

January 19, 2026

Richard Eaton  
Assistant Corporation Counsel  
721 Oxford Ave – Ste 3520  
Eau Claire WI 54703

**Sent via email only**

Re: Concerned Citizens for Eau Claire County Farmland

Dear Attorney Eaton:

As you know, this firm represents Concerned Citizens for Eau Claire County Farmland (“Concerned Citizens”). I am writing to follow-up with the letter that the Concerned Citizens sent to the members of the Farmland Preservation Plan Steering Committee (“Committee”) on January 8, 2026 (“Citizens Letter”). In the Citizens Letter, we expressed our gratitude to the Committee for its work in protecting Eau Claire County’s valuable farmland from exploitation by industrial wind and solar developers. I would like to reiterate that appreciation. In addition, the Citizens Letter set forth some proposed technical changes to the draft of the Preservation Plan being considered by the Committee (“Preservation Plan”). In my experience as a municipal attorney, it is often easier to facilitate changes in language, if the relevant board or committee is able to see exactly where new language fits in a document. Thus, in order to try to play a constructive role in the Committee’s work, consistent with the requests set forth in the Citizen’s Letter, I have attached herewith some proposed changes to the draft Preservation Plan.

In addition, the draft of the Preservation Plan contemplates strengthening the County’s zoning ordinance to ensure compatibility with the Preservation Plan and to better protect the farmland in the Eau Claire County. Concerned Citizens believes amending the County’s zoning ordinance consistent with the draft Preservation Plan is a critical component of this process. We did hear at least one committee express the inaccurate view that the County could not enact any regulations that were different from the state law and administrative rules. Obviously, that is simply not true. There is fairly clear caselaw on that point. And even

the DATCP representative agreed that counties have greater regulatory authority than just parroting the state law.

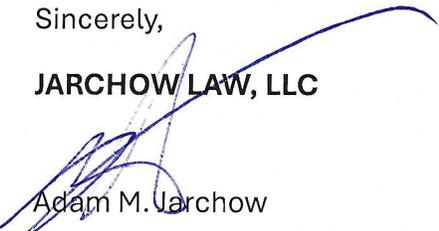
Thus, again, in order to play a constructive role, we have taken the liberty of preparing specific proposed changes to the zoning ordinance. Consistent with the draft Preservation Plan, our goal was to eliminate industrial wind and solar from Agricultural Preservation (A-P) – zoned parcels, while allowing it (as a conditional use) in other zoning districts. To accomplish this goal, we have attached proposed modifications to the Use Table. We have also proposed strengthening the language in Eau Claire Code Sections 18.55 (wind) and 18.56 (solar). Those proposed revisions are also attached. For your convenience, I am sending those changes to you via email in Microsoft Word so that if the County desires to adopt some or all of the proposed changes, you will be able to simply copy the desired provisions<sup>1</sup>.

If the changes we propose are adopted, we believe it will protect A-P zoned farmland, while still allowing industrial wind and solar in other zones, with a conditional use permit. Thus, in order to locate an industrial wind or solar project on land zoned A-P, the applicant would first need to gain approval for a rezoning, and then would have to apply for, and receive, a conditional use permit. This process, along with the conditions set forth in the ordinance language we have proposed (as well as any other reasonable conditions adopted by the body charged with issuing CUPs), would ensure the twin-goals in the draft Preservation Plan of (i) enhancing local control; and (ii) protecting farmland to the greatest extent possible, are met.

I will be calling your office shortly in order to try to set up a time for us to further discuss the contents of this letter and the attachments to it. Thank you for your time and attention to this critically important issue.

Sincerely,

**JARCHOW LAW, LLC**



Adam M. Jarchow

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<sup>1</sup> We understand the County will not adopt the ordinance language verbatim as there are numerous places that the language would need to be made consistent with the County ordinances, titles and other specific items. The ordinance language is meant to serve as helpful starting point for a more comprehensive regulatory structure.

## Land Use Key Issues

The Community Survey (Appendix A) and SWOT Analysis (see Pg. 4) identified a number of key land use issues, including the following: Some key strengths identified include smaller family farms; EC Co. Land Conservation Division; good quality farmland and soils; and a strong and passionate agricultural community.

Some key weaknesses and threats identified include Transportation infrastructure; low participation in land conservation practices; availability of labor; urban sprawl; regulations and lack of local control; and commercial solar and wind energy projects limiting farming.

The following objectives and subsequent action policies set forth in this plan are meant to enhance perceived strengths and opportunities that exist in Eau Claire County, while minimizing or otherwise addressing perceived weaknesses or threats.

### Land Use Goal:



Protect farmland from developments that are not an "Agricultural use" as defined by Wis. Statutes §§ 91.01(2)(a) & (b) or an "Agricultural-Related use" as defined by Wis Statutes §§ 91.01(3)(a) & (b) in order to ensure the preservation of farmland for future generations, while minimizing land use conflicts between agricultural and non-agricultural uses and avoiding fragmentation of agricultural land.

Anything contained in the forgoing notwithstanding, commercial solar and wind should be prohibited in in the A-P zoning district.

### Land Use Objectives:



- 1 Encourage farmsteads and single-family homes as the residential building types in unincorporated areas. Encourage residential subdivisions to locate near or adjacent to existing residential developments and lower density residential development (including rural clusters) to locate near existing agricultural lands in order to maximize the efficiency of road and utility infrastructure, and to minimize conversion of contiguous agricultural, forested or open space tracts to retain the predominantly rural character of the County for sustainable future use.
- 2 Encourage infill of vacant lots within existing subdivisions.
- 3 Discourage non-agricultural related commercial and industrial development within rural portions of the County that may conflict with agricultural operations and instead direct it to more urban areas, rural hamlets, or similar locations where there is better access to public services and transportation facilities needed to support such developments.

**Land Use Objectives:**



- ④ Support local festivals, fairs, farm tours, direct to consumer sales, and farmers markets that celebrate the County's agricultural heritage and rural setting and lifestyle and support the local agricultural economy.
- ⑤ Strive to ensure long-term preservation of rural vistas by limiting urban sprawl and encouraging preservation of large agricultural and forested tracts of land.
- ⑥ Incorporate the recommendations of city, village, and town land use plans into the County's future land use plan. and boards
- ⑦ Support zoning regulations that give towns local control of non-agricultural energy uses such as commercial wind and solar, and non-metallic mining. on farmland
- ⑧ Support zoning regulations that protect communities from state-approved commercial wind and solar developments of the high cost of decommissioning, health and safety issues, and the risks of mismanagement of the development.

**Land Use Background**

This section will explore the relationship of human activities on the rural landscape. Human activities are typically related to larger regional/national trends, emerging market conditions, or are the direct result of regulatory policy. In some cases, land use activities may be linked to any combination of these influences. So, what are the current land use issues affecting rural areas and efforts to preserve productive agricultural and forestry lands in Eau Claire County? Below is a list of some of the more prevalent land use issues identified within the "Conditions and Trends Report" of the Eau Claire County Comprehensive Plan that were also identified during the development of this Plan:

- Increased conversion of rural lands for non-farm development due to projected population growth.
- Increased competition for rural lands due to limited land base resulting in increases in rural land values or out-pricing of agricultural interest.
- Continued demand/supply of low-density development patterns.
- Taxation of rural lands not considered in agricultural production and therefore not assessed under the use value rules. (i.e. recreational or forestry)
- Introduction of industrial sand mining operations.
- Commercial wind and solar on farmland.
- Increased interest or pressure for business diversification in rural areas that may not be consistent with agricultural operations or "rural character".

## Farmland Preservation Certified Area Rationale and Maps

This portion of the plan provides detail into the criteria and rationale that was used to identify farmland preservation areas and to create a final mapping product. This process used several different spatial data resources to locate potential preservation areas. The fact-based rationale used to develop the preservation map considered the following, in no particular order:

### Considered Rationale:

- Soils
- Managed Forest Law/Forest Crop
- Capital Investments
- Connectivity
- Zoning
- Farmland Preservation Participation
- Aerial Photos - Historic Use
- Consistency
- Future Land Use Map - Comp. Plan

## Zoning

Current zoning was examined to verify consistency between current zoning and the proposed preservation area map. According to the farmland preservation program's administrative rules for towns with certified zoning districts, at least 80% of the area included within the mapped preservation areas must be covered by a certified zoning district designation. Further, DATCP may consider certifying a farmland preservation zoning ordinance that is between 70% and 80% consistent with a farmland preservation plan if the political subdivision can demonstrate to the secretary's satisfaction a reasonable, objective justification for the lower level of consistency (ATCP 49.25(2)). Each town Farmland Preservation map shows the percentage of the preservation area that is in the Farmland Preservation Ag Preservation Zoning District.

Commercial wind and solar energy generation is not an agricultural use in the context of Farmland Preservation, according to Chapter 91, Wis. Statutes. This land use has been identified by the steering committee as a threat to the preservation of farmland and is not supported by a majority of the agricultural community, as evidenced by the response of the Farmland Preservation Survey.

To support Towns and the importance of local control, a zoning amendment that precludes commercial wind and solar energy generation facilities in the A-P district would be required.

A commercial wind or solar development proposed in the A-P district will be required to rezone out of the A-P district. Pursuant to Wis Statutes 59.69 (5)(e)3, Towns have the authority to file a certified copy of the resolution adopted by the town board disapproving of the rezoning petition, which disallows the county board from recommending approval of the petition without change, but may only recommend approval with change or recommend disapproval. This statute provides Towns with local control to decide on a case-by-case bases if the development is advantageous to their community.

not including Wind Energy Conversion Systems (See 18.55) or Large Solar Energy Systems (see 18.56) in the A-P District

\*Permission, standards, and location determined by Subtitle III, Use Regulations. Use regulations may apply whether the use is permitted, conditional, or accessory 

<sup>1</sup> All residential uses in the A-P District shall meet the definition of a farm residence in Chapter 18.162.

<sup>2</sup> Conditional uses in the A-P District shall meet the applicable siting criteria of Wis. Stat. §§ 91.46.

<sup>3</sup> Accessory uses in the A-P District shall also comply with Wis. Stat. §§ 91.44 or Wis. Stat. §§ 91.46 and shall meet the use definition in Wis. Stat. §§ 91.01 (1).

<sup>4</sup> Agricultural uses in the A-P District shall also comply with Wis. Stat. §§ 91.44 or Wis. Stat. §§ 91.46 and shall meet the use definition in Wis. Stat. §§ 91.01 (3).

This does not include Wind Energy Conversion Systems (18.55) or Large Solar Energy Systems (18.56) in the A-P district

**Land Use Goal:** Protect farmland from developments that are not an "Agricultural use" as defined by Wis. Statutes §§ 91.01(2)(a) & (b) or an "Agricultural-Related use" as defined by Wis Statutes §§ 91.01(3)(a) & (b) in order to ensure the preservation of farmland for future generations, while minimizing land use conflicts between agricultural and non-agricultural uses and avoiding fragmentation of agricultural land.

Note that it is the intent of the Steering Committee that the amendments to the County Zoning Ordinance outlined in Objectives #7 & 8, below be completed as soon as practicable after the adoption of this plan, preferably within 6 months.

**Objectives:**

1. Encourage residential subdivisions to locate near or adjacent to existing residential developments and lower density residential development (including rural clusters) to locate near existing agricultural lands in order to maximize the efficiency of road and utility infrastructure, and to minimize conversion of contiguous agricultural, forested or open space tracts to retain the predominantly rural character of the County for sustainable future use.
2. Encourage infill of vacant lots within existing subdivisions.
3. Discourage development of non-agricultural related commercial and industrial development within rural portions of the County and instead directs it to more urban areas, rural hamlets, or similar locations where there is better access to public services and transportation facilities needed to support such developments.
4. Support local festivals, fairs, farm tours, and farmers markets that celebrate the County's agricultural heritage and rural setting and lifestyle.
5. Strive to ensure long-term preservation of rural vistas by limiting urban sprawl and encouraging preservation of large agricultural and forested tracts of land.
6. Incorporate the recommendations of city, village, and town land use plans into the County's future land use plan, except in instances where County interests may not be served by such a policy due to a conflict with the goals, objectives, and policies of this Plan, the Eau Claire County Comprehensive Plan, or generally accepted planning principles.
7. Support zoning regulations that give towns local control of non-agricultural energy uses such as commercial wind and solar, and non-metallic mining.
8. Support zoning regulations that protect communities from state-approved commercial wind and solar developments of the high cost of decommissioning, health and safety issues, and the risks of mismanagement of the development.
9. Ensure that town governments are provided with pre-application analyses, testing, surveying, etc., of proposed commercial wind and solar projects.
10. Ensure that property owners who sign lease agreements with commercial solar and wind developers are co-responsible for decommissioning.
11. A zoning amendment will be enacted precluding commercial wind and solar generation facilities in the A-P district.
12. A zoning amendment will be enacted requiring any proposed commercial wind and solar facility on A-P property be subject to rezoning and further subject to town control as discussed more fully above.
13. A zoning amendment will be enacted such that any wind and solar facility would require a conditional use permit.



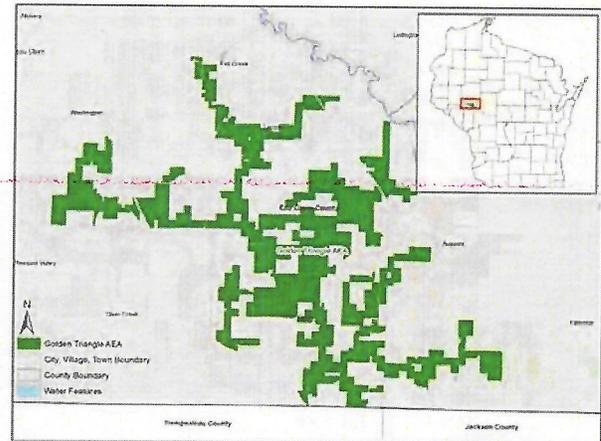
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## Agricultural Enterprise Areas (AEA)

The County currently has one established Agricultural Enterprise Area: the Golden Triangle AEA in the eastern portion of the county, and representing some of the most productive agricultural areas in the county.

Designation of the area as an AEA is a significant step in terms of understanding the economic importance of agriculture, the importance of preserving productive agricultural and forest lands, along with the need to maintain or grow agricultural businesses through additional investment. It also provides an opportunity for farmers in unzoned towns to participate in the farmland preservation program and claim tax credits they would otherwise be ineligible for outside of the certified A-P Zoning District.

Golden Triangle Agricultural Enterprise Area



## Specific Policy/Action Items

- Work to ensure continued landowner eligibility in the Farmland Preservation Tax Credit and Forest Management (MFL & FCL) programs thereby supporting utilization of best management practices to conserve and protect some of our most valuable natural resources.
- Collaborate with Towns, landowners, and farm operators to consider the creation of Agriculture Enterprise Area (AEA's) districts that will recognize the existence of significant agricultural operations and promote investment into future agricultural operations in Eau Claire County.
- Offer the Conservation Reserve Enhancement Program (CREP) and other similar programs to landowners in order to comply with soil and water conservation standards.
- Solicit the Stewardship Program for preservation of important/unique lands in the excluded areas outlined within this Farmland Preservation Plan.
- Spend County Cost Share and State Land and Water Resource Management Cost Share funds for the installation of conservation best management practices geared towards improving water quality and reducing erosion from local farmland.
- Allocate State Joint Allocation funds for Nutrient Management and Agricultural BMP installation.

\* A zoning amendment will be enacted precluding commercial wind and solar generation facilities in the A-P District.

\* A zoning amendment will be enacted requiring any commercial wind or solar facility on A-P property be subject to rezoning and further subject to town control.

\* A zoning amendment will be enacted such that any commercial wind or solar facility would require a conditional use permit.

## **18.55 Wind Energy Systems**

**Purposes.** This section provides the standards and procedures to issue a Conditional Use Permit for a Wind Energy Conversion System. No Conditional Use Permit for Wind Energy Conversion Systems shall be allowed in the A-P Zone.

