CHAPTER 12

LICENSES AND PERMITS

12.01 GENERAL PROVISIONS. (1) LICENSES OR PERMITS REQUIRED. No person shall engage in any trade, profession, business or privilege in the Town for which a license or permit is required by any provision of this chapter without first obtaining such license or permit from the Town in the manner provided in this chapter, unless otherwise specifically provided.

(2)APPLICATION. Unless otherwise provided, application for a license or permit shall be made in writing to the Town Clerk upon forms provided by the Clerk and the applicant shall state the location of the proposed activity and such other facts as may be required for or be applicable to the granting of such license or permit.

(3)PAYMENT OF FEE. The fees for any license or permit shall be paid at the office of the Town Clerk with the application for such license or permit, except that alcohol beverage license fees shall be paid not less than 15 days prior to the issuance of the license.

(4)FORM. Licenses and permits shall show the name of the licensee or permittee, the date of issue, the activity licensed and the term of the license or permit, and shall be signed in the name of the Town by the Town Clerk. The Clerk shall keep a record of all licenses and permits issued.

(5)LICENSE AND PERMIT TERM. (a) Unless otherwise provided, the term of the license year shall end on June 30 of each year.

(b)When the issuance of a license for a period of less than one year is permitted, the effective date of such license shall commence with the date of issuance.

(c)Permits shall be issued for the term set forth in the permit.

(6)EXHIBITION OF LICENSES OR PERMITS. Every licensee or permittee shall carry his license or permit upon his person at all times when engaged in the activity for which the license or permit was granted, except that where such activity is conducted at a fixed place or establishment, the license or permit shall he exhibited at all times in some conspicuous place in his place of business. The licensee or permittee shall exhibit the license or permit when applying for a renewal and upon demand of any police officer or person representing the issuing authority.

(7)TRANSFER. Unless otherwise provided, no license or permit shall be transferable or assignable.

(8)RENEWAL. Unless otherwise provided, license or permit renewals shall be issued in the same manner and be subject to the same conditions as the original license or permit.

(9)SUSPENSION AND REVOCATION OF LICENSES AND PERMITS. Except as otherwise specifically provided, any license or permit granted under this chapter may be suspended or revoked by the Town Board for cause after giving the licensee or permittee an opportunity to be heard, as provided by law. Cause may include the following:

(a)Fraud, misrepresentation or incorrect statement contained in the application or made in carrying on the licensed or permitted activity.

(b)Conviction of any crime or misdemeanor, subject to §111.32(5)(a) and (h), Wis. Stats.

(c)Conducting such activity in such manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public, or a disturbance of the peace or comfort of residents of the Town upon recommendation of the appropriate Town official.

(d)Expiration or cancellation of any required bond or insurance.

(e)Actions unauthorized or beyond the scope of the license or permit granted.

(f)Violation of any regulation or provision of this Code applicable to the activity for which the license or permit has been granted, or any regulation or law of the State so applicable.

(g)Failure to continuously comply with all conditions required as precedent to the approval of the license or permit.

(h)Being delinquent in payment of any taxes, assessments or other claims owed to the Town, or being delinquent in payment of a forfeiture resulting from a violation of any section of this Code.

12.02 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES. (1) STATE STATUTES ADOPTED. The provisions of Ch. 125, Wis. Stats., relating to the sale of intoxicating liquor and fermented malt beverages, except §§125.03, 125.075, 125.14(4), 125.15, 125.16, 125.19, 125.20, 125.29, 125.30, 125.33, 125.52, 125.53, 125.54, 125.55, 125.56,
125.58, 125.59, 125.60, 125.61, 125.62, 125.65, 125.67 and 125.69, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said Statutes, are hereby adopted and made a part of this section by reference. A violation of any such provision, or future amendments thereto, shall constitute a violation of this section.

(2)DEFIINITIONS. As used in this section, the following definitions apply:

(a)*Legal Drinking Age.* Twenty one years of age.

(b)*Underage Person.* A person who has not attained the legal drinking age.

