

ORDINANCE NO. 2025 – 16
TOWN OF HAMPDEN WIND ENERGY SYSTEM ORDINANCE

The Town Board of the Town of Hampden does hereby ordain that this Town of Hampden Wind Energy System Ordinance is hereby created to provide as follows:

- 1. Purpose.** The purpose of this Ordinance is to incorporate the requirements of Section 66.0401 of the Wisconsin Statutes and Chapter PSC 128 of the Wisconsin Administrative Code as a Town ordinance and to establish Town regulations for the installation and use of large and small wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Wisconsin Public Service Commission. This Section is also intended to preserve and protect public health and safety, to not significantly increase the cost of the system or significantly decrease wind energy system efficiency and to allow for an alternative system of comparable costs and efficiency.
- 2. State and County Requirements.** The requirements set forth in section 66.0401 of the Wisconsin Statutes and Chapter PSC 128 of the Wisconsin Administrative Code are adopted and incorporated herein. The requirements set forth in Columbia County Zoning Ordinances 12.125.29 and 12.125.30 are also hereby adopted and incorporated herein.
- 3. Definitions.** Terms used here shall have meaning described in Section PSC 128.01 of the Wisconsin Administrative Code.
- 4. Permit Required.** No wind energy system may be installed, constructed or expanded in the Town without a wind energy system permit granted pursuant to this Ordinance.
- 5. Application Requirements and Process.**
 - a. Filing Application Required. The Applicant must apply for and receive a permit from the Town before installing, constructing or expanding any wind energy system in the Town.
 - b. Permit Fee. The Applicant must pay the application fee at the time the application is filed with the Town.
 - c. Reimbursable Services Agreement. The Applicant must execute a Reimbursable Services Agreement to cover engineering, consulting and legal fees and other expenses incurred by the Town relating to the Town's consideration of the application, which

expenses are to be the Applicant's responsibility in addition to the permit fee. That sum, to be deposited with the Town, in escrow, shall be determined by the Town based upon projected costs within 30 days after the initial application submittal and shall be used to reimburse the Town for those expenses relating to its consideration of the application. In the event the amount deposited falls below 25% of the initial deposit, the Town may require the Applicant to replenish that escrow account.

- d. Information Required. The application must contain information as provided in PSC 128.30 except as amended by 128.61 (6) and the information required under Columbia County ordinances 12.125.29 and 12.125.30, as well as the information to be submitted under the plans and reports required under this Ordinance. The Town may also require that additional information be presented for its evaluation of the application. Eight copies of the initial application shall be filed with the Town Clerk along with a digital copy.
- e. Project Application Notice. On the same day that the application is filed with the Town, the applicant, as required by statute and PSC 128.30, shall provide written notice of the filing of the application to all property owners and residents located within one mile of the proposed location of the wind energy facility.
- f. Submittal to Staff. The initial application received shall be promptly forwarded to the Town Engineer, Town Attorney and any consultants retained by the Town for their review and advise in determining whether the application is complete.
- g. Determination whether Application is Complete. The Town Board shall, with assistance from its staff and consultants, determine whether the application is complete and contains all of the materials, plans, reports, information, agreements, deposits and payments required to be submitted with an application. If an application is not complete, the Applicant shall be so advised, and no further action shall be taken by the Town until a complete application is received. The Town Board, in its discretion, may choose to accept an application that is otherwise incomplete if the omitted items, appear at that point, to be unnecessary for its initial review.
- h. Referral to Plan Commission. After the Town Board determines that an application is complete, it shall be referred to the Town Plan Commission for its review and to hold

a public hearing and to make a recommendation to the Town Board whether the application meets all requirements of this Ordinance. In determining whether the application meets the requirements of this Ordinance, the Plan Commission shall obtain assistance from staff and consultants, as it deems appropriate. The Plan Commission shall review the application as soon as reasonable and feasible, given the complexity of the application, questions that arise during the review process, and other matters affecting the time needed to complete the review process and, following its review and the hearing, recommend approval of the application, denial of the application, or approval subject to conditions.