### DEFINITIONS

**Ampacity:** Means the current carrying capacity of conductors or equipment expressed in Amperes.

**Ampere:** The basic unit measuring the quantity of electricity.

**Anemometer:** A device for measuring the speed and direction of the wind.

**Applicant:** Means the person, firm, corporation, company, limited liability corporation or other entity which applies for approval under this ordinance, as well as the applicant's successor(s), assign(s) and/or transferee(s) as to any approved WECS or testing facility. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WECS or testing facility. The duties and obligations regarding any approved WECS or testing facility shall be with the owner of the WECS or testing facility, and jointly and severally with the owner and operator or lessee of the WECS or testing facility. Also known as owner or operator.

**Aerodynamic Noise:** Means a noise that is caused by the flow of air over and past the blades of a WECU.

**Air Pressure Pulses:** Air pressure produced from wind turbine blades passing the wind turbine tower.

**Ambient Noise:** Means intermittent noise events such as from aircraft flying over, dogs barking, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road are all part of the ambient noise environment, but would not be considered part of the background noise unless they were present for at least 90% of the time.

**Background Noise:** Sounds that would normally be present at least 90% of the time. Also known as the lull in the ambient noise environment.

**Blade Glint:** Means the intermittent reflection of the sun off the surface of the blades of a single or multiple WECS.

**Board:** Means the County Board for Eau Claire County, Wisconsin.

**Broadband Noise:** Means the "swishing" or "whooshing" sound emitted as a function of a WECS(s) operation.

**Employee:** Means any and all Persons, including but not limited to "operators" who work in or at, or render any services directly related to operation of Wind Energy Conversion

Systems.

**FAA:** Means Federal Aviation Administration.

**Good Utilities Practice:** Means any of the practices, methods and acts with respect to the safe operation of the Wind Energy Conversion System (WECS) engaged in or approved by a significant portion of the electric utility industry and, in particular, those portions of the industry with experience in the construction, operation, and maintenance of wind turbines during the relevant period; or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the region.

**High Voltage Electrical Termination:** Means connecting of conductors to a device or system where the voltage exceeds 600 volts.

**Hub Height:** Means the distance to the center of the wind turbine hub as measured from ground level.

**Ice Throw:** Means accumulated frozen moisture or ice buildup on the rotor and/or blades of a WECU that is or can be thrown during normal spinning or rotation.

**Impermissible Interference:** Means the blockage of wind from a wind energy conversion unit or system for which a permit has been granted under this ordinance during a use period if such blockage is by any structure or vegetation on property, an owner of which was notified in advance by certified mail or delivered by hand of any property which the applicant proposed to be limited by the permit. Impermissible interference does not include:

1. Blockage by a narrow protrusion, including but not limited to a pole or wire, which does not substantially block the wind from a wind energy conversion unit or system.
2. Blockage by any structure constructed, under construction or for which a building permit has been applied for before the date the last notice was mailed or delivered.
3. Blockage by any vegetation planted before the date the last notice was mailed or delivered.

**Inoperable:** A WECU shall be determined inoperable if it has not generated power within the preceding two calendar quarters equal to at least 60% of the expected production.

**Large Wind Energy Conversion System (LWECS):** A wind energy system that has a total installed nameplate capacity of more than 300 kilowatts including wind energy conversion systems greater than 100 megawatts and that consists of individual wind turbines that have an installed nameplate capacity of more than 100 kilowatts.

**Licensee:** Means the applicant and/or successor who has received a permit under this ordinance.

**Livestock Facility:** Means a confinement area designed specifically for raising, controlling, feeding, and providing care for livestock. This may include but is not limited to: dairy barns, pastures, feedlots, free stall barns, calf hutches, horse barns, veal barns, feed storage areas, brooder and laying barns, farrowing and finishing barns, veterinary care.

**Low Frequency Noise:** Means an ongoing debilitation sound emitted during periods of turbulence as the blades are buffeted by changing winds that can cause structural vibration.

**Measurement Point:** (MP): Means the location where sound and/or vibration measurements are taken such that no significant obstruction blocks sound and vibration from the site.

**Mechanical Noise:** Means sound produced as a byproduct of the operation of the mechanical components of a WECU(s). This is also known as “tonal noise.” Tonal noises are distinct and tend to be more noticeable at the same relative loudness of other types of noises.

**Meteorological Tower:** Means a tower used for the measurement of wind speed and direction, also known as MET tower or wind test tower.

**NFPA:** Means the National Fire Protection Association.

**Nacelle:** Means the enclosure located at the top of a WECU tower that houses the gearbox, generator and other equipment.

**Noise:** Means any unwanted sound.

**Non-Participating Property Line:** Means a continuous line surrounding all contiguous adjacent parcels of property owned by a single individual, company, corporation, partnership or other entity not part of a proposed Wind Energy Conversion System.

**Operator:** Means the person who is designated on the license application to be the person in charge of daily operation of the premises and who is to be the Wind Energy Conversion System contact person for the County.

**Ownership Property Line:** Means a continuous line surrounding all contiguous adjacent parcels of property owned by a single individual, company, corporation, partnership or other entity.

**Person:** Means an individual, proprietorship, corporation, association, limited liability entity, or other legal entity.

**PSCW:** Means the Public Service Commission of Wisconsin.

**Project Area:** Means all the properties within the project boundary and within a one-mile radius beyond the project boundary of a proposed or approved WECS project.

**Project Boundary:** Means a continuous line, which encompasses all WECU's and related equipment to be used in association with a WECS project.

**Property Line:** Means the recognized and mapped property parcel boundary line.

**Related Equipment:** Means transformers, tower, electrical conductors, termination points, switches, fences, substations, and any other related equipment necessary to operate a WECS.

**Residences (nonparticipating) & Other Buildings:** Means all private residences and businesses located 5,280 feet, measured from the foundation of an existing residence or business to the outermost edge of the closest of the circular path of the wind turbine rotor blade of a WECS, further providing a non-participating land owner has applied for a building permit on or before a full and complete application is submitted to the County Board per Section V of this ordinance.

**Sensitive Environmental Area:** Means an identified habitat for threatened or endangered species, or another designated environmentally significant area as identified by County, town, state or federal officials.

**Sensitive Receptor:** Means places that are likely to be more sensitive to the exposure of the noise or vibration generated by WECS(s). This includes but is not limited to: schools, day-care centers, hospitals, parks, residences, residential neighborhoods, places of worship, and elderly care facilities.

**Setback:** Means the minimum allowable horizontal distance from a given point or line of reference, such as a thoroughfare right-of way, water line, or prospective line to the nearest vertical wall or other element of building or structure.

**Setback Area:** Means the land base that falls within a specified setback.

**Shadow Flicker:** Means the effect when the blades of an operating wind energy conversion unit pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his/her immediate environment.

**Shadow Flicker and Glade Glint Zone:** Means the land area that falls within the setback for shadow flicker or blade glint.

**Small Wind Energy Conversion System (SWECS):** A wind energy conversion system that has a total installed nameplate capacity of greater than 100 kilowatts and up to 300 kilowatts that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts.

**Stray Voltage:** Means neutral-to-earth voltage measured from the electrical system neutral and/or any structure bonded to this neutral to earth that adversely affects humans or animals.

**Structures:** Means residences, livestock facilities, communications towers, commercial businesses, and all sensitive receptors.

**Total Height:** Means the distance between the ground at normal grade and the highest point of the installed WECS (being the tip of the blade when the blade is in the full vertical position).

**Wetland:** Means an area of land, which regularly persists in a wet state, or as otherwise defined by the WDNR.

**Wind Energy Conversion Unit (WECU):** Means a wind driven machine with an output rating greater than 100 kilowatts (kW) and with a total height of greater than 170 feet that converts wind energy into electrical power for the primary purpose of sale, resale, or off-site use. The WECU includes the tower, turbine, footings, and all equipment associated with individual units including the land beneath encompassing the equivalent area of the circumference of the rotors. Also known as a Wind Turbine.

**Wind Energy Conversion System (WECS):** Means all WECUs, related transformers, electrical conductors substations, and connection points to transmission or distribution lines.

**Wind Energy Conversion System Facility or Facility:** Means all of the land and equipment used by the wind energy conversion system (WECS) and its support facilities including the wind turbine, tower, access roads, control facilities, meteorological towers, maintenance and all power collection and transmission systems. Battery Energy Storage System (BESS) shall not constitute a Wind Energy Conversion System Facility.

**Wind Energy Conversion System Tower:** Means any structure that is designed and constructed primarily for the purpose of supporting the Wind Energy Conversion Unit.

**Windmill:** Means a wind-driven machine that does not produce electricity.

**Wind Test Tower:** Means the tower on which meteorological equipment is located to measure wind speed, direction, strength, etc., for the purpose of evaluating a potential for WECS siting.

**Wind Turbine:** Means a wind driven machine that converts wind energy into electrical power, also known as a Wind Energy Conversion Unit (WECU) or turbine.

**WDNR:** Means the Wisconsin Department of Natural Resources.

## A. Permitting

**A. Permit Required.** After the effective date of this ordinance, no WECS of 170 feet in height or greater shall be constructed, operated, or maintained in the County without a Conditional Use Permit issued by the County, pursuant to this ordinance. However, WECS of under 170 feet in height and less than 100 kilowatts are exempt from the Conditional Use Permit requirements of this ordinance and, instead, require a land use

permit issued by the County.

**B.** For Small Wind Energy Conversion Systems - An owner shall file a Conditional Use Permit application with the County that, at a minimum, includes the following information:

1. Wind energy conversion system description and maps showing the locations of all proposed wind energy facilities.
2. Technical description of wind turbines and wind turbine sites.
3. Timeline and process for constructing the wind energy system.
4. Information regarding anticipated impact of the wind energy conversion system on local infrastructure.
5. Information regarding noise anticipated to be attributable to the wind energy conversion system.
6. Information regarding shadow flicker anticipated to be attributable to the wind energy conversion system.
7. Information regarding the anticipated effects of the wind energy conversion system on existing land uses within 0.5 miles of the wind energy system.
8. Information regarding the anticipated effects of the wind energy conversion system on line-of-sight communications.
9. A list of all state and federal permits required to construct and operate the wind energy conversion system.
10. Information regarding the planned use and modification of roads within the County during the construction operation, and decommissioning of the wind energy conversion system, including a process for assessing road damage caused by wind energy system activities and for conducting road repairs at the owner's expense.
11. A copy of all emergency plans developed in collaboration with appropriate first responders.
12. A decommissioning and site restoration plan.
13. A representative copy of all notices issued.
14. Any other information the County may need necessary to understand the construction, operation or decommissioning of the proposed wind energy conversion system

**C.** **Large Wind Energy Conversion Systems** - An owner shall file a

Conditional Use Permit prior to construction. The LWECS may be permitted in all zoning districts except the Farmland Preservation District. If a court finds this prohibition not enforceable the applicant of the LWECS is still subject to the regulations and requirements in this section.

**D. Effect of Other Licenses/Permits .** The fact that an applicant possesses any other valid license or permit required by law does not exempt the applicant from the requirement of obtaining a Conditional Use Permit under this ordinance.

**E. Non-Assignment.** A permit issued under this ordinance may not be assigned or transferred to any other Person than the Permittee, without the express prior written consent of the County. Such consent shall not to be unreasonably withheld within one year after issuance of a permit, provided the Permittee and the Person who the permit is proposed to be assigned or transferred to shall both submit affidavits to the County demonstrating the following:

1. The new Person who will hold the permit wholly owns the new entity.
2. The new entity is properly formed and authorized to do business in the State of Wisconsin.
3. The written assignment requires the new entity to assume all of the Permittee's rights, duties and obligations under the Permit including but not limited to all financial requirements and the certificate of insurance requirements.

**B. PERMIT APPLICATION PROCEDURE FOR WECS**

**A. Application.** Any person desiring to secure a Conditional Use Permit for a WECS from the County shall file a complete application, together with two additional copies, with the County Clerk. The application shall be on a form approved by the County Board and shall be provided to the applicant by the County Clerk.

**B. Required Information.** The following information shall be required of each Applicant and shall be provided with the application. The Person(s) filing the application shall sign it under oath or affirmation as witnessed by a Notary Public:

1. Name, address, and phone number of Applicant(s).
2. If the Applicant is a corporation, partnership, limited liability company, limited liability partnership, or other entity recognized by law, the application shall include: the name of the business entity; the date of incorporation, registration or organization; the state in which the entity was incorporated, registered or organized; the name and address and home phone numbers of the registered agent(s) where applicable; the names and addresses of all officers and directors; operating or managing partners or general partners, managing members or managers, whichever is applicable for the particular form of business entity.
3. Name and address of any other current or past WECS developed or operated by the Applicant, whether in the State of Wisconsin or any other state or nation.
4. Name, address and phone number of the individual(s) responsible for the day-to-

day operation of the proposed WECS, who will be deemed the Operator for purposes of this section, and who will be the contact Person for the County.

5. Evidence that the Applicant is the owner of the underlying real estate and other property necessary for the WECS project or that the Applicant has the written permission of the owner(s) of such real estate and other property to make such an Application.

6. A signed statement by the underlying landowner(s) acknowledging that the landowner(s) will be financially responsible if the owner/operator fails to reclaim the site as required, and that any removal and reclamation costs incurred by the County shall become a lien on the real estate and other property and may be collected from the landowner(s) in the same manner as property taxes.

7. A statement that the Applicant is familiar with, and in compliance with, the provisions of this ordinance, including the responsibility to reimburse all reasonable costs and professional fees associated with the processing, examination and analysis of the application for a permit and such further expenses associated with monitoring the WECS and enforcing the terms of the permit.

8. Proof of continuous liability insurance in the minimum amount of five million dollars (\$5,000,000.00) per occurrence shall be submitted to the County indicating coverage for potential damages or injury to landowners, occupants, County property and County roads, and other third parties. The County shall be named as an additional insured on the policy.

C. **Additional Information.** Each Application shall be accompanied by:

1. Detailed Site Plan. A site plan which meets all the requirements of this Section and applicable provisions of the County Zoning Code pertaining to any additional site specific requirements of the County in accordance with the technical requirements in this ordinance. Each application shall be accompanied by a site plan showing the location of the proposed WECS Tower Site(s), including:

- a. Total acreage occupied by the facility;
- b. A detailed map of the area showing parcel boundaries and individual Wind Turbine locations and their distances to existing structures;
- c. Existing structures and proposed facilities;
- d. Location of existing and proposed transmission lines, substations, driveways, access and maintenance roads, etc. All proposed electric transmission and distribution lines shall be shown and shall be placed underground;
- e. Location of meteorological or wind testing towers; and
- f. Location of wells, abandoned and active, within a half-mile radius of project boundary.

2. Specific Information. The applicant shall provide specific information on WECS including:

a. The type, size, total installed height, rotor material, rated power output, performance history, safety history, and noise characteristics of each type of WECS, tower and electrical transmission equipment. Identify the length of service of the proposed components.

b. A structural safety certificate shall be provided from a professional engineer stating that the structure is of new construction and not refurbished or rebuilt and has been designed to operate in cold weather conditions and is safe.

c. Photographs or detailed drawings of each wind turbine model including the tower and foundation. Provide design and specifications for all proposed structures and foundations. (Foundation at and around the tower base shall be designed so that no surface water or runoff can access subsurface aquifer at any time during construction, operation or decommissioning.)

d. Detailed computer and photographic simulation(s) overlaid on the existing environment showing the proposed WECS project area fully developed with all proposed wind energy conversion units and related facilities. The format shall be subject to the approval of the County.

3. Timeline. The applicant shall provide a proposed timeline showing all aspects of construction with a starting and final completion date.

4. Affected Property Owners. The applicant shall submit the name and address of property owners within WECS setback areas. Considering that development rights of adjacent property owners may be forfeited due to setbacks, a written agreement for non-development within the specified setback must be obtained and recorded on the affected properties' deeds.

