TOWN OF RIETBROCK
WIND ENERGY SYSTEM SITING ORDINANCE

The Town Board of the Town of Rietbrock, Marathon County, Wisconsin, do ordain as follows:

SECTION 1. Title. "Wind Energy System Siting", of the Town of Rietbrock is hereby created to provide as follows:

(1) Findings and Purpose.

(a) Wind Energy Systems, while an increasingly important part of a renewable energy portfolio, can have certain adverse impacts. In this regard, the Town finds that the report issued by the National Research Council entitled "Impacts of Wind-Energy Projects," May 2007, addresses several important public health and safety issues relative to wind energy facilities that require regulation by the Town. With these concerns in mind, the Town Board of the Town of Rietbrock finds and declares that:

1. The Wisconsin State Constitution and State Statutes require government officials to protect the health, safety, and well-being of their Town.

2. Poor planning by government officials has often resulted in the creation of problem industries that adversely affect public health and quality of life, compromise aesthetics, and degrade Town character. Wind Energy Systems are not exempt from those problems, and careful siting and protections are of paramount importance.

3. Regulation of the siting and installation of Wind Turbines is necessary for protection of the health, safety, and well-being of neighboring property owners, the general public, the local economy, local ecosystems, and regional military facilities.

4. The findings set forth in this section are cumulative and interactive and they shall be liberally interpreted in conjunction with one another.

5. Wind Energy Systems have increased significantly in number and can potentially be sited without sufficient regard to their impact on the health, welfare, and safety of residents, especially in small, rural communities.

6. While wind energy is a semi-renewable energy resource of electricity generation, and under some circumstances it may reduce the use of nonrenewable energy sources, the possible benefits must be balanced against potential negative impacts to local citizens, local economy, local ecosystems, and regional military facilities.

7. Wind Energy Systems represent significant potential negative aesthetic and environmental impacts because of their enormous size, lighting, and shadow flicker effects.

8. Wind Energy Systems represent significant potential negative aesthetic and environmental impacts because of their disruption of views and skylines, especially in rural communities without many high, unnatural structures.

9. The Town has many scenic viewsheds, and some of these would be negatively impacted by Wind Energy Systems.

10. Construction of Wind Energy Systems can create traffic problems and damage local roads.

11. The Town's geology includes erodible soils and high-water tables. The Town's geology may be incompatible with certain development. Risks include aquifer and well water contamination via soil

overburden infilling on shallow bedrock.

12. If not properly regulated, installation of Wind Energy Systems in areas with similar geology have the potential to create numerous additional drainage paths which may allow contaminated ground water to directly enter into the aquifer below. For instance, construction of miles of wide gravel access roads increases the number of drainage paths for the contaminated water to contaminate drinking water for the Town and other nearby communities.

13. Installation of Wind Energy Systems can create drainage problems through erosion and lack of sediment control of facilities and access road sites and harm farmlands through construction methods utilized.

14. Independent experts have concluded that industrial wind energy turbines can adversely affect meteorology up to fifteen (15) miles away. The resulting changes such as lower humidity levels can result in reduced regional agriculture yields.

15. A Wind Energy System may be a significant source of noise and vibration for the Town. These can have negative health impacts on nearby residents, particularly in quiet rural areas. These can also negatively affect the quiet enjoyment of the area, properties, and quality of life of residents. According to various medical experts and the World Health Organization, the infrasound component of such noise can be the most problematic.

16. Independent studies have shown that infrasound generated from Wind Energy Systems can have adverse effects on human health.

17. The Wind Energy System noise and vibration may also negatively affect wildlife. Some noise and vibration impact on wildlife relate to predator-prey behaviors, mating opportunity, and other behaviors that can adversely impact wildlife populations and diversity.

18. Our Town boasts many species of birds and is a habitat for many species of wildlife, both year-round and seasonal.

19. Independent experts (e.g., ornithologists) have concluded that the Wind Turbines kill large quantities of birds. Especially troublesome are the raptors that are killed.

20. Independent experts (e.g., chiropter ologists) have concluded that bats killed by Wind Turbines can result in an appreciable reduction in regional agricultural yields. Estimates have been done for every U.S. County, and these experts have projected that this could adversely affect our local economy by more than 1.2 million dollars a year.

21. In certain circumstances, Wind Energy Systems can cause electromagnetic interference with various types of communications, including cell phones, radios, and television.

22. Wind Energy Systems without proper setbacks, can adversely affect property values, which can cause economic hardship to property owners. Reductions in property values could reduce our Town's tax base, resulting in a tax rate increase on all Town property owners.

23. Review of professional and legal literature demonstrates there can be serious legal and economic downsides for landowners entering into complicated and one-sided lease/easement contracts written by Wind Energy System developers not available for public review and discussion.

24. Wind Energy Systems have the potential to adversely interfere with orderly development of the Town, including single-family residences by making such construction unappealing.

25. The Town and its citizens desire to maintain the pastoral, rural nature of this region. Wind Energy Systems are in conflict with the culture and character of the Town.

(b) The purpose of this Ordinance is to adopt and incorporate the requirements of Wis. Stat. § 66.0401 and Wis. Admin. Code PSC § 128 as a local ordinance and to establish local regulations on the installation and use of Wind Energy Systems that serve to preserve or protect the public health or safety; or 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.

(2) Authority. This Ordinance is adopted pursuant to Wis. Stat. § 66.0401 and Wis. Admin. Code PSC § 128.

(3) Definitions. Terms found in this Ordinance shall have the same meaning as defined in Wis. Admin. Code PSC § 128.01 unless noted specifically below or unless context requires otherwise.

(a) "Agricultural use" means any of the following activities for the purpose of producing an income or livelihood: crop or forage production, keeping livestock, beekeeping, nursery, sod or Christmas tree farming, floriculture, aquaculture, fur farming, forest management, or enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

(b) "Commission" means the public service commission.

(c) "Community Building" means a school, church, or similar place of worship, daycare facility, public library, or other community building.

(d) "Confined Animals" means an animal on a lot or in a facility where animals are or will be stabled or confined and fed or maintained.

(e) "dBA" means a-weighted decibels which is a measurement of the relative loudness of sounds in air as perceived by the human ear.