- i. Town Board Review. Upon receiving the recommendation of the Plan Commission, the Town Board shall review the application and the information obtained and the recommendation of the Plan Commission. In its discretion, it may hold a further hearing on the application.
- j. Final Action. If an application is complete and meets all requirements of this Ordinance and meets all of the requirements under applicable state statutes, rules and regulations and meets all requirements under Columbia County's Ordinances, the Town Board may approve a permit for the wind energy system, subject to the execution of a permitting agreement pursuant to this Ordinance. If an application does not meet all requirements of this Ordinance or the Applicant has not paid all fees and costs required under this Ordinance, then the Town Board may deny the application or approve the application with conditions that will assure compliance with this Ordinance. An application may be approved effective upon the satisfaction of certain conditions, in which case the permit shall be issued when all such conditions have been satisfied. If the application is denied or approved with a delayed effective date, the Town shall notify the Applicant in writing, within seven (7) business days, of the reasons for denial or for imposing the conditions that must be met to render the approval effective.
- k. Appeal of Decision. Any Applicant or other person aggrieved by the decision of the Town Board, including any resident or owner of property in the Town, shall be entitled to appeal the Board's decision in circuit court. Such an appeal must be made within thirty (30) days of the date of written decision by the Board or issuance of the permit. The Town explicitly elects not to be governed by Wis. Stats. Chapter 68 and instead

elects to provide the review procedures described in this Section.

- l. Permitting Agreement. If the permit is approved, the Town Board shall require the Applicant to enter into an agreement. The agreement shall include all provisions deemed appropriate by the Town to assure that the wind energy system is constructed, operated and maintained in compliance with the permit, and that all fees, costs and sureties are paid and provided, as required by the Town Board and by this Ordinance.
- m. Permit Expiration. Unless the Town Board approves a different term based on an analysis of the anticipated useful life of the wind energy system, a permit issued under this Ordinance shall expire thirty years after the date it is issued. However, if construction on the wind energy system is not commenced within thirty (30) months after the permit is used, the permit shall then expire at the end of that 30-month period.

6. General Requirements for Wind Energy Facilities.

- a. Safety Requirements.
 1. All wiring between wind turbines and the wind energy facility substation shall be underground.
 2. Wind turbine towers shall not be climbable up to 15 feet above ground level.
 3. All access doors to wind turbine towers and electrical equipment shall be lockable.
 4. Appropriate warning signage shall be placed on wind turbine towers, electrical, and wind energy facility entrances.
 5. The wind energy system shall comply with all applicable federal and state electrical codes and regulations.
 6. The application shall include a fire prevention and emergency response plan to be submitted to and approved by the Town Board. The plan shall described the potential fire and emergency services scenarios that may require a response from fire, emergency medical services, police or other emergencies, shall describe all emergency response training and equipment needed to respond to

a fire or other emergency, shall include an assessment of the training and equipment available to the designated agencies and, at the Applicant's cost, shall provide for the special training and emergency response equipment that the designated agencies need to use in responding to a potential fire or other emergency.

b. Visual Appearance and Lighting.

1. Wind turbines shall be painted a non-reflective, non-obtrusive color.
2. At wind energy facility sites, 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 wind energy facility to the natural setting and then existing environment.
3. Wind energy facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
4. Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.

c. Power Lines. Electrical controls and control wiring and power-lines shall be wireless or underground except where wind farm collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network.

d. Setbacks. As provided in PSC 128.13, the following setbacks and separation requirements shall apply to all wind turbines; provided, however, that the Town may reduce the standard setbacks and separation requirements if the intent of this Ordinance would be better served thereby.

1. **Occupied Community Buildings:** Each wind turbine shall be set back from the nearest occupied community building, the lesser of 1,250 feet, or 3.1 times the maximum blade tip height.
2. **Participating Residences:** Each wind turbine shall be set back at least 1.1 times the maximum blade tip height.
3. **Non-Participating Residences:** Each wind turbine shall be set back the lesser

of 1,250 feet or 3.1 times the maximum blade tip height.

4. Participating Property Lines: No setback distance for a wind turbine is set under this Ordinance.
5. Non-Participating Property Lines: Each wind turbine shall be set back at least 1.1 times the blade tip height.
6. Public Right of Way: Each wind turbine shall be set back at least 1.1 times the maximum blade tip height.
7. Overhead Communication and electric transmission and electric distribution lines: Each wind turbine shall be set back at least 1.1 times the blade tip height.
8. Overhead Utility Lines to Individual Houses and Outbuildings: No setback distance for a wind turbine is set under this Ordinance.

e. Sound Levels and Measurement.