5. Impermissible Interference Notification. The applicant shall deliver by certified mail or by hand a notice to the owner of any property, which the applicant proposes to be restricted by the permit. The applicant shall submit to the County a copy of a signed receipt for every notice delivered in addition to the following information:

a. The name and address of the applicant, and the address of the land upon which the WECS is or will be located.

b. That the applicant has filed an application.

c. That the permit, if granted, may affect the rights of the notified owner to develop his or her property and to plant vegetation.

d. That any person may request a hearing within 30 days after receipt of the notice, and the address and procedure for filing the request.

6. Wind Access Agreements. Evidence (a signed statement from the applicant and countersigned by the landowner) that the applicant has negotiated with adjacent landowners and has obtained written agreements with all landowners whose wind rights may be affected by the WECS or who could otherwise potentially interfere with the applicant's wind access.

7. Easements, Leases & Property Rights. The applicant shall submit copies of signed letters of intent to grant easements, long-term leases or other property rights from all involved landowners and any governmental units responsible for right-of-ways for access, construction, electric transmission and distribution lines, etc.

8. Notifications. The applicant shall notify the following agencies, via certified mail upon submitting an Application to the County. Copies verifying proof of delivery shall be provided to the County:

- a. Federal Aviation Administration;
- b. Wisconsin Bureau of Aeronautics;
- c. County Emergency Services Agencies;
- d. Local Fire Departments;
- e. County Planning & Zoning and Land Records Departments;
- f. County Highway Department;
- g. County Sheriff's Department;
- h. Local School Districts;
- i. Local Utilities and Electric Cooperatives;
- j. Wisconsin Public Service Commission;
- k. Wisconsin Department of Natural Resources; and
- l. U.S. Department of Defense facilities located within 50 miles of the proposed WECS.

9. Wind Study. A study documenting minimum, maximum, and average wind speeds and prevailing wind directions over the course of one year. Anemometers shall be calibrated regularly to ensure a measurement of error of 1% or less. All anemometers shall be placed at the expected hub height of the proposed wind turbines. Sufficient wind resources, as described by the U.S. Department of Energy, include areas with a wind power class 4 or higher. The County shall retain the services of an independent, recognized expert to review the results of the wind resources study prior to acting on the application. Said study shall indicate the long-term commercial economic viability of the proposed WECS project.

10. Critical Communications. The applicant shall provide a critical communication study prepared by a registered professional engineer showing that the proposed WECS will not interfere with emergency (fire, police/sheriff, ambulance) radio two-way communications (base stations, mobile, and hand held radios, including digital), paging, television, telephone (including cellular and digital), microwave, satellite (dish), navigational, internet or radio reception communications to and from neighboring areas. The applicant shall provide a signed affidavit stating that the applicant shall be responsible for the full cost of any removal of WECS facilities and any other remediation necessary to provide correct any problems; including relocation or removal of the WECS facilities and

any and all related electric transmission lines, transformers, and other components related thereto. The applicant shall maintain equivalent communications throughout the life of the WECS even as future technologies may change.

11. Noise Study. The Applicant shall provide to the County a pre-construction noise survey within a one mile radius of each proposed Wind Turbine location showing ambient background noise levels over a one year period prior to final layout and construction of the proposed WECS. The noise survey shall be conducted by a qualified person on behalf of the applicant, and shall be reviewed and approved by an independent consultant selected by the County Board, at the Applicant's expense, prior to review and approval of the Application.

12. Air Pressure Pulse Study. The Applicant shall provide to the County a pre-construction air pressure pulse study using an existing facility in which the same height, power and model turbines are in operation on similar terrain as the proposed facility. The air pressure pulse survey shall be conducted by a qualified person on behalf of the applicant, and shall be reviewed and approved by an independent consultant selected by the County Board, at the Applicant's expense, prior to review and approval of the Application. The study shall use sensor technology with equipment such as the Infiltec Model INFRA-20 or equivalent. Before the study is conducted, the study details such as, but not limited to, location of the study, sensor location and study duration shall be outlined and presented to the County for approval.

13. Shadow Flicker and Blade Glint. The applicant shall provide a shadow flicker and blade glint model for any proposed wind energy conversion unit. The study shall be conducted by a qualified person on behalf of the applicant, and shall be reviewed and approved by an independent consultant selected by the County Board, at the Applicant's expense, prior to review and approval of the Application.

14. Ice Throw Calculations. A report from a Wisconsin professional engineer that calculates the maximum distance that ice from the turbine blades could be thrown. The basis of the calculation and all assumptions must be disclosed. The report shall be prepared by a qualified person on behalf of the applicant, and shall be reviewed and approved by an independent consultant selected by the County Board, at the Applicant's expense, prior to review and approval of the Application.

15. Blade Throw Calculations. A report from a Wisconsin professional engineer that calculates the maximum distance pieces of the turbine blades could be thrown. The report shall be prepared by a qualified person on behalf of the applicant, and shall be reviewed and approved by an independent consultant selected by the County Board, at the Applicant's expense, prior to review and approval of the Application.

16. Ground Water. An environmental study specifically indicating the impact the project will have on the groundwater beneath and in the vicinity of the proposed Wind Turbine sites. If a Wind Turbine foundation is proposed in a bedrock area, a baseline of all wells and certified public drinking sources in a half-mile radius shall be established and provided to the County as part of the application. The study shall be prepared by a qualified person on behalf of the applicant, and shall be reviewed and approved by an

independent consultant selected by the County Board, at the Applicant's expense, prior to review and approval of the Application.

17. Travel Route. The applicant shall provide the County, town, village or city and state notice of intended travel routes to proposed WECS site. The applicant shall provide, at its expense, a pre-construction inventory of road conditions performed by a certified Wisconsin professional engineer. The applicant shall abide by all County, town, village, city and state laws and ordinances that may affect travel and/or ingress or egress to the WECS facilities.

18. Soils Report. A geotechnical report that shall at a minimum include the following:

a. Soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing;

b. Slope stability analysis;

c. Grading criteria for ground preparation, cuts and fills, soil compaction; and

d. Certification from a registered geotechnical engineer that the soils can support a WECS.

19. Site Preparation & Erosion Control. The applicant shall submit the following:

a. A site preparation plan that has been approved by the County Land Conservation Department and County. The plan shall show planned storage and retention of topsoil, and all types of subsoil for later site restoration.

b. A construction site erosion plan and storm water runoff control plan that has been approved by the County Land Conservation Department and County. The plan shall comply with all state statutes and county ordinances. The plan shall be prepared so as to minimize the potential adverse impacts on sinkholes, wetlands, streams and the banks and vegetation along those streams and wetlands, and to minimize erosion or sedimentation.

20. Hazardous Waste. A plan shall be submitted showing compliance with all laws applicable to the generation, storage, clean up, transportation and disposal of hazardous wastes generated during any phase of the proposed WECS life.

21. Fire Prevention, Emergency Rescue Plan. The applicant shall submit a plan to outline preventative measures, and to identify, train and fund fire and rescue personnel to ensure readiness and appropriate response. This plan shall also identify potential fire, rescue, and hazardous materials scenarios over the life of the WECS.

22. Stray Voltage Test Results. The applicant shall perform at least two pre-construction stray voltage tests at all livestock facilities within the proposed project boundary and within a one-mile radius beyond the proposed project boundary. The tests shall be performed by a mutually acceptable Wisconsin certified stray voltage investigator

and shall be conducted once in the spring and once in the fall of the year. The tests shall be performed according to the PSCW Phase II Stray Voltage Testing Protocol. A copy of the test results shall be sent to each of the following: property owners, PSCW, local utilities, Wisconsin Public Service Commission, and the County. The applicant shall obtain written permission from property owners prior to stray voltage testing. If permission is denied, all responsibility for stray voltage problems shall be with the property owner.

23. Lighting Plan. The Applicant shall provide a plan showing lighting on and around all WECS and related facilities. Lighting on WECS shall be lit to FAA standards using aircraft detection lighting system. Lighting shall be shielded from ground view to FAA maximum standards.

24. Avian and Bat Impact Study Plan. The applicant shall submit a plan for monitoring the avian and bat impact of the WECS to the County for its review and approval. Such plan shall document and follow accepted scientific study procedures. In addition, the applicant shall submit a quarterly report to the County which identifies the number of bird and bat fatalities found within 500 feet of all WECS facilities.

25. Abandonment, Removal and Site Restoration Plan. The applicant shall submit an abandonment, removal and site restoration plan, along with a cost estimate for removal and site restoration, to the County with the application. The plan shall identify the specific properties it applies to and shall indicate the timeline and process to be used for removal of all materials above and below ground; road repair costs, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the WECS. The plan shall reflect the site-specific character including topography, vegetation, drainage, and any unique environmental features at the site. The plan shall reflect any standards set forth in this ordinance and shall include a certified estimate of the total cost (by element) of implementing the removal and site restoration plan.

26. Robotic inspection of every foot of drainage tile, repair of any inoperable drainage tile in advance of any WECS construction and re-inspection every three years. All video footage to be place with County

27. Application Fees & Security. The following fees and financial security guarantees shall be paid to the County by the applicant:

a. Application, Legal and Consultant Fees. The applicant shall pay an application fee of \$1,000 to the County upon filing an application under this ordinance. In addition, within fourteen (14) days of filing an application the applicant shall deposit in a joint escrow account with the County the sum of \$25,000, as partial payment for the appropriate County expenses in hiring consultants and experts, as these authorities shall, at their discretion, deem desirable. At any time the balance of this fund shall fall below \$15,000, the applicant shall submit an additional \$15,000 so that the County's full and actual expenses of examining and verifying the data presented by the applicant shall be paid in full by the applicant. If at any time the balance of this fund shall fall below \$15,000 for a period of 30 days, the application shall be considered to have been withdrawn. The balance of the escrow account, after all the County's expenses have been

paid, shall be returned to the applicant.

b. **Road Repair.** An amount to be determined applying WI Statute 86.02 (shall be liable in treble damages) by agreement of the applicant and the County Board, to be used as security for County road maintenance and repair, shall be deposited in a joint escrow account with the County within fourteen (14) days of approval of a permit under this ordinance. When determining the amount of such required security, the County may require an annual escalator or increase based on current construction costs and/or the Federal Consumer Price Index. This security shall be kept in full force and effect during the entire time a WECS is in existence and shall be used to maintain roads during the construction, maintenance and decommissioning of the WECS facility. Such security shall be irrevocable or non-cancelable (except by written consent by both the County Board and the owner of the WECS) for the life of the approved permit. Failure to comply will subject the applicant to revocation of the permit.

c. **Site Reclamation.** Advance payment for WECS site reclamation and restoration shall be placed in a joint escrow account or surety bond, the amount to be determined by the County Board. Said amount shall be sufficient to fully remove the WECS and all components thereof. Such financial security shall be kept in full force and effect during the entire time while a WECS facility exists or is in place. This financial security shall be irrevocable and non-cancelable until such time as the County Board certifies that reclamation and restoration are complete and release the obligation. Failure to comply will subject the applicant to revocation of the permit.

d. **Decommissioning.** An appropriate continuous renewal bond amount shall be established for each Wind Turbine for decommissioning should the Owner/Operator fail to comply with the Ordinance requirements or if a Wind Turbine is inoperable for a period of twelve (12) consecutive months.

28. Any other information necessary to understand the construction, operation or decommissioning of the proposed wind energy system.

## C. PERMIT PROCEDURE

A. **Notice & Procedure.** After determining that an application is complete, the County Board shall conduct a public hearing on the application after a class 2 hearing notice is published in the County's official newspaper. The public hearing shall be held within ninety (90) days, after the County Board determines that the application is complete. Within fourteen (14) days after the close of the public hearing, the County Board shall meet in open session to deliberate and make a decision concerning the application. The deliberation meeting shall be noticed to the applicant and the public at least five (5) days prior to the deliberation meeting. The County Board may have the assistance of legal counsel at the public hearing and the deliberation meeting.

B. **Decision on Application.** The County Board shall approve an application and grant a Conditional Use Permit for a WECS if it determines that the requirements of this ordinance have been and shall be met by the applicant, and granting the permit will not adversely affect public health and safety. The County Board may include conditions

in the Conditional Use Permit which go beyond the minimum regulations set forth herein, if the conditions are reasonably necessary to protect public health and safety; 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. In addition to other provisions and standards set forth in this ordinance, the County Board may consider the following factors when establishing such conditions:

1. The proposed ingress and egress;
2. The proximity to transmission lines to link the system to the electric power grid;
3. The number of wind turbines and their proposed locations;
4. The nature of land use on adjacent and nearby properties;
5. The surrounding topography;
6. The proximity to residential structures, residential zoning districts, and areas identified for future residential use;
7. Design characteristics that may reduce or eliminate visual obtrusiveness and the distraction of motorists on nearby roads;
8. Possible adverse effects on migratory birds, raptors, and other animals and plants;
9. Possible adverse effects of stray voltage, interference with broadcast signals, shadow and flicker effects, and noise;
10. Impacts on the orderly development, property values, and aesthetic conditions of the County as they may also relate to public health and safety and other factors under Wis. Stat. § 66.0401;
11. Effects on public roads;
12. Recommendations from the County boards of adjacent Counties, which may be affected by a WECS;
13. Any other factors which are relevant to the proposed WECS.

C. **Recording & Notice of Decision.** The County's decision to approve, conditionally approve or deny an application, the reason(s) for its decision, and any conditions established by the County relative to a conditional approval of an application and permit shall be recorded in the County minutes. The Zoning Administrator or County Clerk shall issue a permit to the applicant or inform the applicant that the application for a Conditional Use Permit has been denied within thirty (30) days of the County's final action on the completed application. At the same time, the County Clerk shall publicly post a notice of the final decision of the County at the County building.

D. **Appeal to Circuit Court.** The County's final decision on approval, conditional approval or denial of an application may be appealed to Circuit Court by anyone aggrieved by the decision, including but not necessarily limited to the applicant or any aggrieved resident or property owner of the County, within thirty (30) days of the issuance of the decision, and the posting of public notice of the decision, by the County Clerk. In addition, any revocation of a permit or other enforcement action by the County under this ordinance may be appealed to Circuit Court by the applicant or any other aggrieved party within (30) days of actual notice to the applicant or other aggrieved party of such revocation or enforcement action.

#### D. DEVELOPMENT & PERFORMANCE STANDARDS FOR PERMITTING

A. **Development & Performance Standards.** All WECS and testing structures shall comply with the Development & Performance Standards set forth in this section. It is recognized that the standards herein are neither exclusive, nor exhaustive. In instances where a health or safety concern is identified with regard to any application for a WECS, additional or more restrictive conditions may be included in the permit to address such concerns. The County reserves the right to impose additional standards as circumstances warrant. Such additional and more restrictive standards may include, but are not limited to: a) longer setbacks from nearby property lines, roads, electric transmission and distribution lines, residences, businesses and other inhabited structures; b) more restrictive noise limitations, and c) more restrictive limitations to protect surface water and groundwater.

B. **Design.** Each Wind Turbine shall consist of a tower, generator(s), nacelle and blades. Each WECS site shall have access roads, underground transmission cabling to connect the generators to a local utility's electric distribution lines, and underground fiber optic lines. The application shall disclose the nature, type, make and model of the proposed Wind Turbines. Detailed product literature, specifications, and safety guidance for maintenance of the turbines shall accompany the application. Each Wind Turbine shall also comply with the following design requirements:

1. Wind Turbines shall be painted a non-reflective, non-obtrusive color.
2. Each WECS site, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the WECS to the natural setting and the existing environment.
3. Wind Turbines shall not be artificially lighted, except to the extent required by the FAA or other applicable authority; strobe or other intermittent lights are prohibited.
4. Wind Turbines shall not be used for displaying any advertising.
5. Wind Turbines shall not display any name or logo.
6. Electrical controls and control wiring and power-lines must be wireless or not above ground, except where wind farm collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network.

