the Town for any services necessary to review an application, which may include the costs of services provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts of the Town's choosing. The owner shall be responsible for third-party inspection fees regarding compliance with approved construction requirements.
 - (3) An owner shall deposit 1% of the total estimated project cost, or an amount as otherwise determined by the Town Board, with the Town Clerk-Treasurer, which represents 50% of the total estimated amount of reimbursement for the Town's review of the application. Such amount shall be paid before the Town issues a written decision on the application. The Town will hold the estimated fees in a non-interest bearing account, and will refund any overpayment of estimated fees to the owner one year after the wind energy system commences operation. The owner shall be responsible for the difference between the deposited amount and the Town's actual fees. Any fees or costs that remain unpaid for more than 30 days after written demand by the Town will result in the application being denied. Any fees that remain unpaid after 30 days will accrue interest at a rate of 12% per annum and may be assessed against the property as a special charge.
- M. Administrative Code References. All references to the Wis. Admin. Code Chapter 128 are to the 2011 version. Any amendments to Chapter 128 are incorporated herein.

13.02 SMALL WIND ENERGY SYSTEMS

- A. Applicability. This Section applies to small wind energy systems, as defined by

Wis. Admin. Code 128.01(20), to be a wind energy system that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts. This Section applies to the construction of a wind energy system or the expansion of an existing or previously approved wind energy system.

B. Definitions. The definitions set forth in Wis. Admin. Code Chapter PSC 128 are incorporated herein by reference. The following additional definitions shall apply:

- (1) Town Board: The Board of Supervisors of the Town of Mosel.
- (2) Town: the Town of Mosel, Sheboygan County, Wisconsin.

C. Permitted Uses. Small Wind Energy Systems are permitted uses in all zoning districts provided all requirements of this Section are met.

D. Owner Requirements. The owner requirements specified in Wis. Admin. Code PSC § 128.13-128.19 related to the following are hereby incorporated in their entirety:

- (1) Siting criteria, including setback and height requirements.
- (2) Noise criteria.
- (3) Shadow flicker.
- (4) Signal interference.
- (5) Stray voltage
- (6) Construction and operation.
- (7) Decommissioning.

Small Wind Energy Systems shall be subject to the exemptions and modifications required by Wis. Admin. Code §§ PSC 128.60 and 128.61.

E. Application and Notice Requirements.

- (1) At least 60 days before an owner files an application to construct a wind energy system, the owner shall provide a notice of the proposed construction to adjacent landowners and the Town Clerk-Treasurer.
- (2) An owner shall file with the Town Clerk-Treasurer twelve (12) copies of an application to construct a small wind energy system. Such application shall include the information specified in Wis. Admin. Code § PSC 128.30(2), except the emergency plan and decommissioning and site restoration plan, and shall include all worksheets, maps, and other attachments included in the application. The owner shall ensure that all information contained in the application is correct. The owner shall also provide the following:
 - (a) Documentation showing that the real property owners consent to the installation of the proposed wind energy system on their property.
 - (b) Copies of any wind energy system easements that have been executed and/or recorded in the Register of Deeds Office.
 - (c) Copies of all necessary state and federal permits and approvals.
- (3) On the same day an owner files an application with the Town Clerk-Treasurer, the owner shall provide written notice of the filing to property owners and residents located within one (1) mile of the proposed location of the wind energy system facility. Such notification shall meet the requirements of Wis.

Admin. Code § PSC 128.30(5)(a). An application is considered “filed” the day the owner notifies the Town, in writing, that all application materials have been filed.

(4) Within 45 days of the filing of an application, the Town Board will determine whether the application is complete and notify the applicant as to the determination. An application is complete if it meets the requirements of Subsection (E)(2), above. If the Town Board determines that the application is incomplete, it will provide notice to the owner stating the reason for the determination, and the owner shall provide the information necessary to complete and re-file the application. There is no limit on the number of times an applicant may supplement and re-file an application. If the Town Board fails to make a determination as to the completeness within 45 days after the application is filed, it will be deemed complete. Each time an owner supplements an incomplete application and re-files it, an additional 45-day completeness review period will begin the day after the Town receives responses to the items identified in the notice.