(3)LICENSE APPLICATION. Application for a license to sell or deal in alcohol beverages shall be made in writing on the form prescribed by §125.04(3), Wis. Stats., and shall be filed together with the cost of publication as provided by §l25.O4(3)(g)6., Wis. Stats., with the Town Clerk not less than 15 days prior to the granting of the license. However, applications for licenses to be issued under §§125.26(6) and l25.5l(4m), Wis. Stats., shall be filed with the Clerk not less than 3 days prior to the granting of the license. Further, as a condition of granting a liquor license or an operator's license, the applicant shall permit the Town to secure from the County Sheriffs Department and the Wisconsin Crime Information Bureau a record check of the applicant. No license shall be issued until the fee has been paid.

(4)APPLICATION INVESTIGATION The Town Clerk shall notify the Town Board of each new license and permit application and the Board shall review such application and inspect, or cause to be inspected, the premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. No license or permit provided for in this section shall be issued without the approval of a majority of the Town Board.

(5)LICENSE FEES. The fees for issuance of fermented malt beverage and intoxicating liquor licenses are included in the Town Fee Schedule on file in the office of the Town Clerk.

(a)*Class "B" Fermented Malt Beverage License.* See §125.26, Wis. Stats.

(b)*Temporary Class "B" License.* 1. Picnic License, Beer. Issued to organizations enumerated in §125.26(6), Wis. Stats., to sell or serve fermented malt beverages at a picnic, meeting or gathering.

2.Picnic License, Wine. No fee shall be charged in the event a license under subpar. 1. above is simultaneously issued. Issued to organizations enumerated in §125.32(5)(a)7., Wis. Stats., to sell or serve wine at a picnic, meeting or gathering. See also §125.51(10), Wis. Stats.

3.Annual Quota. No more than 2 licenses shall be issued to any one organization in any 12 months period.

(c)*"Class B" Intoxicating Liquor License.* See §125.51(3)(e), Wis. Stats.

1.A license may be issued after July 1 in any license year. The license shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fraction thereof remaining until the following June 30.

2.Licenses valid for 6 months may be issued at any time. The fee for the license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which it is issued.

(d)*Reserve "Class B" Intoxicating Liquor License.* 1. License Fee. $10,000 for the initial license plus regular "Class B" license fee, except that bona fide clubs and lodges are exempt from the initial issuance fee. See §125.51, Wis. Stats.

2.Exception. See §125.51(3)3., Wis. Stats.

(e)*Wholesalers Fermented Malt Beverage License*. See §125.51(2), Wis. Stats.

(f)Operator 's License. No new operator's license shall be granted unless the applicant has successfully completed a State certified responsible beverage server training course or is otherwise exempt from such requirement under §125.1 7(6)(a), Wis. Stats. The Town Clerk- may issue a provisional operator's license to a person who is enrolled in said training course and shall revoke such license if the applicant fails to successfully complete the course. Operator's licenses shall be issued to any applicant qualified under §125.04(5), Wis. Stats.

(g)*Provisional Operator's License.* See §125.17(5), Wis. Stats.

(h)*Provisional Retail Alcohol Beverage License.* See §125.195, Wis. Stats

(i)*Transfer of License.* See §125.04(12), Wis. Stats.

(6)OPERATOR'S LICENSE. All applications for an operator's license, together with the fee, shall be filed in the office of the Town Clerk on or before May 31 of the year the license expires, provided that nothing shall prevent the Town Board from granting any license which is applied for at least *5* working days before a Town Board meeting at any other time.

(a) TEMPORARY OPERATOR LICENSE (cr. Ord 2012-04)

1. A temporary operator license may be issued only to operators employed by or donating their services to, nonprofit organizations, (§125.17(4). Wis. Stats.)

2. No person may hold more than one license of this kind per year

3. License is valid for any period from one to 14 days, and the periods for which it is valid shall be stated on the license.

(7)LICENSE REQUIRED. No person shall vend, sell, deal or traffic in, or, for the purpose of evading any law or ordinance, give away any liquor or fermented malt beverages, or cause the same to be done, without having procured a license as provided in this section nor without complying with all provisions of this section, and all Statutes, ordinances and regulations applicable thereto. Pursuant to §125.04(9), Wis. Stats., a separate license or permit is required for each location or premises.

(8)QUALIFICATIONS FOR LICENSES AND PERMITS. (a) *Natural Persons.* Licenses related to alcohol beverages, issued to natural person under this section, may be issued only to persons who:

1.Do not have an arrest or conviction record, subject to §§111.321 111.322, 111.335 and 125.12(l)(b), Wis. Stats.