7. The clearance between the ground and the Wind Turbine blades shall be at least 75 feet.

C. **Aircraft Protection.** The wind turbine generator towers shall be marked as required by the Federal Aviation Administration (FAA). There shall be no lights on the outside of the tower other than as required by the FAA or other applicable authority, or as otherwise agreed in connection with the issuance of the permit. Notwithstanding the foregoing, this restriction shall not apply to infrared heating devices used to protect the monitoring equipment. The tower shall be connected to an uninterruptible back-up power source to ensure continuous compliance with FAA regulations. To the extent consistent with FAA regulations, shrouding for the lights shall direct reflection of light up. Aircraft safety and protection shall also be accomplished by establishing sufficient setbacks between all Wind Turbines and adjoining properties in order to allow for safe crop-dusting of agricultural fields, and safe emergency medical aircraft landings on all adjoining properties.

D. **Setbacks.** Setbacks shall be measured from the outermost edge of the closest of the circular path of the wind turbine rotor blade. The County may adjust the following minimum setbacks on a case-by-case basis.

1. Participating Property Line: 1.1 times the total height of the Wind Turbine from the nearest property line of a participating property owner.

2. Non-Participating Property Line: Five (5) times the rotor diameter but not less than 1,300 feet from the nearest property line of a non-participating property, unless the owner of the non-participating property grants an easement for a lesser setback. The easement must be recorded with the County Register of Deeds and may not provide for a setback that is less than 1.1 times the total height of the Wind Turbine.

3. Public Roads and Highways: 1,300 feet or three (3) times the total height of the Wind Turbine, whichever is greater.

4. Above Ground Power/Telephone Lines: 1,300 feet or three (3) times the total height of the Wind Turbine, whichever is greater, from the nearest above-ground public electric power line or telephone line.

5. Residences & Other Buildings: 5,280 feet from the nearest non-participating residence, business, school, daycare facility, church, hospital and other sensitive receptors.

6. Wetlands: 1,000 feet from all sinkholes and wetlands.

7. Water Bodies Setbacks: 1,300 feet from the ordinary high water mark of all navigable water bodies.

8. Parks & Public Property: 2,640 feet from any town, county or state park, property, recreational or rest area.

9. Spacing and Density: Minimum setback distances between turbines shall be (2) times the total height of each WES

E. **Blasting.** Permittee shall not undertake any blasting in connection with the construction of the Facility unless Applicant shall have notified the County and submitted a blasting plan consistent with applicable laws and regulations. The plan must be submitted by the Permittee, reviewed and approved by the County Board, before any blasting may take place. The plan shall, at a minimum, provide that:

1. Blasts must comply with the State ground vibration limitations.
2. Fly-rock traveling in the air or along the ground must remain in the controlled blasting area site owned or controlled by the applicant.
3. All blasting must be performed by or under the direct supervision of a State-licensed blaster.
4. A blasting log for each blast will be kept on-site at the WECS office for not less than 5 years, and copies of the required blasting log will be promptly submitted to the County upon its request.
5. A resident call list must be established for the purpose of notifying neighbors at homes in the vicinity of the WECS of eminent blasting activity. This call list must be maintained and utilized on a “request basis only” for all residents in the vicinity of the WECS who asked to be notified prior to any blast.
6. The storage of explosives will be in accordance with Wisconsin law.

F. **Communications Interference.** WECS shall be sited and operated so that they do not interfere with emergency (fire, police/sheriff, ambulance) radio two way communications (base stations, mobile, and hand held radios, including digital) and/or paging, television, telephone (including cellular and digital), microwave, satellite (dish), navigational, internet or radio reception to neighboring areas. The applicant and/or operator of the facility shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or correct any problems; including relocation or removal of the facility caused or exacerbated by the operation of such equipment and any and all related transmission lines, transformers, and other components related thereto. The applicant shall maintain equivalent communications throughout the life of the WECS even as future technologies may change.

1. The owner/operator of the WECS shall respond within five business days to any request for communications interference investigation by a property owner within the project boundary and a three-mile radius beyond the project boundary. Testing will commence within ten working days of the request. The owner/operator is responsible for mitigating within ten working days from the determination of interference cause attributed to the operation of the WECS.
2. The owner/operator of the WECS shall respond within one business day to any request for communications interference investigation by any emergency agency (fire, police/sheriff, ambulance). Testing will commence within two working days of the request. The owner/operator is responsible for mitigating within two business days from the determination of interference cause attributed to the operation of the WECS.

**G. Electromagnetic Interference.** WECS shall be sited and operated so that they do not interfere with television, telephone (including cellular and digital), microwave, satellite (dish), navigational, or radio reception to neighboring areas. The applicant and/or operator of the facility shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or correct any problems; including relocation or removal of the facility, caused or exacerbated by the operation of such equipment and any and all related transmission lines, transformers, and other components related thereto. The owner/operator of the WECS shall respond within five business days to any request for a communications interference investigation by a property owner within the project boundary and a three-mile radius beyond the project boundary. Testing shall commence within ten working days of the request. Owner/operator is responsible for mitigating within ten working days from determination of interference cause attributed to the operation of the WECS.

**H. Groundwater Protection.** Permittee shall construct and operate the Facility so as not to cause groundwater contamination in violation of applicable law. Nothing contained in the permit is intended to authorize or permit any degradation of the quantity or quality of the groundwater in connection with the WECS.

1. No excavations deeper than nine (9) feet below the surface of the soil shall be allowed in the construction of any Wind Energy Facility or Wind Turbine unless the applicant submits evidence of increased cost or design necessity based on actual foundation designs. Any change in foundation design shall maintain the water quality standards of this ordinance.

2. Wells shall not be drilled within the boundaries of a WECS site.

3. The applicant shall complete a plan for managing surface water runoff to prevent pollution of groundwater through sinkholes, wetlands and infiltration through the soil and underlying bedrock within a 1,000-foot radius of each Wind Turbine site and along all access roads and driveways leading to Wind Turbine sites. The plan shall provide for surface water management so that the water flows away from the Wind Turbine sites and known sinkholes rather than toward them.

4. If a Wind Turbine foundation is proposed in a bedrock area, a baseline of all wells and certified public drinking sources in a half-mile radius shall be established and permanent remedies shall be the responsibility of the developer if contamination occurs.

**I. Fire Protection.** The applicant shall prepare a plan in consultation with fire department having jurisdiction over the area prior to construction. The plan shall address all activities at the WES and site from the start of construction through the end of power generation and the final removal and restoration of the site, and shall result in a response plan to address all identified potential fire, rescue, hazardous materials scenarios.

1. The owner/operator shall assure that the WECS and site comply with the following control and prevention measures and incurs associated costs.

- a. Fire proof or fire resistant building materials and buffers or fire retardant landscaping.
- b. Incorporation of a self contained fire protection system to address nacelle fires and approved by NFPA or comparable underwriter.
- c. Maintain firebreak areas cleared of vegetation and maintained as a fire/fuel break as long as the WECS is in operation. Firebreaks shall be 30 feet in width around the periphery of the proposed WECS site, 10 feet in width around all transformers, and 30 feet in width around all buildings.
- d. Fire fighting and rescue services, including programs and costs associated with equipment and training, for local fire protection and rescue personnel.
- e. Any additional fire fighting or rescue personnel, services, materials, and/or vehicles as may be required to address any call related to the WECS or site that is beyond the capabilities of local fire fighting and/or rescue services.
- f. The owner/operator shall be responsible for compliance with all laws applicable to the generation, storage, clean up, transportation and disposal of hazardous wastes generated during any phase of the project's life.

**J. Public Roads.** Permittee shall, prior to the initiation of construction and use of haul roads, consult with the County land use staff, County Highway Commissioner, the Wisconsin State Police and the County Sheriff's Office for load paths and restrictions on their respective roads or bridges. At Permittee's expense:

1. Permittee shall provide, the County, a preconstruction evaluation and identification of road surface materials stating the type and amount of surface cover, PASER ratings, and photographic or video documentation of predetermined designated traffic route, performed by a Wisconsin certified professional engineer mutually agreed upon by applicant and County.
2. Permittee shall contract with qualified contractors, approved by the County, to repair any damage to the haul roads due to transportation of equipment and Facility components ('Road Repair Obligations').
3. In the event a hazardous road condition exists that is not immediately corrected by Permittee, the County Board may order emergency road repairs, be performed by qualified contractors. Permittee shall promptly reimburse the County for reasonable emergency road repair costs.
4. Permittee shall assure funding of the Road Repair Obligations by a joint escrow account or guaranty prior to initiation of any construction.
5. Weather permitting, the final Road Repair Obligations shall be completed to the reasonable satisfaction of the County Board within six (6) months after completion of construction of the Facility, or as soon thereafter as weather conditions permit.

**K. Signage and Fencing.** Permittee shall provide reasonable signage at the Facility, identifying the Premises as being part of the Facility and providing appropriate safety notices and warnings against trespassing. The no trespassing signs shall be posted around the entire premises at an appropriate distance for posting but no less than 2 conspicuous places for every 40 acre parcel within the Facility. Signs should be sized at a minimum to meet the provisions of Wis. Stat. § 943.013(2).

1. No wind turbine, tower, building, or other structure associated with a wind energy system may be used to advertise or promote any product or service. No word or graphic representation, other than appropriate warning signs and owner or landowner identification, may be placed on a wind turbine, tower, building, or other structure associated with a wind energy system so as to be visible from any public road.
2. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.

**L. Electrical Standards.** All wiring between Wind Turbines and the Wind Energy Facility substation shall be underground. All neutral grounding connectors from Commercial Wind Turbines shall be insulated from the earth and shall be sized to accommodate at least twice the peak load of the highest phase conductor, to absolutely prevent transient ground currents, in order to comply with the National Electric Safety Code and the IEEE Standard 519-1992, approved by the American National Standards Institute, as follows:

1. Grounding of both the electrical transmission lines and the supply lines to the internal electrical systems of the turbines themselves, shall comply with Rule 92D, Current in Ground Conductors: "Ground connector shall be so arranged that under normal circumstances, there will be no objectionable flow of current over the grounding conductor."
2. It is not permissible to use the earth as a part of a supply circuit.
3. Under no circumstances shall any Wind Turbine be connected directly to the grid; connection must be made through a substation or transformer properly grounded and filtered to keep harmonic distortion within recommended limits.
4. Bare, concentric neutrals are specifically prohibited in buried lines between turbines and in underground transmission lines to substations.
5. Electrical controls and control wiring and power-lines shall be wireless or not above ground except where wind farm collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network.

**M. Stray Voltage.** The Permittee shall respond within (5) five business days to any request for a stray voltage investigation by a property owner within the project boundary and a one-mile radius beyond the project boundary. The tests shall be performed by a mutually acceptable Wisconsin certified stray voltage investigator. The tests shall be

performed according to PSCW Phase II Stray Voltage Testing Protocol. Testing shall commence within (10) ten working days of the request. If testing cannot be initiated within (10) days, the Wind Turbine(s) in question shall be shut down until the testing can be started. The investigation shall be provided to the property owner at no cost up to a maximum of two investigations within a 12-month period. At no time shall the operation of a WECS increase the measured cow contact voltage (Vcc) or primary neutral to remote voltage (Vpn) on a livestock facility within the project boundary and a one-mile radius beyond the project boundary, above the maximum pre-construction levels. The owner/operator agrees to abide by all rules, procedures, standards, and reporting established by the PSCW for stray voltage and related electrical phenomena. Owner/operator is responsible for mitigating within five working days from determination any net increase in cow contact voltages (Vcc) or primary neutral to remote voltages (Vpn) attributed to the operation of the WECS. If corrections cannot be initiated within (5) five working days, the Wind Turbine(s) in question shall be shut down until the voltages in question are mitigated. A copy of the test results shall be sent to the property owner, PSCW Rural Electric Power Services staff, and the County Board within (30) days of test completion.

**N. Reporting and Complaint Resolution Procedure.** Permittee shall report to the County as follows:

1. Quarterly Power Production Reports: The Permittee shall submit a quarterly power production report to the County which shall cover the proceeding calendar quarter and include actual power production in kilowatt-hours for each commercial wind energy facility in the County.
2. Annual Monitoring Reports. The Permittee shall submit an annual monitoring report to the County, containing data on the operations and environmental impacts of the WECS site. Such reports shall describe all safety inspections of the WECS.
3. Extraordinary Events. Within 24 hours of any extraordinary event, Permittee shall notify the County. "Extraordinary events" shall include but not be limited to tower collapse, catastrophic turbine failure, fires, ice throw, leakage of hazardous materials, unauthorized entry to the tower base, thrown blade or hub, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the public health and safety of the County.
4. Complaints. The Permittee shall, at the permittee's expense and in coordination with the County develop a system for detailed logging and investigation of all complaints related to the operation of the WECS. The County will select a qualified individual to investigate complaints. The Permittee shall provide this qualified individual with direct phone contact and address information of the permittee representative. The reasonable cost and fees incurred by the County in retaining said qualified individual shall be reimbursed by the owner of the WECS. After the investigation, if the County reasonably concludes that operational violations or other public or private nuisances have been caused by the WECS, the County shall require Permittee to use all reasonable efforts to mitigate or eliminate such problems on a case-by-case basis, as required by the County. In order to address such complaints, the County may require planting trees and installing awnings, limiting the hours of Wind Turbine operation, repair of WECS, removal and

decommissioning of Wind Turbines.

**O. Emergency Shutdown.** The Permittee shall be required to immediately cease operations for the duration of any Emergency. Emergency shall mean a proven condition or situation caused by the Facility or by other conditions that present an imminent physical threat of danger to life or significant threat to property. A WECS that is found to present an imminent physical threat of danger to life or significant threat of damage to property shall be immediately shut down and repaired or otherwise made safe and certified so by a Wisconsin professional engineer prior to resumption of operation. The County shall have the right to access all WECS to verify conditions and/or repair progress with reasonable notice to the WECS owner/operator. Within 24 hours of an occurrence of a tower collapse, turbine failure, property damage or contamination, fires, thrown blade or hub, collector or feeder line failure, injured WECS worker or private person, the owner/operator shall notify the County of the occurrence and proposed remedial action.

**P. Turbine Decommissioning and Site Restoration Plan.** Each Wind Turbine and all related improvements shall be removed in accordance with the Decommissioning and Site Restoration Plan submitted by the applicant and approved by the County through the permitting process.

1. The owner of a WECS and the underlying property owners shall be jointly liable for the removal of all equipment associated with the WECS at the end of the permit period, the useful life of the facility, or when the facility is abandoned or otherwise out of operation for more than six months, at their expense.

2. Upon removal of a WECS facility, the owner of the facility and the underlying property owners shall be jointly liable for restoration of the site to its original condition at their expense. To protect the environment, removal shall be done by mechanical means. Blasting is not an approved means for removal. The restoration shall include removal of all materials above and below ground; public road repair, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the Wind Energy Facility. All hazardous materials shall be removed from the site and disposed of in accordance with state and federal laws.

3. The owner of a Wind Energy Facility and the underlying property owner shall provide proof of financial responsibility for the removal of the facility and restoration of the site in the form of a surety bond, joint escrow account or an irrevocable standby letter of credit

4. held in trust in favor of the County, in a form to be approved by the legal counsel for the County.

#### **E. INSURANCE AND INDEMNIFICATION**

A. **Insurance.** All Permittees shall maintain the following insurance coverage commencing upon construction of the facility:

1. The owner/operator shall, at its expense, maintain a broad form comprehensive coverage policy of public liability insurance insuring Applicant and Participating Landowners against loss or liability caused by Applicant's occupation and use of the Property under the Lease, in an amount not less than Five Million Dollars (\$5,000,000) of combined single limit liability coverage per occurrence, accident or incident, which has a commercially reasonable deductible. The County shall be named as an additional insured on the policy.

2. Worker's compensation coverage in an amount required by Wisconsin law. Applicant shall require subcontractors and others not protected under its insurance to obtain and maintain worker's compensation and employers' liability insurance.

3. Certificates of insurance evidencing compliance with these requirements shall be provided upon request of the County. The insurer will provide notice to the County in the event there is a lapse in coverage exceeding thirty (30) days. All policies other than worker's compensation shall be written on an occurrence and not on a claim-made basis.