1. As provided for in PSC 128.14, audible sound due to wind energy facility operations shall not exceed fifty (50) dBA during the daytime hours and 45 dBA during the nighttime hours when measured at the outside wall of any non-participating residence or occupied community (PSC 128.14(3) and (4)).
2. In the event audible sound due to wind energy facility operations contains a steady pure tone, such as a whine, screech, or hum, audible sound due to wind energy facility operations shall not exceed forty-five (45) dBA for any period of time, when measured from any residential, farm, commercial or public building existing on the date of approval of the permit. A steady pure tone is defined to exist if the sound level of any one-third (1/3) octave band exceeds the sound levels of the two (2) contiguous one-third (1/3) octave bands by five (5) or more dB for any period of time.
3. If the ambient sound level (exclusive of the wind energy facility) exceeds the applicable standards given above, the applicable standards shall be adjusted to

equal the ambient sound level. The ambient sound level shall equal the L10 sound level for full spectrum sound, expressed in dBA. For steady pure tones, the ambient sound level shall equal the L10 sound level of the one-third (1/3) octave band that exceeds the sound levels of the two (2) contiguous one-third (1/3) octave bands by five (5) or more dB for any period of time, expressed in dB.

4. Ambient sound levels and audible sound due to wind energy facility operations shall be measured approximately fifty (50) feet from the existing residential, farm, commercial and public buildings. Sound level measurement techniques shall employ all practical means of reducing the effect of wind-generated sound at the microphone.
5. In the event audible sound due to wind energy facility operations exceed the audible sound standards listed above, a waiver to said standards may be granted by the Town provided that the following has been accomplished:
 - a. Written consent from the affected property owners has been obtained stating that they are aware of the wind energy facility and the audible sound standards imposed by this Ordinance, and that consent is granted to allow sound levels to exceed the audible sound standards otherwise allowed; and,
 - b. If the Applicant wishes the waiver to apply to succeeding owners of the property, a permanent sound impact easement has been recorded in the Office of the Columbia County Register of Deeds, which describes the benefited and burdened properties and which advises all subsequent owners of the burdened property that sound levels in excess of audible sound standards permitted by this Ordinance may exist on or at the burdened property.
- f. Minimum Ground Clearance. The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.
- g. Communications Interference. Any Wind energy facility shall be sited and operated so that it does not interfere with television, internet services, telephone, microwave,

satellite (dish) or navigational or radio reception to neighboring areas. The Permit Holder shall be responsible for the full costs 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.

- h. Blasting. The Permit Holder shall not undertake any blasting in connection with the construction of the system unless it complies with applicable Columbia County Ordinances and it shall have notified the Town and submitted a blasting plan consistent with all applicable laws and regulations. The blasting plan is to be reviewed and approved by the Town Board before any blasting may take place. The plan shall provide, at a minimum, a) all blasts must comply with the State ground vibration limitations; b) flyrock traveling in the air or along the ground must remain in the controlled blasting area site owned or controlled by the Permit Holder; c) all blasting must be performed by or under the direct supervision of a State licensed blaster; d) a blasting log for each blast will be kept on-site at the Permit Holder's office for not less than 5 years and copies of the required blasting log shall be promptly submitted to the Town upon its request; e) a resident call list must be established for the purpose of notifying neighbors at homes in the vicinity of the wind energy system 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 system who asked to be notified prior to any blast, and f) the storage of explosives will be accordance with all applicable rules and regulations.
- i. Shadow Flicker. The Applicant shall prepare a detailed shadow flicker assessment module and plan. Wind turbines shall be sited to minimize the adverse effects of shadow flicker in the area affected by the turbines. Problem zones will be identified and measures to mitigate the problems shall be described in the plan and implemented. The wind energy system shall be operated in a manner that does not cause more than thirty (30) hours per year of shadow flicker at a non-participating residence or occupied community building. If such residence or community building experiences more than thirty (30) hours per year of shadow flicker under the wind energy system's normal operating condition, then the operation of the system shall be curtailed to comply with this limitation. In addition, as provided under PSC 128.15, if the non-participating residence or occupied community building experienced twenty (20) or

more hours per year of shadow flicker, the operator of the system shall provide mitigation at its expense.