2.Have been residents of this State continuously for at least 90 days prior to the date of filing the application for license.

3.Have attained the legal drinking age, except that operators' licenses may be issued to any person who has attained the age of 18.

4.Have submitted proof of having a seller's permit under §77.61(11), Wis. Stats.

5.Have successfully completed within the 2 years prior to the date of application a responsible beverage server training course as provided in §125.04(5)(a)5., Wis. Stats., unless the applicant held, within the past 2 years, a "Class A" license or a Class "B" or "Class B" license or permit or a manager's or operator's license.

(b)*Criminal Offenders.* No license or permit related to alcohol beverages may, subject to §111.321, 111.322 and 111.335, Wis. Stats., be issued under this section to any natural person who has been convicted of a felony unless the person has been duly pardoned.

(c)*Corporations.* No license or permit may be issued to any corporation unless the agent of the corporation appointed under §125.04(6), Wis. Stats., and the officers and directors of the corporation meet the qualifications of pars. (a) 1. and 3. and (b) above, except that par. (a)2. does not apply to agents.

(9)“CLASS B” LIQUOR LICENSE QUOTAS. The number of “Class B” liquor licenses to be issued hereunder is limited to the number permitted under §125.51(4), Wis. Stats.

(10)LICENSE CONDITIONS AND RESTRICTIONS. In addition to the conditions and restrictions imposed by State law on the granting of Class B fermented malt beverage licenses and intoxicating liquor licenses hereunder, the following conditions and restrictions shall apply:

(a)*Consent to Inspection of Premises.* It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by the Town Board without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. If such inspection is denied, such denial shall be deemed a violation of this section.

(b)*Violation by Agents or Employes.* A violation of this section by a duly authorized agent or employe of a licensee shall constitute a violation of the licensee.

(c)*Sales to Underage Persons Restricted.* No alcohol beverage shall be sold, dispensed, given away or furnished to any underage person unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(d)*Sales by Clubs.* No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

(e)*Transfer of License.* No license shall be transferable from person to person except as provided in §125.04(12)(b), Wis. Stats., or from place to place, except as provided in §125.04(12)(a), Wis. Stats.

(f)*Location of Premises Restricted.* No retail Class B license shall be issued for premises, the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises. This paragraph shall not apply to premises so licensed on June 30, 1947.

(g)*Safety and Health Requirements.* No retail Class B license shall be issued unless the premises to be licensed conform to the sanitary, safety and health requirements of the State Building Code, the State Plumbing Code and the rules and regulations of the State Department of Health and Social Services applicable to restaurants, and also shall conform to all ordinances and regulations of the Town.

(h)*Operator on Duty Required.* The licensee, a member of his immediate family or a licensed operator must be present at all times in the immediate area open to the public where alcohol beverages are being served.

(i)*Disorderly Conduct and Gambling Prohibited.* Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on any licensed premises.

(j)*Posting of Licenses Required.* Licenses or permits issued under this section shall be posted and displayed as provided in §125.04(10), Wis. Stats., and any licensee or permittee who shall fail to post his license or permit as therein required shall be presumed to be operating without a license.

(k)*Live Music and Dancing.* Dancing and live music shall be permitted in any premises holding a “Class B” liquor license, provided that such dancing and music is limited to the building only and does not constitute a nuisance in the neighborhood.

(11)NUDE DANCING IN LICENSED ESTABLISHMENTS. (a) *Intent.* The Town Board intends that the enforcement of this subsection shall be used primarily to combat the secondary effects that tend to follow unregulated live, totally nude, non-obscene erotic dancing in bars and taverns such as prostitution, sexual assault and other criminal activity, and shall never be used for harassment or censorship purposes against materials or performances having serious artistic, literary, political, educational or scientific value. The Town Board further intends that the enforcement of this subsection shall be consistent with the first amendment to the United States Constitution; Article I, Section 3 of the Wisconsin Constitution; and the compelling State interest in protection of the free flow of ideas.

(b)*Prohibited.* It is unlawful for any person to perform or engage in or for any licensee or manager or agent of the licensee to permit any person, employe, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

1.Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a full opaque covering; or

2.Shows any portion of the female breast below a point immediately above the top of the areola; or

3.Shows the covered male genitals in a discernibly turgid state.

(c)*Exemptions.* The provisions of this subsection do not apply to theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employes engaging in nude erotic dancing.