B. **Defense of Land Use Decision and Indemnity.** In addition to the indemnification described below, Permittee shall reimburse the County its reasonable attorneys' fees incurred in defending any legal actions brought by third parties challenging the legality or enforceability of this ordinance or any portion thereof, or the issuance of a Permit by the County pursuant to this ordinance.

1. If the County seeks reimbursement, it shall notify Permittee in writing promptly upon discovering any claim entitling it to a land use defense reimbursement, but in no event later than 120 days after receiving written notice of any action, lawsuit, proceeding, investigation or other

claim against it which may give rise to a claim for a land use defense reimbursement.

2. Permittee shall not be obligated to reimburse the County with respect to any such liability, action or claim if the County fails to notify Permittee thereof in accordance with the provisions of this section in sufficient time including, without limitation, any responsive motion or answer to a complaint, petition, notice, or other legal, equitable action or claim, but only insofar as such knowing failure to notify Permittee has actually resulted in prejudice or damage to Permittee.

3. With respect to any third party action, lawsuit, proceeding, investigation or other claim which is subject to reimbursement under this section, Permittee shall be entitled to assume and control (with counsel of its choice) the defense of such action, lawsuit, proceeding, investigation or other claim at Permittee's expense; provided, however, that the County shall be entitled to participate in the defense of such claim and to employ counsel of its choice for such purpose (the fees and expenses of such separate counsel to be borne by the County) and to assert against any third party any and all cross claims and counterclaims the County may have, subject to Permittee's consent, which consent shall not be unreasonably withheld. If Permittee elects to assume the defense of any such claim, it may settle such claim in its sole discretion so long as either (i) such settlement provides an unconditional release of the County, or (ii) Permittee shall obtain the prior written consent of the County (which consent shall not be unreasonably withheld). If Permittee elects to assume the defense of any claim, the County shall fully cooperate with Permittee and its counsel in such defense.

4. Permittee shall defend, indemnify and hold harmless the County and its officials, employees and agents from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorneys' fees (such liabilities together known as "Liability") arising out of Permittee's selection, construction, operation and removal of the Wind Turbines and affiliated equipment including, without limitation, Liability for property or personal injury (including death), whether said Liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under law.

## F. STANDARDS

A. **Construction Standards.** All WECS shall be constructed in compliance with Good Utility Practice for Wind Turbines. In the event after inspection by a qualified expert in Good Utility Practice, the County concludes that any of the Wind Turbines were not constructed in compliance with Good Utility Practice or constitutes a danger to persons or property, then upon notice being provided, Permittee shall have 90 days to bring the non-compliant Wind Turbine(s) into compliance with such standards. If 90 days is insufficient time to cure the non-compliance, Permittee shall present a plan to the County describing the reason for the delay and the time frame for the cure to be put in place. Failure to bring such non-compliant Wind Turbine(s) into compliance or failure to provide a plan for compliance within 90 days shall constitute grounds for the County to order immediate removal of said Wind Turbine(s) at Permittee's expense.

**B. Performance Standards.** All WECS shall be operated and maintained consistent with Good Utility Practice for comparable facilities.

**C. State and Federal Standards.** Construction of WECS and Wind Turbines shall meet or exceed current standards and regulations, if any, of any other agency of the state or federal government with the authority to regulate wind powered generators. If such standards and regulations are changed and retroactive application is required for the change, then Permittee shall bring the Wind Turbine(s) into compliance with such applicable revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is permitted by the controlling state or federal agency or approved by the County. A Determination of No Hazard for each Wind Turbine must be obtained from the FAA for each Wind Turbine as a condition precedent to the receipt of a permit under this ordinance.

**D. Wind Turbine Safety Standards.** Permittee shall comply with the following safety standards:

1. All wiring between the Wind Turbines and substations shall be installed at least four (4) feet underground.
2. The outside of Wind Turbines shall not be climbable.
3. All access doors to the towers and electrical equipment shall be locked.
4. Appropriate warning signage shall be placed on each tower, all electrical equipment, and all entrances.

**E. Repair & Replacement.** Permittee shall be authorized to repair and replace the wind turbine generator and associated equipment consistent with Good Utility Practice during the Term of this Permit as needed to keep the Facility in good repair and operating condition. However, no such repair or replacement shall entitle Permittee to any extension of the Term of this Permit, even if it extends the useful life of the Facility. If Permittee desires to extend the term of this Permit in the future, Permittee shall be required to apply for such extension or amendment of this Permit in accordance with the terms of this ordinance.

**G. PROCEDURES FOR ALTERATION OR REVOCATION OF PERMIT**

**A. Amendment.** Following the granting of a permit any permittee who wishes to materially alter any aspect of the permitted premises which was required to be described in the building plan or site plan required under this Section, shall apply to the County for an amendment to the permit. The application shall explain the nature of the alteration and the reasons therefore and include a non-refundable application fee of \$600. The Applicant shall also be required to pay the reasonably necessary engineering expenses, if any, associated with the review. The County shall act on the amendment application consistent with the terms of this chapter.

**B. Revocation of Permit.** An unsafe WECS and an inoperable WECS is hereby declared an unsafe public nuisance, which shall be subject to abatement by repair, rehabilitation, demolition, or removal by the County Board. An inoperable WECS shall not be considered a public nuisance provided the owner can demonstrate that modernization, rebuilding or repairs are in progress or planned and will be completed within a reasonable time as approved by the County, provided periodic reports on the status of the repairs are provided to the County as requested of the permittee.

1. Each of the following occurrences shall constitute a violation of the terms and conditions of this Permit (a “Violation”) and any such Violation shall be grounds for revocation of this Permit (whatever the reason for such an event of default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, order or regulation) after the expiration of the notice and cure period and revocation hearing as set forth below:

a. The Permittee abandons the wind turbine generators located on the premises for a period of six months or more.

b. The Permittee fails to observe or perform any material condition or provision of this Permit for a period of 30 days after it has received written notice of such failure from the County; provided, however, that a Violation shall not occur if Permittee commenced performance of such obligation within such 30-day period and is diligently proceeding to complete such performance.

c. There is a material failure by Permittee to comply with any statute, regulation, rule, or license administered by any federal, state or county department, agency, or commission directly related to the operation of the wind turbine generator, and if Permittee fails to cure the material failure to comply for a period of 30 days after the date Permittee receives written notice of such failure from the County or the federal, state or local governmental body or agency with jurisdiction; provided, however, that a Violation shall not occur if Permittee commences performance of such obligation within such 30 day period and is diligently proceeding to complete such performance.

2. Each Wind Turbine and all related improvements shall be removed in accordance with the Decommissioning and Site Restoration Plan submitted by the applicant and approved by the County through the permitting process.

3. The owner of a WECS and the underlying property owners shall be jointly liable for the removal of all equipment associated with the Wind Energy Facility at the end of the permit period, the useful life of the facility, or when the facility is abandoned or otherwise out of operation for more than six months, at their expense. Upon removal of a Wind Energy Facility, the owner of the facility and the underlying property owners shall be jointly liable for restoration of the site to its original condition at their expense. To protect the environment, removal shall be done by mechanical means. Blasting is not an approved means for removal. The restoration shall include removal of all materials above and below ground; public road repair, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing

prior to establishment of the WECS facilities. All hazardous materials shall be removed from the site and disposed of in accordance with state and federal laws.

C. **Hearing.** The County shall not revoke any Permit without first providing the Permittee a hearing and the right to respond, including the right to present evidence regarding any defenses or extenuating circumstances regarding the alleged violations or public or private nuisance.

## H. PERMIT EXPIRATION

A. **Expiration.** Unless the County Board authorizes a different term based upon analysis of the useful life of the WECS, every permit issued pursuant to this chapter shall terminate upon the expiration of twenty five years from the date of issuance if construction is commenced within one year of issuance. If construction is not commenced within one year of issuance, the permit shall expire one year after the date of issuance and the applicant will be required to reapply if it still intends to develop a WECS project.

## I. FEES AND EXPENSES

A. **Tax Hold Harmless.** In the event that the shared revenue payments payable to the County are eliminated by the Legislature, Permittee shall be required to pay the County an amount not less than \$1,667 per megawatt per year for Wind Turbines actually installed and operating within the County. Such payments shall be on an annual basis and payable on the 180<sup>th</sup> day after notice from the County of Permittee's obligation to pay under this paragraph. Permittee's obligation to make such payments shall cease if the State adopts or implements a new mechanism to replace the shared revenue payments, to the extent that the new payment mechanism produces revenue not less than the revenue payable under the predecessor program. The shared revenue payments referenced above are paid to the County directly by the State of Wisconsin, not Permittee. Regardless, Permittee shall be required to supplement the County's annual shared revenue payments actually received, by an amount equal to the annual percentage change of the Consumer Price Index as of January 1 of each calendar year beginning on the first January following the date the County receives its first payment. For purposes of this escalator clause, the Consumer Price Index means the U.S. Department of Labor, Bureau of Statistics, Consumer Price Index for the United States, All Urban Consumers, all items, unadjusted index.

B. **Property Taxes.** If the property tax exemption for WECS under current state law is revised or revoked by future Legislatures, Permittee will be responsible for all related assessments and taxes associated with the permit and WECS site. Failure to pay such tax obligation shall be considered a non-compliance with this chapter.

C. **Reimbursement of Fees and Costs.** Permittee shall reimburse the County for its actual reasonable fees and costs incurred in the application, negotiation, administration and enforcement of this chapter, including, without limitation, the County's attorney fees, engineering and consultant fees, County Board meeting and hearing fees, and the costs of public notices relative to the review and consideration of each application filed by an applicant under this chapter. The preceding fees are payable within 30 days of invoice. Unpaid invoices shall bear interest at the rate of 1% per month until paid. The County may recover all reasonable costs

of collection, including attorneys fees.

**J. WESF NEIGHBOR AGREEMENT**

A. **Neighbor Agreement.** Licensee may offer to non-participating landowners the opportunity to enter into a Windpower Facilities Neighbor Agreement, provided:

1. Landowner has not otherwise entered into a Ground Lease, Easement or Setback Waiver Agreement with Licensee;
2. Has a primary residence or private business located within the setbacks provided for under this ordinance; and
3. Owns the property in fee simple and has applied for a building permit on or before the issuance of a license pursuant to this chapter. A landowner who enters into such an agreement is not a Participating Residence for purposes of this chapter.

B. **County Approval.** The terms and form of such agreements shall be subject to negotiation between the Licensee and non-participating landowners who may be interested in such an agreement. However, such agreements, once signed, shall be subject to review and approval by the County Board.

## **18.56 Solar Energy Systems**

**Purpose.** This section provides the standards and procedures to issue a Conditional Use Permit for a Solar Energy System. No Conditional Use Permits for Large Solar Energy Systems shall be allowed in the A-P zone.

### **Permits Required**

#### **A. Land Use Permit**

1. Roof-mounted Solar Energy Systems,
2. Ground-mounted and pole-mounted Solar Energy Systems covering between 20 and 300 square feet,
3. Wall-mounted Solar Energy Systems greater than 20 square feet.

#### **B. Conditional Use Permit**

1. Large Solar Energy Systems exceeding 300 square feet of ground cover shall require an owner to file a Conditional Use Permit prior to construction. The LSES may be permitted in all zoning districts except the Farmland Preservation District. If a court finds this prohibition unenforceable the applicant of the LSES is still subject to the regulations and requirements in this section.
2. The requirement for a permit may not be avoided by successive installations each of which are smaller than the thresholds established herein.

### **Exempt Installations**

The following installations are exempt from a Conditional Use Permit:

- A. Solar installations less than 20 square feet (hereinafter “small panels”) not to exceed 3 small panels on a given parcel.
- B. Installations oriented for public purposes, such as small panel installations for signage and lighting & related equipment within the right-of-way.
- C. Installations for Municipality owned public buildings or facilities, such as wastewater treatment plants, water treatment plans, water well houses, lift stations, municipal buildings, fire & emergency management facilities, and water towers.

**Effect of Other Licenses/Permits .** The fact that an applicant possesses any other valid license or permit required by law does not exempt the applicant from the requirement of obtaining a Conditional Use Permit under this ordinance.

**Non-Assignment.** A permit issued under this ordinance may not be assigned or transferred to any other Person than the Permittee, without the express prior written consent of the County. Such consent shall not to be unreasonably withheld within one year after issuance of a permit, provided the Permittee and the Person who the permit is proposed to be assigned or transferred to shall both submit affidavits to the County demonstrating the following:

- A. The new Person who will hold the permit wholly owns the new entity.
- B. The new entity is properly formed and authorized to do business in the State of Wisconsin.
- C. The written assignment requires the new entity to assume all of the Permittee’s rights, duties and obligations under the Permit including but not limited to all financial requirements and the

certificate of insurance requirements.

**Application.** Any person desiring to secure a Conditional Use Permit for a SES from the County shall file a complete application, together with two additional copies, with the County Clerk. The application shall be on a form approved by the County and shall be provided to the applicant by the County. All studies, analyses, testing, surveying, planning or any outside information required to complete the application shall be conducted by independent professionals with prior approval by the County and paid for by applicant. The County shall retain the services of an independent, recognized expert to review the results of the study, analysis, tests, survey and plans prior to acting on the application.

**A. Required Information.** The following information shall be required of each Applicant and shall be provided with the application. The Person(s) filing the application shall sign it under oath or affirmation as witnessed by a Notary Public:

1. Name, address, and phone number of Applicant(s).
2. If the Applicant is a corporation, partnership, limited liability company, limited liability partnership, or other entity recognized by law, the application shall include: the name of the business entity; the date of incorporation, registration or organization; the state in which the entity was incorporated, registered or organized; the name and address and home phone numbers of the registered agent(s) where applicable; the names and addresses of all officers and directors; operating or managing partners or general partners, managing members or managers, whichever is applicable for the particular form of business entity.
3. Name and address of any other current or past SES developed or operated by the Applicant, whether in the State of Wisconsin or any other state or nation.
4. Name, address and phone number of the individual(s) responsible for the day-to-day operation of the proposed SES, who will be deemed the Operator for purposes of this section, and who will be the contact Person for the County.
5. Evidence that the Applicant is the owner of the underlying real estate and other property necessary for the SES project or that the Applicant has the written permission of the owner(s) of such real estate and other property to make such an Application.
6. A signed statement by the underlying landowner(s) acknowledging that the landowner(s) will be financially responsible if the owner/operator fails to reclaim the site as required, and that any removal and reclamation costs incurred by the County shall become a lien on the real estate and other property and may be collected from the landowner(s) in the same manner as property taxes.
7. A statement that the Applicant is familiar with, and in compliance with, the provisions of this ordinance, including the responsibility to reimburse all reasonable costs and professional fees associated with the processing, examination and analysis of the application for a permit and such further expenses associated with monitoring the SES and enforcing the terms of the permit.
8. Proof of continuous liability insurance in the minimum amount of five million dollars

(\$5,000,000.00) per occurrence shall be submitted to the County indicating coverage for potential damages or injury to landowners, occupants, County property and County roads, and other third parties. The County shall be named as an additional insured on the policy.

**B. Additional Information**

1. A description of the Solar Energy System including size, method of installation, amount of power to be generated and whether the facility is for private residential or business use or for commercial energy production.
2. Existing Conditions Site Plan. The site plan shall include the following information:
  - a. Property lines.
  - b. Buildings.
  - c. Proposed installation location and details.
  - d. Existing land use and features (woods, cropland, slopes exceeding 12%, wetlands, etc.).
  - e. For Large Solar Energy Systems, existing sound, and vibration measurement, following the Wisconsin Dept. of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).
  - f. Robotic inspection of every foot of drainage tile, repair of any inoperable drainage tile in advance of any SEF construction and re-inspection every three years. All video footage to be place with County.
3. Proposed Plan Site Plan. The site plan shall include the following information:
  - a. Proposed location and spacing of solar collectors.
  - b. Proposed location of access roads for ground-mounted installations greater than 300 square feet.
  - c. Proposed planned location of underground or overhead electric lines connecting the system to the building, substation, or other electric load.
  - d. Location of proposed new electrical equipment other than at the existing building or substation that is the connection point for the system.
  - e. Proposed erosion and sediment control measures, as required by the County.
  - f. Proposed stormwater management measures as required by the County.
  - g. Sketch or schematic elevation of the premises accurately depicting the proposed Solar Energy System and its relationship to any buildings or structures on adjacent lots.

