

ORDINANCE NO. 040609-02

Wind Energy System Ordinance

The Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin, do ordain as follows:

SECTION I.

Chapter 79, Article I is hereby created to read as follows:

WIND ENERGY SYSTEMS LICENSING ORDINANCE

(a) *Title.* This ordinance may be referred to as the Small Wind Energy System Ordinance.

(b) *Authority.* This ordinance is adopted pursuant to authority granted by Wis. Stats. §62.23(7) and 66.0401.

(c) *Purpose.* The purpose of this ordinance is to:

- (1) Oversee the permitting of small wind energy systems.
- (2) Preserve and protect the environment and public health and safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system (per Wis. Stat. §66.0401).
- (3) To promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

(d) *Findings.* The village finds that wind energy is an abundant, renewable, and nonpolluting energy resource and that its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources. Distributed small wind energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the State's energy supply portfolio. Small wind systems also make the electricity supply market more competitive by promoting customer choice.

The State of Wisconsin has enacted a number of laws and programs to encourage the use of small-scale renewable energy systems. However, many existing zoning ordinances contain restrictions, which while not intended to discourage the installation of small wind turbines, that can substantially increase the time and costs required to obtain necessary construction permits.

Therefore, we find that it is necessary to standardize and streamline the proper issuance of building permits for small wind energy systems so that this clean, renewable energy resource can be utilized in a cost-effective and timely manner.

(e) *Definitions.* In this ordinance:

- (1) *Administrator* means the Village of Fontana-on-Geneva Lake Zoning Administrator.
- (2) *Board* means the Village of Fontana-on-Geneva Lake Board of Trustees.
- (3) *Building Inspector* means the Village of Fontana-on-Geneva Lake Building Inspector.
- (4) *Meteorological tower (met tower)* is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- (5) *Owner* shall mean the individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance.
- (6) *Plan Commission* means the Village of Fontana-on-Geneva Lake Plan Commission.
- (7) *Rotator diameter* means the cross sectional dimension of the circle swept by the rotating blades.
- (8) *Small wind energy system* means a wind energy system that
 - a. Is used to generate electricity;
 - b. Has a nameplate capacity of 100 kilowatts or less; and
 - c. Has a total height of 170 feet or less.
- (9) *Total height* means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
- (10) *Tower* means the monopole, freestanding, or guyed structure that supports a wind generator.
- (11) *Tower height* means height above grade of the fixed portion of the tower,

excluding the wind turbine itself.

- (12) *Wind energy system* means the equipment that converts and then stores or transfers energy from the wind into usable forms of energy, as defined by Wis. Stat. §66.0403(1)(m). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.
- (13) *Wind generator* means blades and associated mechanical and electrical conversion components mounted on top of the tower.

(f) *Standards.* A small wind energy system shall be a permitted use in all zoning districts where structures of any sort are allowed; subject to the following requirements:

- (1) *Setbacks.* A wind tower for a small wind system shall be set back a distance equal to 1.5 times its total height from:
 - a. Any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;
 - b. Any overhead utility lines, unless written permission is granted from the affected utility;
 - c. All property lines, unless written permission is granted from the affected land owner or neighbor.
- (2) *Noise.* Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring occupied building, whether said building is utilized as a business or as a residence. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.
- (3) *Access.*
 - a. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - b. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.
- (4) *Electrical wires.* All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- (5) *Lighting.* A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA).

- (6) *Appearance, color and finish.* The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the building permit.
 - (7) *Signs.* All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.
 - (8) *Code compliance.* A small wind energy system including tower shall comply with all applicable state construction and electrical codes, and the National Electrical Code.
 - (9) *Compliance with FAA Regulations.* Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports or helicopter landing pads.
 - (10) *Utility notification and interconnection.* Small wind energy systems that connect to the electric utility shall comply with the Public Service Commission of Wisconsin's Rule 119, "Rules for Interconnecting Distributed Generation Facilities".
 - (11) Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.
- (g) *Permit Requirements.*
- (1) *Building Permit.* A building permit shall be required for the installation of a small wind energy system.
 - (2) *Documents.* The building permit application shall be accompanied by a plot plan which includes the following:
 - a. Property lines and physical dimensions of the property.
 - b. Location, dimensions, and types of existing major structures on the property.
 - c. Location of the proposed wind system tower.
 - d. The right-of-way of any public road that is contiguous with the property.
 - e. Any overhead utility lines.
 - f. Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed).
 - g. Tower foundation blueprints or drawings.

- h. Tower blueprint or drawing.
 - i. An engineering analysis of the tower showing compliance with all applicable State and Federal laws and certified by a licensed professional engineer.
 - j. A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.
 - k. Documentation that the utility company has been informed of the owner's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (3) *Fees.* The application for building permit for a small wind energy system must be accompanied by the fees as defined in the Village of Fontana-on-Geneva Lake Fee Schedule and which fees may be changed by resolution from time to time.
- (4) *Expiration.* A permit issued pursuant to this ordinance shall expire:
- a. The small wind energy system is not installed and functioning within 24-months from the date the permit is issued; or,
 - b. The small wind energy system is out of service or otherwise unused for a continuous 12-month period.
- (h) *Abandonment.*
- (1) A small wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Administrator may issue a Notice of Abandonment to the Owner of a small wind energy system that is deemed to have been abandoned. The Owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. The Administrator shall withdraw the Notice of Abandonment and notify the Owner that the Notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.
 - (2) If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the tower at the Owner's sole expense within 3 months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Administrator may pursue a legal action to have the wind generator removed at the Owner's expense.
- (i) *Building Permit Procedure.*

- (1) An Owner shall submit an application to the Administrator for a building permit for a small wind energy system. The application must be on a form approved by the Administrator and must be accompanied by two copies of the plot plan identified in (f)(2) above.
 - (2) The Administrator shall check the application for completeness and conformance to this ordinance and shall place the application for small wind energy system application on the next available meeting agenda of the Plan Commission.
 - (3) Upon receipt of the application, the Plan Commission shall conduct the necessary study and investigation in order to provide, as promptly as possible, a recommendation to the Board.
 - (4) The Board shall not act upon the application until it shall have received a recommendation from the Plan Commission on the proposed ordinance.
 - (5) The Building Inspector shall issue a building permit for a small wind energy system if the application materials show that the proposed small wind energy system meets the requirements of this ordinance and has received approval from the Board.
 - (6) If the application is approved, the Administrator will return one signed copy of the application with the permit and retain the other copy with the application.
 - (7) If the application is rejected, the Administrator will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may appeal the Administrator's decision pursuant to Chapter 68 Wis. Statutes. The applicant may reapply if the deficiencies specified by the Administrator are resolved.
 - (8) The Owner shall conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the small wind energy system is complete.
- (j) *Violations.* It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt.
- (k) *Administration and Enforcement.*


- (1) This ordinance shall be administered by the Administrator or other official as designated.
 - (2) The Administrator or other official as designated may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met.
 - (3) The Administrator or other official as designated may issue orders to abate any violations of this ordinance.
 - (4) The Administrator or other official as designated may issue a citation for any violation of this ordinance.
 - (5) The Administrator or other official as designated may refer any violation of this ordinance to legal counsel for enforcement.
- (l) *Penalties.*
- (1) Any person who fails to comply with any provisions of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as stipulated in Section 94.121 of the Zoning Code.
 - (2) Nothing in this section shall be construed to prevent the Board from using any other lawful means to enforce this ordinance.
- (m) *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.

SECTION 2. EFFECTIVE DATE

This Ordinance shall be in full force and effect upon and from its passage, approval and publication as required by law.

PASSED AND ADOPTED by the Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin, this 6th day of April, 2009.

VILLAGE BOARD OF THE VILLAGE
OF FONTANA-ON-GENEVA LAKE

By: 
Arvid Petersen, Village President

Attest: 
Dennis Martin, Village Clerk