- j. Groundwater Protection. The Permit Holder shall operate the wind energy system so as not to cause groundwater contamination in violation of applicable law. Nothing contained in the permit is intended to authorize any degradation of the quantity or quality of the groundwater in connection with the system. Further, no wells may be drilled within 1.1 times the height of the wind energy system tower or the safe clearance, whichever is greater. In addition, the Applicant shall complete a plan for managing surface water runoff to prevent pollution of groundwater through sinkholes and infiltration through the soil and underlying bedrock in the vicinity of each wind turbine site.
- k. Hazardous Waste. As part of the construction or operation of the wind energy system, upon request, the Permit Holder shall provide the Town with a report covering hazardous waste that will be present on the properties that are part of the wind energy system. The Permit Holder 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 wind energy project.
- l. Road Impact Requirements.
 - 1. The Applicant shall provide a road use plan containing the following information and meeting the following requirements:
 - a. A description and map of all public roads in the Town to be used in connection with the construction of the wind energy system, including a description of how such roads will be used in connection with the construction of the system.
 - b. A description of the type and length of vehicles and type, weight and length of loads to be conveyed on all public roads in the Town.
 - c. An assessment of the proposed use of roads in the Town in connection with the construction of wind energy system, including the adequacy of turning radii; the ability of the roads to sustain loads without

damage; the need to remove (permanently or temporarily) signs, trees, utilities or anything else; any reasonably foreseeable costs the Town may incur in connection with the Permit Holder's use of roads in the Town, relating to the wind energy system, including but not limited to costs relating to traffic control, public safety or damage to roads or property.

- d. A traffic control and safety plan relating to the use of roads in the Town in connection with the wind energy system.
 - e. Any additional information the Town may request relating to the use of roads in connection with the wind energy system.
2. The Town shall evaluate and require changes to the plan it deems appropriate to protect public safety, to protect Town roads, and to address anticipated costs to the Town associated with Permit Holder's use of roads in the Town.
 3. The Town may require the Permit Holder to enter into an agreement relating to the use of roads in the Town. The Town may require the Permit Holder to provide a deposit or letter of credit in an amount the Town determines appropriate to secure any obligations under that agreement, including but not limited to any obligation relating to alterations or improvements to roads needed in connection with Permit Holder's use of roads in the Town, and the reimbursement of the Town for any costs the road use assessment indicates the Town may incur in connection with the Permit Holder's use of the roads in the Town relating to the wind energy system.

m. Stray Voltage Requirement.

1. The Applicant shall prepare and submit a stray voltage analysis. It shall conduct and include a report of a preconstruction stray voltage test on all livestock facilities located within a one-mile radius of the parcels to be covered by its wind energy facilities. The tests shall be performed by a Wisconsin certified stray voltage investigator approved by the Town. The tests shall be performed according to PSCW Phase II Stray Voltage Testing Protocol. A report of the tests shall be provided prior to the issuance of the permit and shall be provided to the owners of

all property included in the study area. It shall seek written permission from property owners prior to conducting testing on such owner's property. The Permit Holder shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing.

2. Following construction of the system, the Permit Holder shall then conduct a similar stray voltage test on all livestock facilities located within a one-mile radius of its wind energy facilities. A report of the tests shall be provided to the Town and to the owners of all property included in the study area. Permit Holder shall seek written permission from property owners prior to conducting testing on private property. Permit Holder shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing. Permit Holder shall take those steps necessary to mitigate any increase in stray voltage disclosed through that testing.

7. Decommissioning and Site Restoration Plan Requirements. An application for a permit shall include a decommissioning and site restoration plan containing the information and meeting the requirements in this Ordinance.

a. Decommissioning.

The plan shall provide for the decommissioning of the site upon the expiration or revocation of the permit, or upon the abandonment of the system.

b. Site Restoration.

The plan shall provide for the removal from the parcels that are part of the wind energy system, and lawful disposal or disposition of, all wind turbines and other structures, hazardous materials, electrical facilities and shall provide for the restoration of the surface of those areas.

c. Financial Security.

The plan shall also include financial assurances relating to the permit holder's ability to fund the decommissioning, as provided under PSC 128

8. Construction, Operation and Maintenance. The wind energy system shall be constructed, operated, and maintained in accordance with this Ordinance, the permit, the permitting agreement and the plans approved by the Town. Where a standard or requirement is not

otherwise provided, the Permit Holder shall comply with accepted industry standards.