- h. A description of the proposed method of connecting the system to a building or substation.
- i. Proposed maintenance plan for grounds surrounding the system.
- j. Proposed plan outlining the use, storage, and disposal of chemicals used in the cleaning of the collectors and/or reflectors.
- k. Proposed plan for the storage, operation, maintenance and possible disposal of any batteries serving the system.
- l. Scaled elevation drawings covering the proposed facilities on the property.
- m. A description and drawing showing the screening/landscaping plan being proposed.
- n. Proposed safety and security plan.
- o. Health, safety, endangered species, and environmental sustainability plan.
- p. Timeline. The applicant shall provide a proposed timeline showing all aspects of construction with a starting and final completion date.
- q. Glare analysis for the proposed Facility with a firm that consults for constructing an SES near an airport, such as Sandia National Laboratories or an equivalent.
- r. Robotic inspection of every foot of drainage tile, repair of any inoperable drainage tile in advance of any Facility construction and re-inspection every three years. All video footage to be place with County.
- s. Soils Report. A geotechnical report that shall at a minimum include the following:
  - i. Soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing;
  - ii. Slope stability analysis;
  - iii. Grading criteria for ground preparation, cuts and fills, soil compaction; and
  - iv. Certification from a registered geotechnical engineer that the soils can support a SES
- t. Site Preparation & Erosion Control. The applicant shall submit the following:
  - i. A site preparation plan that has been approved by the Eau Claire County Land Conservation Department and the County. The plan shall show planned storage and retention of topsoil, and all types of subsoil for later site restoration.
  - ii. A construction site erosion plan and storm water runoff control plan that has been approved by the Eau Claire County Land Conservation Department and the County. The plan shall comply with all state statutes and county ordinances. The plan shall be prepared so as to minimize the potential adverse impacts on sinkholes, wetlands, streams and the banks and vegetation along those streams and wetlands, and to minimize erosion or sedimentation.
- u. Hazardous Waste. A plan shall be submitted showing compliance with all laws applicable to the generation, storage, clean up, transportation and disposal of hazardous wastes generated during any phase of the proposed SES life.

- v. Fire Prevention, Emergency Rescue Plan. The applicant shall submit a plan to outline preventative measures, and to identify, train and fund fire and rescue personnel to ensure readiness and appropriate response. This plan shall also identify potential fire, rescue, and hazardous materials scenarios over the life of the SES.
- w. Stray Voltage Test Results. The applicant shall perform at least two pre- construction stray voltage tests at all livestock facilities within the proposed project boundary and within a one-mile radius beyond the proposed project boundary. The tests shall be performed by a County approved Wisconsin certified stray voltage investigator and shall be conducted once in the spring and once in the fall of the year. The tests shall be performed according to the PSCW Phase II Stray Voltage Testing Protocol. A copy of the test results shall be sent to each of the following: property owners, PSCW, local utilities, Wisconsin Public Service Commission, and the County. The applicant shall obtain written permission from property owners prior to stray voltage testing. If permission is denied, all responsibility for stray voltage problems shall be with the property owner.
- x. Affected Property Owners. The applicant shall submit the name and address of property owners within SES setback areas. Considering that development rights of adjacent property owners may be forfeited due to setbacks, a written agreement for non-development within the specified setback must be obtained and recorded on the affected properties' deeds.
- y. Easements, Leases & Property Rights. The applicant shall submit copies of signed letters of intent to grant easements, long-term leases or other property rights from all involved landowners and any governmental units responsible for right-of-ways for access, construction, electric transmission and distribution lines, etc.
- z. A sound and vibration level study, following the Wisconsin Dept. of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).
- aa. Abandonment, Removal and Site Restoration Plan. The applicant shall submit an abandonment, removal and site restoration plan, along with a cost estimate for removal and site restoration, to the County with the application. A cost estimate shall be obtained by a independent regional professional with experience in decommissioning SES. The plan shall identify the specific properties it applies to and shall indicate the timeline and process to be used for removal of all materials above and below ground; road repair costs, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the SES. The plan shall reflect the site-specific character including topography, vegetation, drainage, and any unique environmental features at the site. The plan shall reflect any standards set forth in this ordinance and shall include a certified estimate of the total cost (by element) of implementing the removal and site restoration plan.
- bb. Any other information necessary to understand the construction, operation or decommissioning of the proposed solar energy system.

**Application Fees & Security.** The following fees and financial security guarantees shall be

paid to the County by the applicant:

- A. **Application, Legal and Consultant Fees.** The applicant shall pay an application fee of \$1,000 to the County upon filing an application under this ordinance. In addition, within fourteen (14) days of filing an application the applicant shall deposit in a joint escrow account with the County the sum of \$25,000, as partial payment for the appropriate County expenses in hiring consultants and experts, as these authorities shall, at their discretion, deem desirable. At any time the balance of this fund shall fall below \$15,000, the applicant shall submit an additional \$15,000 so that the County's full and actual expenses of examining and verifying the data presented by the applicant shall be paid in full by the applicant. If at any time the balance of this fund shall fall below \$15,000 for a period of 30 days, the application shall be considered to have been withdrawn. The balance of the escrow account, after all the County's expenses have been paid, shall be returned to the applicant.
- B. **Road Repair.** An amount to be determined applying WI Statute 86.02 (shall be liable in treble damages) by agreement of the applicant and the County Board, to be used as security for County road maintenance and repair, shall be deposited in a joint escrow account with the County within fourteen (14) days of approval of a permit under this ordinance. When determining the amount of such required security, the County may require an annual escalator or increase based on current construction costs and/or the Federal Consumer Price Index. This security shall be kept in full force and effect during the entire time a SES is in existence and shall be used to maintain roads during the construction, maintenance and decommissioning of the SES Facility. Such security shall be irrevocable or non-cancelable (except by written consent by both the County Board and the owner of the SES) for the life of the approved permit. Failure to comply will subject the applicant to revocation of the permit.
- C. **Site Reclamation.** Advance payment for SES site reclamation and restoration shall be placed in a joint escrow account or surety bond, the amount to be determined by the County Board. Said amount shall be sufficient to fully remove the SES and all components thereof. Such financial security shall be kept in full force and effect during the entire time while a SES Facility exists or is in place. This financial security shall be irrevocable and non-cancelable until such time as the County Board certifies that reclamation and restoration are complete and release the obligation. Failure to comply will subject the applicant to revocation of the permit.

#### **Permit Procedures**

- A. **Notice & Procedure.** After determining that an application is complete, the County shall conduct a public hearing on the application after a class 2 hearing notice is published in the County's official newspaper. The public hearing shall be held within ninety (90) days, after the County Board determines that the application is complete. Within fourteen (14) days after the close of the public hearing, the County shall meet in open session to deliberate and make a decision concerning the application. The deliberation meeting shall be noticed to the applicant and the public at least five (5) days prior to the deliberation meeting. The County may have the assistance of legal counsel at the public hearing and the deliberation meeting.

**B. Decision on Application.** The County shall approve an application and grant a Conditional Use Permit for a SES if it determines that the requirements of this ordinance have been and shall be met by the applicant, and granting the permit will not adversely affect public health and safety. The County may include conditions in the Conditional Use Permit which go beyond the minimum regulations set forth herein, if the conditions are reasonably necessary to protect public health and safety; 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. In addition to other provisions and standards set forth in this ordinance, the County may consider the following factors when establishing such conditions:

1. The proposed ingress and egress;
2. The proximity to transmission lines to link the system to the electric power grid;
3. The number of solar arrays and their proposed locations;
4. The nature of land use on adjacent and nearby properties;
5. The surrounding topography;
6. The proximity to residential structures, residential zoning districts, and areas identified for future residential use;
7. Design characteristics that may reduce or eliminate visual obtrusiveness and the distraction of motorists on nearby roads;
8. Possible adverse effects on migratory birds, raptors, and other animals and plants;
9. Possible adverse effects of stray voltage, interference with broadcast signals, shadow and flicker effects, and noise;
10. Impacts on the orderly development, property values, and aesthetic conditions of the County as they may also relate to public health and safety and other factors under Wis. Stat. § 66.0401;
11. Effects on public roads;
12. Recommendations from the County boards of adjacent Counties, which may be affected by a SES;
13. Any other factors which are relevant to the proposed SES.

**Recording & Notice of Decision.** The County's decision to approve, conditionally approve or deny an application, the reason(s) for its decision, and any conditions established by the County relative to a conditional approval of an application and permit shall be recorded in the County's minutes. The Zoning Administrator or County Clerk shall issue a permit to the applicant or inform the applicant that the application for a Conditional Use Permit has been denied within thirty (30) days of the County's final action on the completed application. At the same time, the County Clerk shall publicly post a notice of the final decision of the County at the County building.

**Appeal to Circuit Court.** The County's final decision on approval, conditional approval or

denial of an application may be appealed to Circuit Court by anyone aggrieved by the decision, including but not necessarily limited to the applicant or any aggrieved resident or property owner of the County, within thirty (30) days of the issuance of the decision, and the posting of public notice of the decision, by the County Clerk. In addition, any revocation of a permit or other enforcement action by the County Board under this ordinance may be appealed to Circuit Court by the applicant or any other aggrieved party within (30) days of actual notice to the applicant or other aggrieved party of such revocation or enforcement action.

### **Solar Energy System Regulations.**

General Standards. The following standards shall be applicable to all Solar Energy Systems:

- A.** Systems shall be designed and operated in a manner that protects public safety.
- B.** Systems shall be compliant with any applicable local, state, and federal regulatory standards, including, but not limited to, the State of Wisconsin Uniform Building Code, as amended, and the National Electric Code, as amended.
- C.** At the discretion of the County, systems proposed for attachment to a building or structure shall include a structural certification prepared by a registered professional engineer licensed in the state of Wisconsin.
- D.** Systems that result in the creation of one (1) or more acres of land disturbance, must provide plans that comply with the WDNR NR 216 and NR 151 Construction Stormwater Permit Requirements prior to final stormwater and erosion control permitting at the County
- E.** Systems shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners, or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the Solar Energy System provided they comply with the prevailing sign regulations.
- F.** Tree removal shall be minimized and mitigated in accordance with proper site design.
- G.** Screening and/or sound reducing mechanisms are required for all Large Solar Energy Systems, and any installation where noise producing infrastructure is located outdoors.
- H.** The applicant shall submit a decommissioning plan, per the standards of this ordinance, with the permit application.
- I.** Systems shall be designed to integrate into the architecture of the building or site, to the extent such provisions do not diminish solar production or increase energy costs.
- J.** Systems shall be designed and operated to prevent the misdirection of reflected solar radiation onto adjacent or nearby property, public roads, or other areas open to the public.
- K.** Power inverters and any sound-producing equipment shall be at least 150 feet from any residential dwelling(s) adjacent to the Parcel covered by the application. If that 150-foot distance is not reasonably available and this requirement cannot be met, then a Large Solar Energy System application submitted shall include a plan for screening or another sound barrier to reduce the sound emanating onto an adjacent residential parcel, to a level no more

than 35 dB with no pure tone noise (at boundary line), which plan shall be subject to the review and approval of the County.

- L. Two or more written complaints regarding noise from a Solar Energy System within a 12-month period, or failure to upkeep/maintain necessary screening for same, may be deemed a nuisance or a violation of this ordinance.

**Roof-mounted Solar Energy Systems.** The following standards shall apply to roof-mounted Solar Energy Systems:

- A. Roof-mounted Solar Energy Systems shall not exceed by more than four (4) feet the existing maximum roofline at the point of installation.
- B. In addition to the structure setback, the collector surface, and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the structure on which the system is mounted or built.
- C. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least two (2) feet.
- D. Exterior piping for roof-mounted solar hot water systems may extend beyond the perimeter of the structure on side and rear yard exposures.
- E. Roof-mounted solar systems, excluding building-integrated systems, shall not cover more than eighty percent (80%) of the surface upon which the collectors are mounted.

**Ground-mounted and pole-mounted Solar Energy Systems.** The following standards shall apply to ground and pole-mounted Solar Energy Systems:

- A. Ground and pole-mounted systems shall not exceed ten (10) feet in height measured from the top of the panel frame when oriented at maximum design tilt.
- B. Ground and pole-mounted systems shall not extend into the side-yard, rear, or road right-of-way setback when oriented at minimum design tilt.
- C. Ground and pole-mounted systems shall have natural ground cover under and between the collectors and surrounding the system's foundations or mounting device(s).
- D. The total collector surface area of pole or ground mount systems shall not exceed fifty percent (50%) of the building footprint of the principal structure for systems located in all residential and commercial zoning districts.

**Wall-mounted Solar Energy Systems.** The following standard shall apply to wall-mounted Solar Energy Systems: In residential zoning districts, wall-mounted Solar Energy Systems shall cover no more than twenty-five percent (25%) of any exterior wall facing a front yard.

**Accessory-mounted Solar Energy Systems.** The following standards shall apply to accessory Solar Energy Systems:

- A. Accessory Solar Energy Systems must meet all setback requirements pertinent to accessory structures for the zoning district in which the structure is situated.
- B. Accessory Solar Energy Systems shall not be located nearer the front lot line than the principal building on the lot.

**Photovoltaic Solar Energy Systems.** The following standards shall apply to Photovoltaic Solar Energy Systems:

- A. For Photovoltaic Solar Energy Systems, the electrical disconnect switch shall be clearly identified and unobstructed.
- B. No grid-intertie Photovoltaic Solar Energy System shall be installed until documentation has been given to the County that the owner has notified the utility company of the customer's intent to install an interconnected customer-owned generator. Documentation may consist of an interconnection agreement or a written explanation from the utility provider or contractor outlining why an interconnection agreement is not necessary. Off-grid systems are exempt from this requirement.
- C. Photovoltaic Solar Energy System components must have an Underwriters Laboratory (UL) listing and solar hot water systems must have a Solar Rating & Certification Corporation (SRCC) rating.

**Large Solar Energy Systems.** All Large Solar Energy Systems shall be considered as commercial structures for the purposes of compliance with other provisions of the Eau Claire County Code of Ordinances. All applications for a Primary Use Energy System shall be conditioned upon entering into a Memorandum of Understanding with the County that addresses how the applicant will comply with the requirements of this Section. The following standards shall apply to Large Solar Energy Systems, to be reviewed and subject to approval by the County under Conditional Use Permit Review:

- A. All elements of the system shall meet or exceed all district regulations based on the applicable zoning district.
- B. The area utilized for a Large Solar Energy System shall not interfere with normal development trends anticipated by current development, road extension or other aspect of orderly and efficient planned development.
- C. Systems that result in the creation of one (1) or more acres of land disturbance, must provide plans that comply with the WDNR NR 216 and NR 151 Construction Stormwater Permit Requirements prior to final stormwater and erosion control permitting by the County.
- D. The manufacturer's engineer or another qualified engineer shall certify that the soils/foundation and design of the Solar Energy System is within accepted professional standards licensed in the State of Wisconsin.