(5) As soon as possible after receiving the application for approval of a wind energy system, the Town Clerk-Treasurer will publish a Class 1 Notice, under Wis. Stat. Chapter 985, stating that an application for a wind energy system has been filed with the Town. The notice will include the following:

- (a) Brief description of the proposed wind energy system and its proposed location.
- (b) Locations where the application is available for public review.
- (c) Method and time period for public comments.
- (d) Approximate schedule for review of the application by the Town.

(6) The Town Clerk-Treasurer will make the application for a wind energy system available for public review at the Town Hall and at Mead Public Library, 710 N. 8th Street, Sheboygan WI 53081.

(7) The Planning and Zoning Commission will review and make a recommendation as to the approval of the application. At the Town Board’s option, the public meeting may be held by the Planning and Zoning Commission.

(8) The Town Board will hold at least one public meeting prior to making a decision on the application to inform the public about the proposed wind energy system and to obtain public comments thereon. At least one business day prior to the public meeting, the public may submit written comments to the Town Clerk-Treasurer during the Clerk-Treasurer’s regular office hours, by mail, email, or at the drop-box at the Town Hall.

(9) The Town Board or Planning and Zoning Commission may request additional information necessary to understand the wind energy system after the Town Board has determined the application is complete. An owner shall provide additional information in response to all reasonable requests in a timely, complete and accurate manner.

(10) The Town Board will approve or disapprove an application no later than 90 days after the day on which the Town Board notifies the applicant that the application is complete. If the Town Board fails to act within the 90 days, or within the extended review period, the application is considered approved. The

review period may be extended if within the initial 90-day review period, the Town Board authorizes, in writing, any combination of the following extensions, except that the total amount of time for all extensions granted hereunder may not exceed 90 days:

- (a) Up to 45 days if the Town Board needs additional information to determine whether to approve or deny the application.
- (b) Up to 90 days if the owner makes a material change to the application for approval.
- (c) Up to 90 days for other good cause specified, in writing, by the Town Board.

(11) If the wind energy system is proposed to be located in more than one political subdivision, the Town may conduct a joint application review process in accordance with Wis. Admin. Code § PSC 128.30(7).

F. Written Decision.

- (1) The Town Board will issue a written decision to grant or deny an application for a wind energy system. The decision will include findings of fact supported by evidence in the record. Any denial will specify the reason for denial.
- (2) The Town Clerk-Treasurer will provide a copy of the written decision to the owner and to the Public Service Commission. If approved, the Town will provide the owner with a duplicate original of the decision, and the owner shall record such original with the Sheboygan County Register of Deeds Office.
- (3) Change in ownership does not affect the approval of a wind energy system. The owner shall provide not less than 90 days prior written notice to the Town Clerk-Treasurer advising of the transfer of ownership.

G. Modifications. An owner may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of the Town. The owner shall submit an application for the material change, along with the appropriate fee, to the Town Clerk-Treasurer. The application and notice requirements, except the pre-application notice, and written decision requirements of this Section applies to any application for a material change.

H. Complaint Process. The complaint process and notice requirements set forth in Wis. Admin. Code § PSC 128.40 are incorporated herein, except as exempted under Wis. Admin. Code § PSC 128.60.

I. Fees.

- (1) An owner shall submit a non-refundable application fee as set forth in the Town of Mosel Fee Schedule (Section 11.05).
- (2) An owner shall be responsible for all reasonable fees and costs incurred by the Town for any services necessary to review an application, which may include the costs of services provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts of the Town's choosing. The owner shall be responsible for third-party inspection fees regarding compliance with approved construction requirements.
- (3) An owner shall deposit 2% of the total estimated project cost, or an amount as otherwise determined by the Town Board, with the Town Clerk-Treasurer,

which represents 50% of the total estimated amount of reimbursement for the Town's review of the application. Such amount shall be paid before the Town issues a written decision on the application. The Town will hold the estimated fees in a non-interest bearing account, and will refund any overpayment of estimated fees to the owner one year after the wind energy system commences operation. The owner shall be responsible for the difference between the deposited amount and the Town's actual fees. Any fees or costs that remain unpaid for more than 30 days after written demand by the Town will result in the application being denied. Any fees that remain unpaid after 30 days will accrue interest at a rate of 12% per annum and may be assessed against the property as a special charge.

J. Administrative Code References. All references to the Wis. Admin. Code Chapter 128 are to the 2011 version. Any amendments to Chapter 128 are incorporated herein.