- 9. Amendments and Changes.** The Permit Holder may apply to the Town for changes to a permit. The application shall describe the requested change or changes. The Town Board shall review the application and determine what provisions of this Ordinance will apply to that application. The application will then be processed in accordance with all provisions of this Ordinance deemed applicable by the Town Board. The provisions relating to the reimbursement of fees and costs shall apply to any application for an amendment/change.
- 10. Violations.** It shall be unlawful to construct or operate within the Town any wind energy system, or part thereof, in violation of any provision of this Ordinance, the permit or the Permitting Agreement. Any person or entity that violates or fails to comply with any provision of this Ordinance, the permit issued under this Ordinance or the Permitting Agreement, shall, upon conviction thereof, be subject to forfeiture of not less than \$500 per violation nor more than \$5,000 per violation and/or be subject to injunctive relief. Each day a violation exists is a separate violation. In addition, any person or entity who violates this Ordinance shall pay court costs and reasonable attorney's fees associated with the forfeiture and for any action for injunctive relief sought by the Town. The remedies provided herein shall not be exclusive of other remedies.
- 11. Complaints and Modification, Suspension or Revocation.** The Town Board shall retain continuing jurisdiction to modify, suspend or revoke any permits in accordance with this Ordinance. Such authority shall be in addition to the Town's authority to prosecute violations and take other enforcement action.


 - a. In this Ordinance, "violation" means a violation of this Ordinance or a violation of a permit issued under this ordinance, or a violation of a Permitting Agreement entered into under this Ordinance.
 - b. If a complaint is filed alleging a violation, the Town Plan Commission shall preliminarily review the complaint. In connection with its review, the Town Plan Commission may require the Town building inspector, engineer, attorney or other person or persons to conduct such investigations and make such reports as the Town Plan Commission may direct. The Town Plan Commission may request information from the holder of a permit, the complainant, and/or other persons or entities.

- c. Following its preliminary review, the Town Plan Commission shall submit its report and recommendations to the Town Board. The Town Board may then:
1. Take no action if it concludes there is insignificant basis to take further action on the complaint.
 2. Refer the complaint to the Town attorney for prosecution; or
 3. Conduct a hearing to determine whether the alleged violation(s) have occurred, and what remedial action should be taken. Prior to such hearing, notice of the hearing shall be given to the Permit Holder and in accordance with the Open Meeting Law. The Permit Holder and the complainant, and any other person, may appear at the hearing and may offer testimony and other relevant evidence, and may be represented by any attorney. If the Town Board concludes that violations have occurred, the Town Board may:
 - a. Impose conditions on the Permit Holder to the extent reasonably necessary to discontinue the violation(s) or avoid any recurrence thereof; or
 - b. Suspend the permit until such time as the Permit Holder presents a plan, satisfactory to the Town Board, that will remedy the violation(s), and prevent any recurrence thereof; or
 - c. Modify the permit if the Town Board concludes that action is necessary to address the violation(s) and/or prevent recurrent violations.
 - d. Revoke the permit if there have been recurring violations and no other remedy previously imposed has successfully prevented continuing violations; or
 - e. Refer the matter to the Town attorney for prosecution; or
 - f. Take no action, if the Town Board concludes that no further action is needed to remedy the violation or prevent recurrence of the violation, and that prosecution is unwarranted.

4. Following any such hearing, the Town Board's written decision shall be furnished to the Permit Holder and to the complainant.
- d. Appeal. An appeal from a decision of the Town Board shall be by certiorari review, which shall be commenced within 30 days after the written decision of the Town Board.
12. **Severability**. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or part thereof. The Town Board hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase or part thereof even if any one or more sections, subsections, sentences, clauses, phrases or parts thereof may be declared invalid or unconstitutional.
13. **Effective Date**. This Ordinance shall be effective upon passage and posting and publication, as provided by law.

Dated this 25th day of October, 2025.

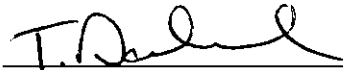
By the Town Board of the Town of Hampden,
Columbia County, Wisconsin.



David Tuschen, Chairperson



William Hoffman, Board Member



Taylor Dahl, Board Member

Attest:



Nanette Hensen, Town Clerk