- E.** Power and communication lines running between banks of solar collectors and to electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
- F.** Vegetative screening of the system may be required as a part of Site Plan Review and/or the conditions of approval and it shall be based on the proximity of the system to residential buildings and to abutting public rights-of-way. If screening is required, the vegetation shall consist of canopy and conifer trees at a minimum.
- G.** The applicant shall complete a sound and vibration level study, following the Wisconsin Dept. of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).
- H.** The applicant shall document existing sound and vibration by measurement, following the Wisconsin Dept. of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).
- I.** The proposed plan outlining the use, storage, and disposal of chemicals used in the cleaning of the collectors and/or reflectors shall be provided.
- J.** The proposed plan for the storage, operation, maintenance and possible disposal of any batteries serving the project shall be provided.
- K.** The proposed plan for safety and security shall be submitted.
- L.** A decommissioning plan shall be completed and shall outline the anticipated means and cost of removing the system at the end of its serviceable life or upon its becoming a discontinued use. The plan shall also identify the financial resources to be set aside to pay for the decommissioning and removal of the system
- M.** Confirmation of the site's health, safety, retention or avoidance of endangered species and environmental sustainability.
- N.** All areas on the Property within any fenced in area shall be kept free of weeds and the grass shall be cut to a height of 12 inches or less.
- O.** The applicant shall obtain the approval of the County for erosion and runoff control measures as required by County Ordinances prior to grading, utility installation, or any other land disturbance activity. Separate approvals shall be obtained for each activity. The applicant shall adhere to conditions of the approval and shall grant the right of re-entry to the property to designated personnel of the County to inspect and monitor compliance with this requirement. Erosion control measures shall comply with the Wisconsin Construction Site Best Management Practice Handbook.
- P.** The primary roads to be used by applicant shall be determined by the County as part of the permit issuing process. Within a reasonable time after determining the primary roads, the

County and applicant shall document the condition of the primary roads. Documentation shall consist of, among other things, taking a video inventory of the primary roads to establish existing conditions and rating the primary roads according to the PASER Road Inventory System. Except as otherwise noted below, the primary roads described above, which shall be used for all trucks, loaded and unloaded, entering or leaving the project shall be the only roads used by applicant during the construction of the project. Once the primary roads are determined, applicant and the County shall discuss and mutually agree upon a Project specific road agreement. The terms of the road agreement shall include but not be limited to the extent and frequency of when applicant shall make repairs to the primary roads. Monthly, applicant and the County engineer shall conduct an inspection of the primary roads and, if necessary, applicant shall be required to make repairs and/or improvements to restore the primary roads to the condition documented at the commencement of the Project. Upon the conclusion of the Project, a final inspection and review shall be conducted by the County and applicant and final repairs and/or improvements made by applicant as required by this paragraph (p) shall be made prior to the release of applicant's financial guarantee as required by section (q).

- Q.** The applicant shall obtain and deposit with the County Clerk a financial guaranty consisting of a joint escrow account or Surety Bond in the amount to be determined by the County to guaranty the performance of all of its obligations for the project, including maintenance and reconstruction of all primary roads identified for the installation of the Large Solar Energy System. The financial guaranty shall run in favor of the County and shall be in a form acceptable to the County Corporation Counsel. The financial guaranty shall guaranty the applicant's obligations for the project and that, in the event the parties are unable to agree on the maintenance or reconstruction of any primary road at any time, the escrow account or bond will be available to the County for that purpose.
- R.** Abandonment, Removal and Site Restoration Plan. The applicant shall submit an abandonment, removal and site restoration plan, along with a cost estimate for removal and site restoration, to the County with the application. The plan shall identify the specific properties it applies to and shall indicate the timeline and process to be used for removal of all materials above and below ground; road repair costs, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the SES. The plan shall reflect the site-specific character including topography, vegetation, drainage, and any unique environmental features at the site. The plan shall reflect any standards set forth in this ordinance and shall include a certified estimate of the total cost (by element) of implementing the removal and site restoration plan
- S.** Other than the fencing directly surrounding the project substation and O&M the Project's perimeter fencing shall consist of "deer fencing" (wire mesh), which is six- to ten-foot-tall woven wire partition with wooden posts. Where commercially reasonable, fences will be set within/inside property lines or rights-of-way edges unless otherwise requested from the landowner.
- T.** Installed fencing shall be adequately maintained at all times during the Project's operation. The depths of the fence posts shall be installed per prudent engineering practice based on the height of the fence and the type and slope of the terrain. Impairments to either the woven wire

or wooden posts that are aesthetically displeasing shall be remedied within two weeks of written notification. "Leaning" of the fence shall not be allowed to exceed plus or minus 10 degrees of perpendicular. In the event leaning or tilting of the fence does occur, it will be corrected back to perpendicular within two weeks of receiving written notice on the issue.

- U. For purposes of this Agreement, the term "commercially reasonable" shall mean done in good faith and corresponding to accepted commercial practices in the solar energy industry.
- V. Applicant shall contract with an experienced and qualified regional drain tile contractor to gather information concerning participating landowner drain tile, avoid said tile where commercially reasonable, and mitigate the landowner and non-participating landowners' drainage issues where significant impact is expected as a result of drain tile alteration. The applicant shall identify drain tile concerns at the pre-construction and post-construction meetings to finalize remedies to known drainage issues on either participating or non-participating property. Applicant shall receive, investigate, and remedy drain tile issues due to the Project that arise subsequent to the post-construction meeting pursuant to the Drain Tile Management Plan filed by applicant and approved by the County Engineer.
- W. If drainage infrastructure or systems are damaged by the Project and the result is reduced drainage performance that adversely affects non-participating landowners, applicant shall restore the drainage infrastructure or system to pre-existing condition or better in accordance with the Drain Tile Management Plan. Preexisting condition shall mean the flow capacity existing immediately prior to the Project commencing construction. If previous flow capacity cannot be determined, applicant and landowners agree to negotiate an adequate solution in good faith. applicant is responsible for all expenses related to repairs, restoration, relocations, reconfigurations and replacements of drainage infrastructure and systems that are damaged by the Project as provided in the Drain Tile Management Plan. The intent of this Section is to make landowners whole where drainage infrastructure or systems are damaged by the Project. For example, and without limitation due to enumeration, if damage to drainage infrastructure or systems is caused by the Project on a participating property ("Project-related Damage"), and the Project related Damage causes damages to non-participating property owners upstream of the Project-related Damage, including crop loss and/or blowout damage to the drain tile system on the non-participating owner's property, Project Owner shall reasonably compensate the non-participating owner for crop loss and for repairs to the non-participating property owner's drain tile system.
- X. Applicant agrees to cooperate with non-participating landowners as outlined in the Drain Tile Management Plan that desire to repair or replace drainage tile affecting their properties to the extent that such work does not interfere with the Project or its related facilities. Applicant will not unreasonably withhold approval for access to the Property that lies outside of any fenced array area, to the extent participating property owners also agree to such access.
- Y. The applicant shall hire a regionally qualified consultant to create a ground cover and vegetation management plan for the construction and operation of the project. Consultation shall occur with the County during the pre-construction meeting and post-construction

meeting. Where commercially reasonable, the Project will utilize native plants and grasses across the project's developed area and incorporate pollinator habitat. During Project operation, the applicant will spray, mow, and otherwise maintain all developed acreage inside the fence.

- Z.** The Project shall not be used for any type of advertising. The Project may erect and maintain a single project identification sign. The Project shall be minimally lighted so as not to disturb neighboring properties. Necessary lighting to provide safety and security of facilities shall be approved by the County. Applicant will provide the County with a description of permanent Project lighting plans when available. Applicant shall contact every owner of residential property immediately adjacent to solar arrays and discuss in good faith a reasonable, strategically located visual buffer of plants that, upon mutual agreement, shall be installed at applicant's expense prior to the completion of construction of the Project. Where applicant and the adjacent property owner are unable to agree on the type of visual buffer and the adjacent property owner makes a request in writing to applicant to provide a visual buffer, the applicant shall install a vegetative buffer on the Project site equal to the length of the non-participating residence and designed to achieve at least 50% opacity at ground level within 5 years. Proposals and plans for vegetative buffers will be finalized by the post-construction meeting. Applicant shall be required to replace any vegetative buffer that dies within two years of its original planting.
  
- AA.** Applicant agrees to install the solar arrays with a minimum setback of (i) sixty-five (65) feet from the edge of the right of way of public roads, (ii) two hundred (200) feet from the property boundary lines of non-participating landowners, unless a larger setback is necessary in order to preserve public health and safety based on a case-by-case analysis of a Solar Energy System application. A smaller setback is permitted pursuant to an executed good neighbor agreement, in which case the setback shall be no less than fifty (50) feet, and (iii) one hundred and fifty (150) feet from any non-participating landowner dwelling unit. For adjoining participating landowners, the setback requirement may be established pursuant to mutual agreement between applicant and participating property owners.

### **Miscellaneous.**

- A.** All Solar Energy Systems shall be installed following the Manufacturer's specifications and recommended installation methods for all major equipment, mounting systems, and foundations for poles or racks.
- B.** All property owners shall provide the County with a signed copy of the interconnection agreement with the local electric utility or a written explanation outlining why an interconnection agreement is not necessary.
- C.** As a condition of approval for all Large Solar Energy Systems, the applicant and the County shall enter into a local operating contract which specifically addresses the issues of maintenance and repair of primary roads, utilities to the system, the effect the system may have on first responders, specific vegetation required for screening the system and the specific terms of the decommission plan.

- D. In connection with construction, operation and maintenance of electric collection lines, communications cables and other equipment, Project facilities may cross road rights-of-way and/or drainage systems. Project Owner shall obtain all permits typically required of others, such as driveway permits and rights-of-way crossing permits. It is agreed that all road right-of-way crossings shall be by underground borings perpendicular to the right-of-way, plus or minus 30 degrees. All underground borings shall commence and terminate outside of the right-of-way.
- E. The applicant shall assure the County that there will be no loss in real property value within two miles of the Solar Energy System. To legally support this claim, the applicant shall consent in writing to a Real Property Value Protection Agreement as a condition of approval for the Solar Energy System. This Agreement shall provide assurance to non-participating real property owners near the Solar Energy System that they have some protection from Solar Energy System-related real property values losses.
- F. Real Property Value Protection Plan. The Applicant guarantees that there will be no loss in real property value within two miles of the Solar Energy System, due to the Solar Energy System. Any real property owner(s) included in that area who believe that their property may have been devalued due to the Solar Energy System may elect to exercise the following option:
- G. All appraiser costs are paid by the applicant from the Escrow Account. Applicant and the property owner shall each select a licensed appraiser. Each appraiser shall provide a detailed written explanation of the reduction, if any, in value to the real property ("Diminution Value") caused by the proximity to the SEF. This shall be determined by calculating the difference between the current Fair Market Value (FMV) of the real property and what the FMV would have been at the time of exercising this option, assuming no SEF was proposed or constructed,
- H. If the higher of the Diminution Valuations submitted is equal to or less than 25 percent more than the other, the two values shall be averaged ("Average Diminution Value" • ADV). If the higher of the Diminution Valuations submitted is more than 25 percent higher than the other, then the two appraisers will select a third licensed appraiser, who shall present to the applicant and property owner a written appraisal report as to the Diminution Value for the real property. The parties agree that the resulting average of the two highest Diminution Valuations shall constitute the ADV. In either case, the property owner may elect to receive payment from Applicant of the ADV. Applicants are required to make this payment within 60 days of receiving said written election from the property owner.

**Development & Performance Standards for Permitting.** All SES and testing structures shall comply with the Development & Performance Standards set forth in this section. It is recognized that the standards herein are neither exclusive, nor exhaustive. In instances where a health or safety concern is identified with regard to any application for a SES, additional or more restrictive conditions may be included in the permit to address such concerns. The County reserves the right to impose additional standards as circumstances warrant. Such additional and more restrictive standards may include, but are not limited to: a) longer setbacks from nearby property lines, roads, electric transmission and distribution lines, residences, businesses and other inhabited structures; b) more restrictive noise limitations, and c) more restrictive limitations to protect surface water and groundwater.

## **Decommissioning**

The following provisions shall apply to decommissioning:

- A.** Site Reclamation. Advance payment for SES site reclamation and restoration shall be placed in a joint escrow account or surety bond, the amount to be determined by the County. Said amount shall be sufficient to fully remove the SES and all components thereof. Such financial security shall be kept in full force and effect during the entire time while a SES Facility exists or is in place. This financial security shall be irrevocable and non-cancelable until such time as the County certifies that reclamation and restoration are complete and release the obligation. Failure to comply will subject the applicant to revocation of the permit.
- B.** The owner of a SES and the underlying property owners shall be jointly liable for the removal of all equipment associated with the SES at the end of the permit period, the useful life of the Facility, or when the Facility is abandoned or otherwise out of operation for more than six months, at their expense.
- C.** Upon removal of a SES facility, the owner of the facility and the underlying property owners shall be jointly liable for restoration of the site to its original condition at their expense. To protect the environment, removal shall be done by mechanical means. The restoration shall include removal of all materials above and below ground; public road repair, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the Solar Energy Facility. All hazardous materials shall be removed from the site and disposed of in accordance with state and federal laws
- D.** The surety shall guaranty the applicant's obligations under this ordinance and that, in the event the parties are unable to agree on the on the steps required to complete decommissioning, the surety will be available to the County for that purpose.
- E.** The applicant acknowledges that the County has and will incur certain administrative and/or legal costs for, among other things, processing, drafting documents and reviewing the decommissioning of the project. The applicant agrees to pay all of the necessary and reasonable administrative, engineering and legal costs incurred by the County for, among other things, processing, studying, redrafting documents and to ensure the integrity of the decommissioning process Applicant understands the legal and/or engineering consultants approved, selected and/or retained by the County are acting exclusively on behalf of the County and not the applicant. Applicant agrees to reimburse the County for all administrative expenses within 30 days billing. In the event applicant defaults in the payment of such expenses, in addition to any other remedies which the County may be entitled, the County may take funds for the financial guaranty as set forth in (5) above, the County shall recover from applicant all of its costs in enforcing this ordinance including reasonable attorney fees.

**Reporting and Complaint Resolution Procedure.** Permittee shall report to the County as follows:

- A. Quarterly Power Production Reports:** The Permittee shall submit a quarterly power production report to the County which shall cover the proceeding calendar quarter and include actual power production in kilowatt-hours for each commercial Solar Energy Facility in the County.
- B. Annual Monitoring Reports.** The Permittee shall submit an annual monitoring report to the County, containing data on the operations and environmental impacts of the SES site. Such reports shall describe all safety inspections of the SES.
- C. Extraordinary Events.** Within 24 hours of any extraordinary event, Permittee shall notify the County. “Extraordinary events” shall include but not be limited to damaged panels, catastrophic solar system failure, fires, leakage of hazardous materials, unauthorized entry to the facility, damaged equipment, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the public health and safety of the County.
- D. Complaints.** The Permittee shall, at the permittee’s expense and in coordination with the County develop a system for detailed logging and investigation of all complaints related to the operation of the SES. The County will select a qualified individual to investigate complaints. The Permittee shall provide this qualified individual with direct phone contact and address information of the permittee representative. The reasonable cost and fees incurred by the County in retaining said qualified individual shall be reimbursed by the owner of the SES. After the investigation, if the County reasonably concludes that operational violations or other public or private nuisances have been caused by the SES, the County shall require Permittee to use all reasonable efforts to mitigate or eliminate such problems on a case-by-case basis, as required by the County Board. In order to address such complaints, the County Board may require planting trees, limiting the hours of Solar System operation, repair of SES, removal and decommissioning of SES.

### **Insurance and Indemnification**

**Insurance.** All Permittees shall maintain the following insurance coverage commencing upon construction of the Facility:

- A.** The owner/operator shall, at its expense, maintain a broad form comprehensive coverage policy of public liability insurance insuring Applicant and Participating Landowners against loss or liability caused by Applicant’s occupation and use of the Property under the Lease, in an amount not less than Five Million Dollars (\$5,000,000) of combined single limit liability coverage per occurrence, accident or incident, which has a commercially reasonable deductible. The County shall be named as an additional insured on the policy.
- B.** Worker’s compensation coverage in an amount required by Wisconsin law. Applicant shall

require subcontractors and others not protected under its insurance to obtain and maintain worker's compensation and employers' liability insurance.

- C. Certificates of insurance evidencing compliance with these requirements shall be provided upon request of the County. The insurer will provide notice to the County in the event there is a lapse in coverage exceeding thirty (30) days. All policies other than worker's compensation shall be written on an occurrence and not on a claim-made basis

**Defense of Land Use Decision and Indemnity.** In addition to the indemnification described below, Permittee shall reimburse the County its reasonable attorneys' fees incurred in defending any legal actions brought by third parties challenging the legality or enforceability of this ordinance or any portion thereof, or the issuance of a Permit by the County pursuant to this ordinance.

- A. If the County seeks reimbursement, it shall notify Permittee in writing promptly upon discovering any claim entitling it to a land use defense reimbursement, but in no event later than 120 days after receiving written notice of any action, lawsuit, proceeding, investigation or other claim against it which may give rise to a claim for a land use defense reimbursement.
- B. Permittee shall not be obligated to reimburse the County with respect to any such liability, action or claim if the County fails to notify Permittee thereof in accordance with the provisions of this section in sufficient time including, without limitation, any responsive motion or answer to a complaint, petition, notice, or other legal, equitable action or claim, but only insofar as such knowing failure to notify Permittee has actually resulted in prejudice or damage to Permittee.
- C. With respect to any third party action, lawsuit, proceeding, investigation or other claim which is subject to reimbursement under this section, Permittee shall be entitled to assume and control (with counsel of its choice) the defense of such action, lawsuit, proceeding, investigation or other claim at Permittee's expense; provided, however, that the County shall be entitled to participate in the defense of such claim and to employ counsel of its choice for such purpose (the fees and expenses of such separate counsel to be borne by the County) and to assert against any third party any and all cross claims and counterclaims the County may have, subject to Permittee's consent, which consent shall not be unreasonably withheld. If Permittee elects to assume the defense of any such claim, it may settle such claim in its sole discretion so long as either (i) such settlement provides an unconditional release of the County, or (ii) Permittee shall obtain the prior written consent of the County (which consent shall not be unreasonably withheld). If Permittee elects to assume the defense of any claim, the County shall fully cooperate with Permittee and its counsel in such defense.
- D. Permittee shall defend, indemnify and hold harmless the County and its officials, employees and agents from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorneys' fees (such liabilities together known as "Liability") arising out of

Permittee's selection, construction, operation and removal of the SES and affiliated equipment including, without limitation, Liability for property or personal injury (including death), whether said Liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under law.

### **Procedures for Alteration or Revocation of Permit**

- A. Amendment.** Following the granting of a permit any permittee who wishes to materially alter any aspect of the permitted premises which was required to be described in the building plan or site plan required under this Section, shall apply to the County for an amendment to the permit. The application shall explain the nature of the alteration and the reasons therefore and include a non-refundable application fee of \$600. The Applicant shall also be required to pay the reasonably necessary engineering expenses, if any, associated with the review. The County Board shall act on the amendment application consistent with the terms of this ordinance.
- B. Revocation of Permit.** An unsafe SES and an inoperable SES is hereby declared an unsafe public nuisance, which shall be subject to abatement by repair, rehabilitation, demolition, or removal by the County Board. An inoperable SES shall not be considered a public nuisance provided the owner can demonstrate that modernization, rebuilding or repairs are in progress or planned and will be completed within a reasonable time as approved by the County, provided periodic reports on the status of the repairs are provided to the County as requested of the permittee.
- C.** Each of the following occurrences shall constitute a violation of the terms and conditions of this Permit (a "Violation") and any such Violation shall be grounds for revocation of this Permit (whatever the reason for such an event of default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, order or regulation) after the expiration of the notice and cure period and revocation hearing as set forth below:
- a. The Permittee abandons the solar system located on the premises for a period of six months or more.
  - b. The Permittee fails to observe or perform any material condition or provision of this Permit for a period of 30 days after it has received written notice of such failure from the County; provided, however, that a Violation shall not occur if Permittee commenced performance of such obligation within such 30-day period and is diligently proceeding to complete such performance.
  - c. There is a material failure by Permittee to comply with any statute, regulation, rule, or license administered by any federal, state or county department, agency, or commission directly related to the operation of the solar system, and if Permittee fails to cure the material failure to comply for a period of 30 days after the date Permittee receives written notice of such failure from the County or the federal, state or local governmental body or agency with jurisdiction; provided, however, that a Violation shall not occur if Permittee

commences performance of such obligation within such 30 day period and is diligently proceeding to complete such performance.

- D. All solar arrays and all related improvements shall be removed in accordance with the Decommissioning and Site Restoration Plan submitted by the applicant and approved by the County through the permitting process.
- E. The owner of a SES and the underlying property owners shall be jointly liable for the removal of all equipment associated with the SES facility at the end of the permit period, the useful life of the Facility, or when the Facility is abandoned or otherwise out of operation for more than six months, at their expense. Upon removal of a Facility, the owner of the Facility and the underlying property owners shall be jointly liable for restoration of the site to its original condition at their expense. To protect the environment, removal shall be done by mechanical means. The restoration shall include removal of all materials above and below ground; public road repair, if any; and all re-grading and re-vegetation necessary to return the subject property to the condition existing prior to establishment of the SES facilities. All hazardous materials shall be removed from the site and disposed of in accordance with state and federal laws.
- F. **Hearing.** The County shall not revoke any Permit without first providing the Permittee a hearing and the right to respond, including the right to present evidence regarding any defenses or extenuating circumstances regarding the alleged violations or public or private nuisance.

### **Permit Expiration**

**Expiration.** Unless the County authorizes a different term based upon analysis of the useful life of the SES, every permit issued pursuant to this ordinance shall terminate upon the expiration of twenty-five (25) years from the date of issuance if construction is commenced within one year of issuance. If construction is not commenced within one year of issuance, the permit shall expire one year after the date of issuance and the applicant will be required to reapply if it still intends to develop a SES project.

### **Fees and Expenses**

- A. **Tax Hold Harmless.** In the event that the shared revenue payments payable to the County are eliminated by the Legislature, Permittee shall be required to pay the County an amount not less than \$1,667 per megawatt per year for SES actually installed and operating within the County. Such payments shall be on an annual basis and payable on the 180<sup>th</sup> day after notice from the County of Permittee's obligation to pay under this paragraph. Permittee's obligation to make such payments shall cease if the State adopts or implements a new mechanism to replace the shared revenue payments, to the extent that the new payment mechanism produces revenue not less than the revenue payable under the predecessor program. The shared revenue payments referenced above are paid to the County directly by the State of Wisconsin, not Permittee. Regardless, Permittee shall be required to supplement the County's annual shared revenue payments actually received, by an amount equal to the

annual percentage change of the Consumer Price Index as of January 1 of each calendar year beginning on the first January following the date the County receives its first payment. For purposes of this escalator clause, the Consumer Price Index means the U.S. Department of Labor, Bureau of Statistics, Consumer Price Index for the United States, All Urban Consumers, all items, unadjusted index.

- B. Property Taxes.** If the property tax exemption for SES under current state law is revised or revoked by future Legislatures, Permittee will be responsible for all related assessments and taxes associated with the permit and SES site. Failure to pay such tax obligation shall be considered a non-compliance with this ordinance.
- C. Reimbursement of Fees and Costs.** Permittee shall reimburse the County for its actual reasonable fees and costs incurred in the application, negotiation, administration and enforcement of this ordinance, including, without limitation, the County's attorney fees, engineering and consultant fees, County Board meeting and hearing fees, and the costs of public notices relative to the review and consideration of each application filed by an applicant under this ordinance. The preceding fees are payable within 30 days of invoice. Unpaid invoices shall bear interest at the rate of 1% per month until paid. The County may recover all reasonable costs of collection, including attorneys fees.

**SES Neighbor Agreement.** Permittee may offer to non-participating landowners the opportunity to enter into a Solar Power Facilities Neighbor Agreement, provided:

- A.** Landowner has not otherwise entered into a Ground Lease, Easement or Setback Waiver Agreement with Permittee;
- B.** Has a primary residence or private business located within the setbacks provided for under this ordinance; and
- C.** Owns the property in fee simple and has applied for a building permit on or before the issuance of a permit pursuant to this ordinance. A landowner who enters into such an agreement is not a Participating Residence for purposes of this ordinance.

**County Approval.** The terms and form of such agreements shall be subject to negotiation between the Permittee and non-participating landowners who may be interested in such an agreement. However, such agreements, once signed, shall be subject to review and approval by the County Board.

#### **Administration, Enforcement, Penalties, Relationship to Other Ordinance and Severability**

- A. Inspections.** The County's designee may enter upon any property for which a Conditional Use Permit has been issued under this ordinance to conduct inspections to determine whether the conditions stated in the Conditional Use Permit and other standards and requirements of this ordinance are being complied with.
- B. Enforcement.** The County's designee may issue orders to abate any violation of this ordinance, or any condition attached to a Conditional Use Permit approved by the County.

The County's designee may issue a citation for any violation of this ordinance. The County may refer any violation of this ordinance to the County's legal counsel or to special counsel for enforcement through litigation. Nothing in this ordinance shall be construed to prevent or limit the County from using any other lawful means of enforcing this ordinance.

**C. Penalties.** Any person, applicant or permittee who fails to comply with any provision of this ordinance or of any permit issued pursuant to this ordinance shall, upon conviction thereof, forfeit at least five-hundred dollars (\$500.00) but not more than one- thousand dollars (\$1,000.00) for each offense. A separate offense shall be deemed committed on each day during which a violation occurs or continues. Any person, applicant or permittee who is in default of payment of a forfeiture or costs may be imprisoned in the county jail until the forfeiture or costs are paid, except that the period of imprisonment may not exceed thirty (30) days.

**Relationship to Other Ordinances.** This ordinance does not abrogate, annul, impair, interfere with, or repeal any existing ordinance of the County or any other governmental body.

**Severability.** The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

#### **Definitions**

The following terms shall have the meaning given to them in this section. To the extent a term is used in this ordinance is not defined in this section, the term shall have the meaning given in the Eau Claire County Zoning Ordinance.

**Applicant.** Means the person, firm, corporation, company, limited liability corporation or other entity which applies for approval under this ordinance, as well as the applicant's successor(s), assign(s) and/or transferee(s) as to any approved WECS or testing facility. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WECS or testing facility. The duties and obligations regarding any approved WECS or testing facility shall be with the owner of the WECS or testing facility, and jointly and severally with the owner and operator or lessee of the WECS or testing facility. Also known as owner or operator.

**Awning.** A sheet of material stretched on a frame and used to keep the sun or rain off a storefront, window, doorway, patio, or deck.

**Board.** Means the County Board for Eau Claire County, Wisconsin.

**Decibel** – A unit of measure of sound pressure.

**dB(A), A-Weighted Sound Level** – A measure of over-all sound pressure level in decibels, designed to reflect the response of the human ear.

**Generator Nameplate Capacity** – The maximum rated output of electrical power production of a generator under specific conditions designated by the manufacturer with a nameplate physically attached to

the generator.

**Maximum Design Tilt (Solar Energy System)** – Maximum tilt, or angle, is vertical, or ninety (90) degrees for a Solar Energy System designed to track daily or seasonal sun position or capable of manual adjustment on a fixed rack.

**Minimum Design Tilt (Solar Energy System)** – Minimum tilt, or angle, is horizontal, or zero (0) degrees for a Solar Energy System designed to track daily or seasonal sun position or capable of manual adjustment on a fixed rack.

**Nameplate Capacity** – The total maximum rated output of a Solar Energy System.

**Panel.** A solar collector of approximately 20 nominal square feet or 3-4 feet in width by 4-6 feet in height.

**Permittee.** Means the applicant and/or successor who has received a permit under this ordinance.

**Power Line** – An overhead or underground conductor and associated facilities used for the transmission or distribution of electricity.

**Power Purchase Agreement** – A legally enforceable agreement between two or more persons where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

**Qualified Independent Acoustical Consultant** – A person with Full Membership in the Institute of Noise Control Engineers (INCE), or other demonstrated acoustical engineering certification. The Independent Qualified Acoustical Consultant can have no financial or other connection to an applicant.

**Receptor** – Structures intended for human habitation, whether inhabited or not, including but not limited to churches, schools, hospitals, public parks, state and federal wildlife areas, the manicured areas of recreational establishments designed for public use, including but not limited to golf courses, and campgrounds.

**Roof Pitch** – The final exterior slope of a building roof calculated by the rise over the run, typically but not exclusively expressed in twelfths, such as 3/12, 9/12, or 12/12.

**Solar Collector** – A device, structure, or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

**Solar Daylighting** – A device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

**Solar Energy** – Radiant energy received from the sun that can be collected in the form of heat or light by

a solar collector.

**Solar Energy Device** – A system or series of mechanisms designed primarily to provide heating, cooling, electrical power, mechanical power, solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Said systems may also have the capacity to store energy for future utilization. Passive Solar Energy Systems shall clearly be designed as a solar energy device, such as a Trombe Wall, and not merely part of a normal structure, such as a window.

**Solar Energy System (SES)**– A set of devices that the primary purpose is to collect solar energy and convert it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring or converting solar energy. This definition also includes structural design features, the purpose of which is to provide daylight for interior lighting. Battery Energy Storage System (BESS) shall not constitute a Solar Energy System.

**Solar Energy System, Accessory Use** – A Solar Energy System that is secondary to the primary use of the parcel on which it is located, and which is directly connected to or designed to serve the energy needs of the primary use. Excess power may be sold to a power company.

**Solar Energy System, Active** – A Solar Energy System whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

**Solar Energy System, Building Integrated** – An active Solar Energy System that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Such systems include, but are not limited to, Solar Energy Systems that function as roofing materials, windows, skylights, and awnings.

**Solar Energy System, Grid-intertie** – A photovoltaic Solar Energy System that is connected to an electric circuit served by an electric utility company.

**Solar Energy System, Ground-mounted** – A solar collector, or collectors, located on the surface of the ground. The collector or collectors may or may not be physically affixed or attached to the ground. Ground-mounted systems include pole-mounted systems.

**Solar Energy System, Large (LSES) (Large Solar Energy System)** – A Solar Energy System with a nameplate capacity of five (5) kilowatts or more, including greater than 100 megawatt systems, or a size greater than 300 square feet inclusive of panels and supporting equipment.

**Solar Energy System, Off-grid** – A photovoltaic Solar Energy System in which the circuits energized by the Solar Energy System are not electrically connected in any way to electric circuits that are served by an electric utility company.

**Solar Energy System, Passive** – A Solar Energy System that captures solar light or heat without

transforming it to another form of energy or transferring the heat via a heat exchanger.

**Solar Energy System, Photovoltaic** – An active Solar Energy System that converts solar energy directly into electricity.

**Solar Energy System, Primary Use** – A Large Scale Solar Energy System which generates power for sale to a power company, or other off-premise consumer.

**Solar Energy System, Reflecting** – A Solar Energy System that employs one or more devices designed to reflect solar radiation onto a solar collector. This definition includes systems of mirrors that track and focus sunlight onto collectors located at a focal point. The collectors may be thermal or photovoltaic.

**Solar Energy System, Roof-mounted** – A solar collector, or collectors, located on the roof of a building or structure. The collector or collectors may or may not be physically affixed or attached to the roof.

**Solar Energy System, Small** – A Solar Energy System with a nameplate capacity of less than five (5) kilowatts.

**Solar Heat Exchanger** – A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

**Solar Hot Air System** – Also referred to as solar air heat, or a solar furnace. An active Solar Energy System that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance typically means vertically mounted on a south-facing wall.

**Solar Hot Water System** – Also referred to as a solar thermal. A system that includes a solar collector and heat exchanger that heats or preheats water for building heating systems or other hot water needs, including domestic hot water and hot water for commercial or industrial purposes.

**Solar Mounting Devices** – Devices that allow the mounting of a solar collector onto a roof surface, wall, or the ground.

**Substation** – Any electrical facility containing power conversion equipment designed for interconnection with power lines.

**Transmission line** – See Power Line.

**Total Name Plate Capacity** – The total of the maximum rated output of the electrical power production equipment for a combined solar project.