(f) Decommissioning means removal of all of the following:

1. The above ground portion of a wind energy system, including wind turbines and related facilities, except for access roads if removal has been waived by the property owner.

2. All below group facilities, except for the following:

a. Underground collector circuit facilities.
b. Those portions of concrete structures 4 feet or more below grade.

(g) "kW" means a Kilowatt.

(h) "Large Wind Energy System" or large wind means a Wind Energy System that has a total installed nameplate capacity of more than three hundred (300) kilowatts and that consists of individual Wind Turbines that have an installed nameplate capacity of more than one hundred (100) kilowatts.

(i) "Line-of-Sight Communications" means the direct path from a transmitter to a receiver.

(j) "Maximum Blade Tip Height" means the nominal hub height plus the nominal blade length of a wind turbine, as listed in the wind turbine specifications provided by the wind turbine manufacturer. If not listed in the wind turbine specification, "maximum blade tip height" means the actual hub height plus the blade length.

(k) "Meteorological Measuring Device" means an instrument, such as an anemometer that measures wind speed.

(l) "Nameplate Capacity" means the nominal generating capacity of a wind energy system, as listed in the wind turbine specifications provided by the wind turbine manufacturer.

(m) "Nonparticipating Property" means real property that is not a participating property.

(n) "Nonparticipating Residence" means a residence located on nonparticipating property.

(o) "Owner" means:

1. A person with a direct ownership interest in a wind energy system, regardless of whether the person was involved with acquiring the necessary rights, permits, and approvals, or otherwise planning for the construction and operation of a wind energy system.

2. At the time a wind energy system is being developed, a person who is acting as a wind energy system developer by acquiring the necessary rights, permits, and approvals for or by planning for the construction and operation of a wind energy system, regardless of whether the person will own or operate the wind energy system.

(p) "Participating Property" means any of the following:

1. A turbine host property.

2. Real property that is subject of an agreement that does all of the following:

   i) Provides for the payment of monetary compensation to the landowner from an owner regardless of whether any part of a wind energy system is constructed on the property.

   ii) Specifies in writing any waiver of a requirement or right under this chapter and that the landowner's acceptance of payment establishes the landowner's property as a participating property.

(q) "Participating Residence" means a residence located on participating property.

(r) "Participating Resident" means a resident located on a participating property.

(s) "Permit" means a zoning permit issued by the Town.

(t) "PSC" refers to Wisconsin Administrative Code PSC.

(u) "Shadow Flicker" means a pattern of moving shadows cast on a residence or an occupied community building caused by sunlight shining through moving wind turbine blades resulting in alternating changes in light intensity.

(v) "Small Wind Energy System" or small wind means a Wind Energy System that has a total installed nameplate capacity of three hundred (300) kilowatts or less and that consists of individual Wind Turbines that have an installed nameplate capacity of not more than one hundred (100) kilowatts.

(w) "Turbine Host Property" means real property on which at least one wind turbine is located.

(x) "Wind Access Easement" means a written document that creates a legal interest in real property that restricts the use of the property to avoid interference with the wind resource on another property.

(y) "Wind Energy System Easement" means a written document that creates a legal interest in real property that permits an owner to place, construct, or operate a wind turbine or other wind energy system facility on the property.

(z) "Wind Energy System" has the meaning given in s. 66.0403 (1)(m), Stats., and is used to convert wind energy to electrical energy.

(aa) "Wind Turbine" means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator. Wind Turbine includes a nacelle, rotor, tower, pad transformer, and other appurtenant structures and/or facilities.

(bb) "Windmill" means a wind-driven machine that does not produce electricity.

(4) Permit requirement and fee.

(a) The Owner, or his agent, shall apply for and receive a zoning permit from the Town before a proposed Wind Energy System is installed, constructed, or expanded. The Owner shall obtain a zoning permit before any such work can commence. The Owner shall pay an application review fee, which is applied to the cost of reviewing the application. The Owner shall pay a separate permit fee before any permit is issued. All fees shall as from time to time be set by the Town Board.

(b) Costs:

1. The Owner is responsible for paying all costs incurred by the Town 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 deemed necessary by the Town.

2. The Town shall invoice the Owner for the actual and necessary costs incurred pursuant to this Ordinance. The Owner will be provided fifteen (15) days from the date of the invoice to reimburse the Town.

3. The Town is authorized to contract with one (1) or more engineers, environmental specialists, planners, and other consultants and experts to perform necessary services in connection with the application for a Wind Energy System.

(5) Permit expiration and extension. A Zoning Permit issued under this Ordinance shall expire if at least fifty-one (51) percent of the project construction has not been completed within twelve (12) months of the permit issue date. An extension may be requested in writing to the Town Board for up to twelve (12) additional months provided the original permit has not yet expired. The Town Board may grant an extension provided the project is not inconsistent with any subsequently enacted law, rule, or regulation.

(6) Application requirements.

(a) For small Wind Energy Systems, the Owner shall file an application with the Town that, at a minimum, includes the following information:

1. Information required under PSC § 128.30 (2) except as amended by under PSC § 128.61 (6).

2. Wind Energy System description and maps showing the locations of all proposed wind energy facilities. The description and maps shall include:

   a. The location of each Wind Turbine.
   b. Each Wind Turbine's setback distance from the closest Wind Energy System boundary.
   c. Access roads and turnout locations.
   d. Location of wells, abandoned or active, adjacent to the Wind Energy System.

3. Technical description of Wind Turbines and Wind Turbine sites.

4. Timeline and process for constructing the Wind Energy System.

5. Information regarding anticipated impact of the Wind Energy Systems on local infrastructure.

6. Information regarding noise and infrasound anticipated to be attributable to the Wind Energy System.

7. Information regarding noise and infrasound of the area where the Wind Energy System will be located prior to construction of the Wind Energy System.

8. Information regarding shadow flicker anticipated to be attributable to the Wind Energy System.

9. Information regarding the anticipated effects of the Wind Energy System on existing land uses adjacent to the Wind Energy System.

10. Information regarding the anticipated effects of the Wind Energy System on airports and airspace.

11. Information regarding the anticipated effects of the Wind Energy System on Line-of-Sight Communications.

12. A list of all state and federal permits required to construct and operate the Wind Energy System.

13. Information regarding the planned use and modification of roads during the construction, operation, and decommissioning of the Wind Energy System, including a process for assessing road damage caused by Wind Energy System activities and for conducting road repairs at the owner's expense.

14. A signed consent form from all Participating Residences affected by the Wind Energy System.

15. A representative copy of all notices issued under PSC § 128.10(5) and PSC § 128.105(1), which are: Pre-application notice. At least sixty (60) days before an Owner files an application to construct a Wind Energy System, an Owner shall use commercially reasonable methods to provide written notice of the planned Wind Energy System to all of the following:

    a. Adjacent landowners to the planned Wind Turbine host property; and
    b. The Town within which the Wind Energy System may be located.

(b) For large Wind Energy Systems, the Owner shall file an application with the Town that, at a minimum, includes the following information:

1. All information required under sec. (6) (a) 1-7, 9-12 of this Ordinance.

2. Information regarding the anticipated effects of the Wind Energy System on existing land uses within one mile of the Wind Energy System.

3. A representative copy of all notices issued under PSC § 128.105 (1) and 128.42.

   a. PSC § 128.105 (1): Pre-application notice. At least ninety (90) days before an owner files an application to construct a wind energy system, the owner shall use commercially reasonable methods to provide written notice of the planned Wind Energy System to all of the following:

      i) Landowners within one mile of the planned Wind Turbine host property.

      ii) The Town within which the Wind Energy System may be located.

      iii) Emergency first responders and air ambulance service providers serving the Town within which the Wind Energy System may be located.

      iv) The Wisconsin Department of Transportation.

      v) The Public Service Commission.

      vi) The Wisconsin Department of Natural Resources.

      vii) The Wisconsin Department of Agriculture, Trade and Consumer Protection.

      viii) The Office of the Deputy Undersecretary of the U.S. Department of Defense.

   b. PSC § 128.42(1): Notice of process for making complaints. Before construction of a Wind Energy System begins, an owner shall provide written notice of the process for making complaints and obtaining mitigation measures to all residents and landowners within one (1) mile of any Wind Energy System facility. An owner shall include in the notice the requirements under PSC § 128.40(1) for submitting a complaint to the Owner, a petition for review to the Town, and an appeal to the commission, and shall include a contact person and telephone number for the owner for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning.

4. A copy of all emergency plans developed in collaboration with appropriate first responders under PSC § 128.18(4)(b). An Owner may file plans using confidential filing procedures, as necessary.

5. A decommissioning and site restoration plan providing reasonable assurance that the Owner will be able to comply with PSC § 128.19.

(c) For all applications, the Owner shall ensure that information contained in the application is accurate.

(d) Evidence shall be included for all applications to show that, on the same day an owner filed an application under this Ordinance, the owner did use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents as required under PSC § 128.10 (5), 128.105(1) and 128.42 as applicable.

(7) Application processing.

(a) Within forty-five (45) days of receiving the application, the Zoning Administrator shall notify the Owner in writing whether the application is complete and, if it is not, what the Owner must do in order to make it complete.

1. The Owner shall provide the additional information specified in the notice to the Zoning Administrator within sixty (60) days of the date of the notice.

2. An additional forty-five (45)-day completeness review period shall begin the day after the Zoning Administrator receives responses to all items identified in the notice under subsection 1.

3. If the Owner fails to provide additional information specified in the notice to complete the application within sixty (60) days of the date of the notice, the application shall be deemed abandoned. The Owner may file a new 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 file an application.

4. An application shall be deemed complete if it complies with the filing requirements of section (6) of this Ordinance and of PSC § 128.50.

(b) A date and time for a public hearing before the Plan Commission on the application shall be set as soon as possible after receiving a complete application. The Plan Commission shall publish a class 2 notice, under Wis. Stat. Ch. 985 stating that an application has been filed with the Town. The notice shall include a brief description of the proposed Wind Energy System and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Plan Commission, and the approximate schedule for review of the application by the Town.

(c) The Plan Commission shall recommend and the Town Board shall consider the following criteria when determining whether to deny or grant an application:

1. Conflicts with safety and safety-related codes and requirements.

2. How the area where the proposed Wind Energy System is zoned.

3. Whether the operation of the Wind Energy System in the proposed location would create unacceptable risks to public health or safety.

4. Conflicts with any provision of this Ordinance.

5. Such other considerations the Town Board or Plan Commission determines is reasonable and pertinent.

(d) The Town Board and Plan Commission shall make a record of its decision making on an application, including a written record of the public hearing, copies of documents submitted at the public hearing, and copies of any other documents provided to the Town in connection with the application.

(e) The Town Board shall base its decision and the Plan Commission shall base its recommendation on an application on written findings of fact that are supported by the evidence in the record of the public hearing.

(f) The Town Board shall grant or deny an application for a Wind Energy System no later than ninety (90) days after the day on which it notifies the Owner that the application for approval is complete. The Town Board may extend this time period in writing provided the extension is done during the initial ninety (90)-day period. Any combination of the following extensions may be granted:

1. An extension of up to forty-five (45) days if the Town Board needs additional information to determine whether to approve or deny the application.

2. An extension of up to ninety (90) days if the Owner makes a material modification to the application.

3. An extension of up to ninety (90) days for other good cause specified in writing by the Town. If the Town fails to act within the initial ninety (90) days, or within any extended time period, the application is considered approved.

(g) The Town Clerk shall provide a written decision to the Owner and the Public Service Commission.

(h) The Town Board may enter into a development agreement with an Owner that supersedes in whole or in part the requirements of this Section.

(8) Revocation of Permit. Approval of an application may be rescinded by the Town Board if construction of the Wind Energy System is not in conformance with the approved plans. A deviation from the approved plans shall constitute a violation of this Ordinance.

(a) The Town Board shall notify the Owner of the date, time, and place of the meeting at which the revocation shall be considered at least twenty (20) days prior to the meeting at which the case will be considered. The Owner shall be given the opportunity to present information and to answer questions. The Town Board, as appropriate, may revoke approval if it finds that a violation exists and has not been remedied prior to the meeting.

(9) Real property provisions.

(a) Easement recording required. A Wind Energy System easement or wind access easement shall be recorded under Wis. Stat. Ch. 706. A Wind Energy System easement or wind access easement shall include the term of the easement and a full legal description of the property subject to the easement.

(b) Wind lease and waiver provisions. A Wind Energy System lease and any waiver under sections (9)(d) and (14)(b) shall hold harmless and indemnify the real property owner for all of the following:

1. Any violation of federal, state, or local law by the Owner of the Wind Energy System.
2. Any damages or bodily injury caused by the construction, operation or decommissioning of the Wind Energy System.

(10) Existing property uses.

(a) Land use and commercial enterprises. An Owner shall make reasonable efforts to ascertain and accommodate any land use or commercial enterprise located on a nonparticipating property within 0.5 mile of a proposed Wind Turbine site if the land use or commercial enterprise exists when the owner gives notice under PSC § 128.105 (1), or if complete publicly-available plans for construction are on file with the Town within thirty (30) days of the date the owner gives notice under PSC § 128.105 (1).

(b) Land use and commercial enterprises – Small wind. Subsection (a) applies to small wind energy systems but only for existing land uses and enterprises that are located on adjacent nonparticipating properties.

(c) Agricultural use. An Owner shall design a Wind Energy System to reasonably minimize the conversion of land from agricultural use.

(11) Shadow flicker.

(a) Planning.

1. The shadow flicker requirements in this section apply to a nonparticipating residence or occupied community building that exists when the owner gives notice under PSC § 128.105 (1) or for which complete publicly-available plans for construction are on file with the Town within thirty (30) days of the date on which the owner gives notice under PSC § 128.105 (1).

2. An Owner shall design the proposed Wind Energy System to minimize shadow flicker at a residence or occupied Community Building to the extent reasonably practicable.

3. An owner shall use shadow flicker computer modeling to estimate the amount of shadow flicker anticipated to be caused by a wind energy system and shall design the wind energy system so that computer modeling indicates that no nonparticipating residence or occupied community building will experience more than 30 hours per year of shadow flicker under planned operating conditions.

(b) Shadow flicker limits. An owner shall operate the wind energy system in a manner that does not cause more than 30 hours per year of shadow flicker at a nonparticipating residence or occupied community building. If a nonparticipating residence or occupied community building experiences more than 30 hours per year of shadow flicker under the wind energy system's normal operating conditions, the owner shall use operational curtailment to comply with this subsection.

(c) Shadow flicker mitigation.

1. An Owner of a Wind Energy System shall work with an Owner of a nonparticipating residence or occupied Community Building to mitigate the effects of shadow flicker to the extent reasonably practicable.

2. An Owner shall provide reasonable shadow flicker mitigation at the Owner's expense for a nonparticipating residence or occupied Community Building experiencing 20 hours or more per year of shadow flicker.

3. An owner shall model shadow flicker and a nonparticipating residence or occupied community building is eligible for mitigation if computer modeling shows that shadow flicker at the nonparticipating residence or occupied community building will be 20 hours or more per year. An owner of a nonparticipating residence or occupied community building is not required to document the actual hours per year of shadow flicker if modeling indicates the nonparticipating residence or occupied community building is eligible for mitigation. A nonparticipating residence or occupied community building that experiences 20 hours or more per year of shadow flicker based on records kept by the resident of a nonparticipating residence or the occupant of an occupied community building shall also be eligible for mitigation.

4. An Owner may provide shadow flicker mitigation for any residence or occupied community building in addition to the mitigation required under par. (2)

5. The requirement under par. (2) to mitigate shadow flicker applies when the owner receives a complaint or request for mitigation regarding shadow flicker for an eligible nonparticipating residence

or occupied community building. If shadow flicker mitigation is required, the owner of the wind energy system shall allow the owner of the nonparticipating residence or occupied community building to choose a preferred reasonable mitigation technique, including installation of blinds or plantings at the wind energy system owner's expense

(d) Waiver. Upon request by an owner of a wind energy system, an owner of an affected nonparticipating residence or occupied community building may relieve the wind energy system owner of a requirement under sub. (b) or (c) (2) at the affected nonparticipating residence or occupied community building by written contract with the wind energy system owner. Unless otherwise provided in a contract signed by an owner of an affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property and runs with the land until the wind energy system is decommissioned, and shall be recorded under ch. 706, Stats.

(e) Notification.

1. Before entering into a contract under subsection (d), a Wind Energy System Owner shall provide notice of the requirements of this section to individual owners of an affected nonparticipating residence or occupied Community Building.

2. Before the initial operation of the Wind Energy System, a Wind Energy System Owner shall provide notice of the requirements of this section to an owner of a nonparticipating residence or occupied Community Building within 0.5 mile of a constructed Wind Turbine that has not entered into a contract under subsection (d).

(12) Signal interference.

(a) Planning.

1. Except as provided in section (12) (d), the signal interference requirements in this section apply to commercial communications and personal communications in use when the Wind Energy System begins operation.

2. An Owner shall use reasonable efforts to avoid causing interference with commercial communications and personal communications to the extent practicable.

3. An Owner may not construct Wind Energy System facilities within existing Line-of-Sight Communications paths that are used by government or military entities to provide services essential to protect public safety. The Town may require an Owner to provide information showing that Wind Turbines and other Wind Energy System facilities will be in compliance with this paragraph.

(b) Commercial communications interference mitigation. An Owner of a large Wind Energy System shall use reasonable and commercially available technology to mitigate interference caused by a Wind Energy System with commercial communications in use when a Wind Energy System begins operation. Before implementing mitigation measures, the Owner shall consult with affected parties regarding the preferred mitigation solution for commercial communications interference problems. Except as provided in section 11(d), an Owner shall mitigate commercial 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.

(c) Personal communications interference mitigation.

1. An Owner shall use reasonable and commercially available technology to mitigate interference with personal communications in use when a Wind Energy System begins operation caused by a Wind Energy System. The Town may require an Owner to use reasonable and commercially available technology to mitigate interference with personal communications that were not in use when the Wind Energy System began commercial operation, if a Wind Energy System is causing the interference and the interference occurs at a location at least 0.5 mile from a Wind Turbine.

2. Before implementing mitigation measures, the Owner shall consult with affected parties regarding the preferred mitigation solution for personal communications interference problems. Except as provided in section (12) (d), 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.

(d) Mitigation protocol. The Town may, under a protocol established under PSC § 128.50 (2), require an Owner to implement a new mitigation solution that becomes commercially available before the Wind Energy System is decommissioned to address interference for which mitigation is required under section (12) (b) or (12) (c) and for which the original mitigation solution implemented is only partially effective.

(13) Stray voltage.

(a) Testing required.

1. An Owner shall work with the local electric distribution company to test for stray voltage at all dairy and confined animal operations within one 0.5 mile of a Wind Energy System facility pursuant to the stray voltage protocol established by the commission before any Wind Energy System construction activity that may interfere with testing commences and again after construction of the Wind Energy System is completed, except as otherwise specified by commission staff under subsection (a) (2).

2. Before any testing under subsection (a) (1). begins, an Owner shall work with the commission to determine the manner in which stray voltage testing will be conducted and on which properties. The electric distribution company serving a dairy or confined animal operation where testing is required under subsection 1. shall conduct or arrange to conduct all required testing at the expense of the Owner.

(b) Results of testing. An Owner and the electric distribution company shall provide to the commission staff and the Town board the results of all stray voltage testing in writing.

(c) Requirement to rectify problems. An Owner shall work with the electric distribution company and farm Owner to rectify any stray voltage problems attributable to the construction and operation of the Wind Energy System, in compliance with the commission's stray voltage protocol.

(14) Lighting.

(a) Large Wind Energy Systems:

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

(b) Small Wind Energy Systems:

1. A small Wind Energy System may be artificially lighted only if lighting is required by the Federal Aviation Administration.

2. An Owner shall use shielding or control systems approved by the Federal Aviation System to reduce visibility of light when viewed from the ground.

(15) Noise criteria.

(a) Definitions. In this section, nighttime hours are the hours beginning at 10:00 p.m. and ending at 6:00 a.m. daily and daytime hours are the hours beginning at 6:00 a.m. and ending at 10:00 p.m. daily.

(b) Planning.

1. The noise limits in this section apply at the outside wall of a nonparticipating residence or occupied community building that exists when the owner gives notice under s. PSC § 128.105 (1) or for which complete publicly-available plans for construction are on file with the Town within 30 days of the date on which the owner gives notice under s. PSC § 128.105 (1).

2. An owner shall design the proposed wind energy system to minimize noise at a residence or occupied community building to the extent reasonably practicable.

3. An owner shall design a wind energy system to comply with the noise standards in this section under planned operating conditions

(c) Noise Limits.

1. Except as provided in par. (c) (2), subs. (d) (3) and (e), an owner shall operate the wind energy system so that the noise attributable to the wind energy system does not exceed 50 dBA during daytime hours and 45 dBA during nighttime hours.

2. In the event audible noise due to wind energy system operations contains a steady pure tone, such as a whine, whistle, screech, or hum, the owner shall promptly take corrective action to permanently eliminate the noise. This paragraph does not apply to sound the wind energy system produces under normal operating conditions.

(d) Compliance.

1. If an owner uses sound level measurements to evaluate compliance with this section at a nonparticipating residence or occupied community building, those measurements shall be made as near as possible to the outside wall nearest to the closest wind turbine, or at an alternate wall as specified by the owner of the nonparticipating residence or occupied community building. The owner may take additional measurements to evaluate compliance in addition to those specified by this section.

2. Upon receipt of a complaint regarding a violation of the noise standards in sub. (c) (1), an owner shall test for compliance with the noise limits in sub. (c) (1). The Town or monitoring committee established under PSC § 128.41 may not require additional testing to show compliance with sub. (c) (1) if the owner has provided 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 sub. (c) (1) at the location relating to the complaint.

3. Methods available for the owner to comply with sub. (c) shall include operational curtailment of one or more wind turbines. Upon receipt of a complaint about a noise under sub. (c) (2), the owner shall use operational curtailment to eliminate the noise until the owner permanently corrects the problem.

4. An owner shall evaluate compliance with sub. (c) (1) as part of pre- and post-construction noise studies. An owner shall conduct pre- and post-construction noise studies under the most current version of the noise measurement protocol as described in s. PSC § 128.50 (2)

(e) Waiver. Upon request by an owner of a wind energy system, an owner of an affected nonparticipating residence or occupied community building may relieve the owner of the wind energy system of the requirement to meet any of the noise limits in this section at the affected residence or occupied community building by written contract with the wind energy system owner. Unless otherwise provided in a contract signed by an owner of an affected nonparticipating residence or occupied community building, a waiver by an owner of an affected nonparticipating residence or occupied community building is an encumbrance on the real property, runs with the land until the wind energy system is decommissioned, and shall be recorded under ch. 706, Stats

(f) Notification

1. Before entering into a contract under sub. (e), an owner of a wind energy system shall provide written notice of the requirements of this section to the owner of an affected nonparticipating residence or occupied community building.

2. Before the initial operation of the wind energy system, an owner of a wind energy system shall provide notice of the requirements of this section to an owner of a nonparticipating residence or occupied community building within 0.5 mile of a constructed wind turbine that has not entered into a contract under sub. (e).

(16) Setback Distance.

(a) An owner shall design and construct a wind energy system using the wind turbine setback distances shown in Table 1 (PSC § 128.13 (1) (a))

(b) An Owner shall measure Wind Turbine setback distances as a straight line from the vertical centerline of the Wind Turbine tower to the nearest point on the permanent foundation of a building or residence or to the nearest point on the property line or feature, as applicable.

(c) An Owner shall work with the town and owners of Participating and Nonparticipating Properties to site Wind Turbines to minimize individual hardships.

(d) The owner of a nonparticipating residence or occupied community building may waive the applicable wind turbine setback distances in Table 1 for those structures to a minimum setback distance of 1.1 times the maximum blade tip height. The owner of a nonparticipating property may waive the applicable wind turbine setback distance in Table 1 from a nonparticipating property line.

(17) Material change/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. An Owner shall submit an application for a material change to an approved Wind Energy System to the Town. The Town may not reopen the merits of the earlier approval, but shall consider only those issues relevant to the proposed change. An application for material change is subject to PSC § 128.35. At its discretion, the Town may hold at least one (1) public meeting to obtain comments on and to inform the public about a proposed material

change to an approved Wind Energy System.

(18) Ownership change. An Owner shall provide the Town with notice of any change in ownership of the Wind Energy System thirty (30) days before the effective date of the change. A notice of change in ownership of a large Wind Energy System shall include information showing that the financial responsibility for decommissioning specified under this Ordinance will be met by the new Owner.

(19) Construction, operation, and maintenance. Physical characteristics are as follows:

(a) An Owner may not display advertising material or signage other than warnings, equipment information, or indicia of ownership on a Wind Turbine. An Owner may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a Wind Turbine. An Owner may attach a safety feature or wind monitoring device to a Wind Turbine.

(b) An Owner shall ensure that a Wind Turbine has a conventional or unobtrusive finish.

(c) An Owner shall install lighting at a Wind Energy System that complies with standards established by the federal aviation administration. The town may not establish lighting requirements for a Wind Energy System that conflict with standards established by the federal aviation administration. The Town may require use of shielding or control systems approved by the federal aviation administration to reduce visibility of lighting to individuals on the ground.

(d) An Owner shall take appropriate measures to ensure that a Wind Turbine is not readily climbable except by authorized personnel.

(e) An Owner shall ensure that all Wind Turbine access doors and electrical equipment are locked when authorized personnel are not present.

(f) An Owner shall place appropriate warning signage on or at the base of each Wind Turbine.

(g) An Owner of a large Wind Energy System shall post and maintain up-to-date signs containing a 24-hour emergency contact telephone number, information identifying the Owner, and sufficient information to identify the location of the sign within the Wind Energy System. An Owner shall post these signs at every intersection of a Wind Energy System access road with a public road and at each Wind Turbine location.

(h) An Owner shall clearly mark guy wires and supports for a Wind Energy System, meteorological tower, or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions.

(20) Electrical standards.

(a) An Owner shall construct, maintain, and operate collector circuit facilities in a manner that complies with the national electrical safety code and PSC § Ch. 114 and shall construct, maintain, and operate all Wind Energy System facilities in a manner that complies with the national electrical code.

(b) An Owner of a large Wind Energy System shall construct collector circuit facilities for a Wind Energy System underground to the extent practicable.

(c) An Owner of a large Wind Energy System shall establish an inspection schedule for all overhead collector circuits to ensure that third-party facilities, including cable television and telecommunications cables, are not attached or bonded to overhead collector circuit grounding. If third-party facilities are found attached to the overhead collector facilities, the Owner shall ensure that the third-party facilities are promptly removed.

(21) Construction, operation, and maintenance standards.

(a) An Owner shall construct, operate, repair, maintain and replace Wind Energy System facilities as needed to keep the Wind Energy System in good repair and operating condition and in a manner that protects individuals from injury.

(b) Large Wind Energy Systems.

1. An Owner of a large Wind Energy System shall carry general liability insurance relating to claims for property damage or bodily injury arising from the construction, operation, and decommissioning of the Wind Energy System and shall include turbine host property owners as additional insured persons on the policy.

a. The Owner's insurance policy shall provide sufficient coverage for any personal injuries, deaths, or property damage that could be caused by the Wind Energy System.

b. The Owner's insurance policy shall provide a level of coverage that is mutually agreeable with the Town.

c. The insurance policies shall contain an endorsement obligating the insurance company to provide the Town with thirty (30) days written notice in advance of an Owner's policy cancelation.

d. Prior to construction of a Wind Energy System, the Owner shall deliver to the Town a copy of each of the policies or certificates representing the Owner obtained the necessary insurance.

2. An Owner shall minimize soil compaction, topsoil mixing, and damage to drainage systems on agricultural land during the construction or decommissioning of the Wind Energy System. An Owner shall store any topsoil removed during the construction of a Wind Energy System for land reclamation after decommissioning. The topsoil shall be stored on the Participating Property and stored and placed in a location and manner, in cooperation with the Participating Property Owner.

3. 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.

4. 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.

5. Except for the area physically occupied by the large Wind Energy System facilities, an Owner shall restore the topography, soils and vegetation of the project area to original condition after construction is complete, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with the Wisconsin Department of Natural Resources requirements.

(22) Security.

(a) The Wind Energy Systems shall be located, fenced, or otherwise secured to prevent unauthorized access.

(b) The Wind Energy System shall be made inaccessible to individuals and constructed or shielded in such a manner that it cannot be climbed or collided with.

(c) The Wind Energy System shall be installed in such a manner that is readily accessible only to persons authorized to operate or service it.

(d) The Owner shall not install any video surveillance at a height exceeding ten (10) feet from ground level unless approved by the Town Board.

(23) Emergency procedures for small Wind Energy Systems. An Owner shall notify the Town of the occurrence and nature of a Wind Energy System emergency within twenty-four (24) hours of the Wind Energy System emergency.

(24) Emergency procedures for large Wind Energy Systems.

(a) An Owner shall notify the Town of the occurrence and nature of a Wind Energy System emergency within twenty-four (24) hours of the Wind Energy System emergency.

(b) An Owner shall establish and maintain liaison with the Town and with fire, police, and other appropriate first responders serving the Wind Energy System to create effective emergency plans that include all of the following:

1. A list of the types of Wind Energy System emergencies that require notification under subsection (a).

2. Current emergency contact information for first responders and for the Wind Energy System Owner, including names and phone numbers.

3. Procedures for handling different types of Wind Energy System emergencies, including written procedures that provide for shutting down the Wind Energy System or a portion of the system as appropriate.

4. Duties and responsibilities of the Owner and of first responders in the event of a Wind Energy System emergency.

5. An emergency evacuation plan for the area within one (1) mile of any Wind Energy System facility, including the location of alternate landing zones for emergency services aircraft.

(c) The Owner shall review the emergency plan at least annually in collaboration with fire, police and other appropriate first responders to update and improve the emergency plan as needed.

(d) The Owner shall distribute current copies of the emergency plan to the Marathon County Emergency Management Department, fire, police and other appropriate first responders as identified by the Town.

(e) The Town may require the Owner to provide, at the Owner's expense, annual training for fire, police, and emergency manager, the Town, and other appropriate first responders regarding responding to a Wind Energy System emergency until the Wind Energy System has been decommissioned.

(f) An Owner of a Wind Energy System shall do all of the following:

1. Furnish its operator, supervisors and employees who are responsible for emergency action a copy of the current edition of the emergency procedures established under this subsection to ensure compliance with those procedures.

2. Train the appropriate operating personnel to ensure they have knowledge of the emergency procedures and verify that the training is effective.

3. As soon as possible after the end of a Wind Energy System emergency, review employee activities to determine whether the procedures were effectively followed.

(25) Third-party construction inspector. For a large Wind Energy System, the Town may contract with a third-party inspector to monitor and report to the Town regarding the Owner's compliance with permit requirements during construction. The inspector monitoring compliance under this section shall also report to a state permitting authority upon the state permitting authority's request. The inspector shall make monthly written reports to the Town. The Owner shall reimburse the Town for the actual and necessary cost of the inspector.

(26) Post-construction filing requirement.

(a) Within ninety (90) days of the date a large Wind Energy System commences operation, the Owner shall file with the Town 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 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.

(b) 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 section (18)(g).

(27) Compliance Monitoring. This section applies to large Wind Energy Systems only.

(a) An Owner shall maintain a maintenance log for each Wind Turbine. The log must contain the following information:

1. Date and time maintenance was performed;

2. Nature of the maintenance performed; and

3. Reason for the maintenance.

(b) An Owner shall, at the Owner's expense, provide the Town with a copy of the maintenance log for each Wind Turbine for each month to the Town.

(c) The Town 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.

(28) Information.

(a) An Owner shall, within thirty (30) days of consulting with any federal or state agency about the construction, operation, or decommissioning of the Wind Energy System, provide the Town with information about the reason for the consultation.

(b) An Owner shall, within thirty (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 Town with information about the consultation.

(29) Studies. An Owner shall cooperate with any study of the effects of Wind Energy Systems that is coordinated

by a state agency.

(30) Abandonment and decommissioning.

(a) For small Wind Energy Systems:

1. A small Wind Energy System that does not generate electricity for a continuous period of five hundred forty (540) days will be deemed abandoned and the Town may issue a notice of abandonment to the Owner.

2. If, within thirty (30) days of receipt of a notice of abandonment, the Owner provides the Town with information showing that the small Wind Energy System has not been abandoned, the Town will withdraw the notice.

3. Unless the Town withdraws the notice of abandonment, a small Wind Energy System tower must be decommissioned as prescribed by PSC § 128.19. If the Owner fails to remove a small Wind Energy System and reclaim the site, the Town may remove or cause the removal of the small Wind Energy System and arrange for 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.

(b) For large Wind Energy Systems:

1. An Owner of a large Wind Energy System shall decommission and remove the Wind Energy System when the system is at the end of its useful life.

2. A large Wind Energy System is presumed to be at the end of its useful life if the large Wind Energy System generates no electricity for a continuous three hundred sixty (360)-day period. This presumption may be rebutted under subsection 3.

3. Upon application by the Owner, and except as provided in subsection 4., the Town may grant an extension of the time period for returning the Wind Energy System to service by one or more additional one hundred eighty (180)-day periods if the Owner demonstrates it is likely the Wind Energy System will operate again in the future and any of the following occur:

a. The Owner submits a plan to the Town that demonstrates an ongoing good faith effort to return the large Wind Energy System to service and outlines the steps and schedule for returning the large Wind Energy System to service in a reasonable period of time, including by repairing, replacing or repowering the large Wind Energy System facilities as necessary to generate electricity.

b. The Owner demonstrates that the large Wind Energy System is part of a prototype or other demonstration project being used for ongoing research or development purposes.

c. The Owner demonstrates that the large Wind Energy System is being used for educational purposes.

4. The Town may deny a request for an extension under subsection 3. if the large Wind Energy System has not generated any electricity for a continuous period of five hundred forty (540) days or more and the Town finds that the Owner is not capable of returning the Wind Energy System to service within a reasonable period of time.

5. A large Wind Energy System is irrefutably presumed to be at the end of its useful life if the large Wind Energy System generates no electricity for a period of five hundred forty (540) days and any of

the following occur:

a. The Owner does not request an extension of the time period for returning the large Wind Energy System to service under subsection 3.

b. The Town denies a request for an extension under subsection 4. and any appeal rights have expired.

6. When decommissioning is required, the Owner shall begin decommissioning within three hundred sixty (360) days after the large Wind Energy System has reached the end of its useful life. The Owner shall complete decommissioning and removal of the large Wind Energy System within five hundred forty (540) days after the large Wind Energy System has reached the end of its useful life.

(31) Decommissioning review. An Owner of a large Wind Energy System with a nameplate capacity of one (1) megawatt or larger shall file a notice of decommissioning completion with the Town and the Town within which its Wind Energy System facilities are located when a Wind Energy System approved by the Town has been decommissioned and removed.

(a) The Town shall conduct a decommissioning review to determine whether the Owner has decommissioned and removed the Wind Energy System as required by PSC § 128.19 and whether the Owner has complied with its site restoration obligation under PSC § 128.19 (4). Owner shall pay the actual costs incurred by Town during the decommissioning review.

(b) The Owner shall cooperate with the Town by participating in the decommissioning review process.

(32) Financial responsibility – large Wind Energy System.

(a) An Owner of a large Wind Energy System with a nameplate capacity of one (1) megawatt or larger shall provide the Town with financial assurance of the Owner's ability to pay the actual and necessary cost to decommission the Wind Energy System before commencing any construction activities.

(b) An Owner shall provide the Town with three (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 Town. The amount of financial assurance required by the Town will be the average of the three (3) estimates.