(d)*Definitions.* For purposes of this subsection:

1.Licensed Establishment. Any establishment licensed by the Town to sell alcohol beverages pursuant to Ch. 125, Wis. Stats.

2.Licensee. The holder of a retail “Class A” or “Class B” license granted by the Town pursuant to Ch. 125, Wis. Stats.

(e)*Penalties.* Any person who violates any of the provisions of this subsection shall be subject to a forfeiture as provided in sec. 25.04 of this Code. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this subsection constitutes sufficient grounds for suspending, revoking or nonrenewing an alcohol beverage license under §125.12, Wis. Stats.

(12)CLOSING HOURS. No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages, as follows:

(a)*Wholesale License.* Between 5:00 P.M. and 8:00 A.M., except Saturdays when the closing hour shall be 9:00 P.M.

(b)*Retail Class B License.* No premises shall be open for the sale of intoxicating liquor or fermented malt beverage between the hours of 2:00 A.M. to 6:00 A.M., except on Saturday and Sunday the closing hour shall be 2:30 A.M.; on January 1 there are no closing hours.

(c)*Hotels and Restaurants.* Hotels and restaurants, the principal business of which is the furnishing of food and/or lodging to patrons, shall be permitted to remain open after closing hours for the conduct of regular business, but shall not sell intoxicating liquors or malt beverages during the closing hours
stated in par. (b) above.

(d)*Presence on Premises After Closing Hour Restricted.* 1. Any person who is not an employe of the licensee who remains on the premises after the designated closing hour is subject to the penalties as provided in this chapter.

2.Any person, while on the premises after closing hours, must be actively engaged in bona fide business activities and may not consume alcohol beverages.

(13)SALE OF CLASS B PACKAGED GOODS. (a) *Sale Restrictions.* Pursuant to §125.51(3)(b), Wis. Stats., no person may sell intoxicating liquor in an original unopened package, container or bottle for consumption away from the premises in excess of 4 liters at any one time on any premises for which any "Class B" intoxicating liquor license or combination Class B alcohol beverage license has been issued. However, packaged goods sales of fermented malt beverages and wine from such premises may be made in any quantity.

(b)*Hours of Sale.* Between the hours of 12:00 midnight and 8:00 A.M., no person may sell any packaged goods from any Class B licensed premises.

(14)UNDERAGE PERSON; PRESENCE IN PLACES OF SALE. (a) *Restrictions.* Pursuant to §125.07(3), Wis. Stats., an underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his employe. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises.

(b)Exceptions. Paragraph (a) above shall not apply to:

1.An underage person who is a resident, employe, lodger or boarder on the licensed premises.

2.Licensed restaurants where the principal business is that of a restaurant.

3.A person who is at least 18 years of age and who is working under a contract with the licensee to provide entertainment for customers on the premises.

4.An underage person who enters on Class “B” or “Class B” premises on dates specified by the licensee when no alcohol beverages will be consumed, sold or given away. The licensee shall notify the Town Clerk of such specified dates; unless all alcohol beverages are stored in a locked portion of the premises, the licensee or a licensed operator must be on the premises at all times.

(15)UNDERAGE PERSON; CONSUMPTION AND POSSESSION OF ALCOHOL BEVERAGES. (a) *Restrictions.* Pursuant to §125.07(4)(b) and (bm), Wis. Stats., any underage person not accompanied by a parent, guardian or spouse who has attained the legal drinking age may not knowingly possess or consume alcohol beverages.

(b)*Exceptions.* An underage person may possess alcohol beverages if employed by any of the following:

1. A brewer.

2.A fermented malt beverages wholesaler.

3.A permittee other than a Class “B” or “Class B” permittee.

4.A facility for the production of alcohol fuel.

5.A retail licensee or permittee under the conditions specified in §§125.32(2) or 125.68(2), Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer.

(c)*Selling or Serving Alcohol Beverages.* Pursuant to §§125.32(2) and 125.68(2), Wis. Stats., any underage person who is at least 18 years of age may sell or serve alcohol beverages on any Class B premises, provided that such underage person is a licensed operator or is under the immediate supervision of the licensee, agent or manager, or a licensed operator, who is on the premises at the time of such sale or service.

(16)REVOCATION AND SUSPENSION OF LICENSES. (a) *Procedure.* