

WIND ENERGY SYSTEM (WES) OVERLAY DISTRICT

A. GENERAL

1. **Purpose and Intent.** The purpose and intent of this overlay district is to promote and protect the health, safety, and general welfare of the people of the Town of Eaton, Brown County, Wisconsin by providing for the effective regulation of wind energy system (WES) facilities in the Town of Eaton under the authority granted by the Wisconsin Statutes.
2. **Statutory Authority.** These overlay district regulations are adopted pursuant to Wis. Stats. § 60.61 and §60.62. Nothing herein is intended to regulate or authorize the regulation of wind energy systems (WES) in a manner that is preempted or prohibited by Wis. Stats. §66.0401, §66.0403, and Wisconsin Administrative Code PSC 128, or other applicable laws or regulations.
3. **Principal or Accessory Use.** A WES may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of a WES on such lot. For purposes of determining whether the installation of a WES complies with setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the WES may be located on leased parcels or easements within such lots. Wind energy systems that are constructed and installed in accordance with the provisions of this Code shall not be deemed to constitute the expansion of a nonconforming use or structure.
4. **Indemnification.** The operator of a wind energy system facility shall defend, indemnify and hold harmless the Town of Eaton and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever including attorney fees arising out of the acts or omissions of the operator concerning the operation of the wind energy system facility without limitation, whether said liability is premised on contract or on tort.
5. **Severability.** Should any section, clause, or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

B. ADMINISTRATION

1. **Wind Energy Systems.** All applicable rules, regulations, and laws as set forth in Wis. Stats. § 66.0401 and 66.403, and the Wisconsin Administrative Code, Chapter PSC 128, are hereby adopted by reference and made a part of this section as if fully set forth herein.
2. **Permits.** No WES shall be constructed, located, installed, reconstructed, enlarged, or relocated, including the placement of additional buildings or other supporting equipment used in connection with said WES, without first obtaining a Conditional Use Permit, except as allowed under Subsection B(3), and without full compliance with the provisions of this Code and all other applicable County and State requirements. The Town of Eaton Board of Supervisors may authorize the Building Inspector to issue a Building Permit for a WES after a Conditional Use Permit is issued pursuant to the procedures set forth in Article XVI(K) of the Town of Eaton Code of Ordinances and this subsection.
3. **Exception.** A single "Personal Wind Energy System" (PWES) that is for use by the individual land owner on which the PWES is to be located, that is 75 feet or under in total height, and that has a nameplate capacity of less than 5 kilowatts may be located on a lot with a Town of Eaton

Building Permit. No Conditional Use Permit will be required for a single PWES meeting these requirements. All requirements of PSC 128.60 and PSC 128.61 shall apply. The location of two or more PWESs on a lot, the location of a PWES that exceeds 75 feet in total height or that has a nameplate capacity greater than 5 kilowatts and/or the location of any other wind energy system on a lot shall require a building permit and conditional use permit in accordance with Subsection B(2).

4. **Conditional Use Permit Applications.** Applications for Conditional Use permits under this section shall be submitted to the Town of Eaton in accordance with Article XVI(K) of this Code. The contents of the application shall include all applicable information required under PSC 128.30 Wis. Adm. Code. The exemptions listed under PSC 128.60 shall apply to an application that is submitted for a small wind energy system.
5. **Building Permit Applications.** Following receipt of an approved conditional use permit, applications for building permits under this section shall be submitted to the Town of Eaton Building Inspector. The contents of the application shall include all applicable information required under PSC 128.30 Wis. Adm. Code. The exemptions listed under PSC 128.60 shall apply to an application that is submitted for a small wind energy system.
6. **Effective Date of Permit.** Building Permits and Conditional Use Permits shall be effective beginning on the date of approval and shall remain effective for the period indicated on the permit.
7. **Preservation of Rights.** The transfer of title to any property shall not change the rights and duties under this Code.

C. REQUIREMENTS

1. **Meet Applicable State Rules, Regulations, and Laws.** All wind energy systems shall meet or exceed the applicable rules, regulations and laws as set forth in Wis. Stats. § 66.0401 and 66.0403, the Wisconsin Administrative Code, Chapter PSC 128, the Federal Aviation Administration (FAA) regulations and any other applicable Federal, State and County regulations.
2. **WES Application Review.** The Town of Eaton shall follow the process for review and timelines of a WES application listed in Wis. Stats. §66.0401(4).