(c) An Owner, prior to the start of construction of a Wind Energy System, shall provide the Town an Irrevocable Letter of Credit. The Letter or Credit shall be substantially similar to the form provided by the Town and approved by the Town and shall be from an FDIC insured financial institution. The Letter of Credit shall be payable at sight to the Town, authorize partial draws, and shall include a provision requiring that the Town be given written notice not less than 45 days nor more than 60 days prior to expiration of the Letter of Credit. The Letter of Credit shall be payable to the Town at any time upon presentation of the following:

a. A sight draft drawn on the issuing bank in the amount to which the Town is entitled;

b. An affidavit executed by the Town Chairman certifying the Town's request under subsection (d).; and

c. The Letter of Credit. The Letter of Credit shall bear an expiration date set by the Town Board.

(d) The Letter of Credit shall provide that the funds may be used for decommissioning the Wind Energy System until such time as the Town determines that the Wind Energy System has been decommissioned, as provided for in PSC § 128.19(5)(b), or the Town approves the release of the funds, whichever occurs first and to cover any other costs incurred by the Town under this Section. The financial assurance must also provide that the Town 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.

(e) The Town may periodically request information from the Owner regarding industry costs for decommissioning the Wind Energy System. If the Town finds that the future anticipated cost to decommission the Wind Energy System is at least ten (10) percent more or less than the amount of financial assurance provided under this section, the Town may correspondingly increase or decrease the amount of financial assurance required. The Town may not adjust the financial assurance under this paragraph more often than once in a five (5)-year period.

(f) The Town 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. The Owner shall provide proof of the substitute financial insurance within 60 days of receiving notice from the Town that a concern regarding the viability of existing financing exists.

(33) Large Wind Energy System Indemnification. An Owner shall indemnify the Town. The Owner shall defend, indemnify, protect, hold safe, hold harmless, and exempt the Town, and its officers, Board members, committees, councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, cost or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by delivery, construction, erection, modification, location, equipment's performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Wind Energy System, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town or its employees or agents. With respect to the penalties, damages, or charges referenced herein, reasonable attorney's' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.

(34) Complaint process for Wind Energy Systems.

(a) An aggrieved person who has made a complaint to an Owner in accordance with PSC § 128.40 may petition the Town for review of the complaint if it has not been resolved within forty-five (45) days of the day the Owner received the original complaint.

(b) The petition for review must be filed with the Town within ninety (90) days of the date of the original complaint and shall contain the following:

1. Name, address, and telephone number of the person filing the petition;

2. Copy of the original complaint to the Owner;
3. Copy of the Owner's original response;
4. Statement identifying the specific Wind Turbine or site of the problem;
5. Statement describing the unresolved complaint;
6. Statement describing the desired remedy;
7. Any other information the complainant deems relevant to the complaint; and
8. Notarized signature of the person filing the petition.

(c) The Town shall forward a copy of the petition to the Owner by certified mail within ten (10) days of the Town receiving the petition.

(d) The Owner shall file an answer to the petition with the Town and provide a copy of its answer to the complainant within thirty (30) days of its receipt of the petition.

(e) The answer must include the following:

1. Name, address, and telephone number of the person filing the answer;
2. Statement describing the actions taken by the Owner in response to the complaint.
3. Statement of the reasons why the Owner believes that the complaint has been resolved or why the complaint remains unresolved;
4. Statement describing any additional action the Owner plans or is willing to take to resolve the complaint;
5. Any other information the Owner deems relevant to the complaint; and
6. Notarized signature of the person filing the answer.

(f) The complainant and the Owner may, within thirty (30) days following the Owner's filing of its answer, file such additional information with the Town as each deems appropriate.

(g) The Town may request such additional information from the complainant and the Owner as it deems necessary to complete its review.

(h) The Town may retain such consultants or experts as it deems necessary to complete its review. The cost of the Town's consultants or experts shall be paid for by the Owner.

(i) The Town shall issue a written decision and may take such enforcement action as it deems appropriate with respect to the complaint.

(j) The decision of the Town and enforcement action is subject to review under Wis. Stat. § 66.0401(5).

(35) Additional process for large Wind Energy Systems.

(a) An Owner shall comply with the notice requirements contained in PSC § 128.42(1).

(b) An Owner, before construction of a large Wind Energy System begins, shall provide the Town 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 town address to which the notice was sent.

(c) An Owner shall, before construction of a large Wind Energy System begins, file with the Town 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 current name and telephone number of the contact person on file with the Town.

(d) Pursuant to PSC § 128.41, a monitoring committee may be established to oversee resolution of complaints regarding a Wind Energy System.

(36) Violations.

(a) It is unlawful for any person to violate any provision of this Ordinance.

(b) 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 Town agent, board, commission, committee, department, employee, official, or officer acting in an official capacity under this Ordinance.

(c) 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.

(37) Enforcement.

(a) Authority. The Town shall enforce this Ordinance and may conduct inspections and investigate complaints relating to compliance with this Ordinance.

(b) Inspection authority. The Town Board 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 Town Board may apply for, obtain, and execute a special inspection warrant pursuant to Wis. Stat. § 66.0119. The Owner shall pay for the actual costs of any inspection by the Town.

(c) Notice of noncompliance. If the Town Board finds a violation of any provision of this Ordinance, the Town Board 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.

(d) Permit revocation authority. The Town Board may revoke a permit for 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.

(e) Other enforcement means. Nothing in this section may be construed to prevent the Town from using any other lawful means to enforce this Ordinance.

(38) Penalties.

(a) A person will, upon conviction for any violation of this Ordinance, shall forfeit not less than One

Hundred and 00/100 Dollars ($100.00) nor more than One Thousand and 00/100 ($1,000.00) 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. Each day a violation continues to exist or occur shall constitute a separate offense.

SECTION 2. If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is found invalid or unconstitutional by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provisions or application of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. This Ordinance shall take effect and be in full force and effect from and after its passage and publication or posting as required by law.

ADOPTED this 11TH day of MAY, 2026

_______________ (Todd Thurs, Town Board Chairperson)

_______________ (Timothy O'Brien, Town Board Supervisor)

_______________ (Bradly Murkowski, Town Board Supervisor)

Posted this 26TH day of MAY, 2026

Attest: _______________ (Jody N. Davis, Town Clerk)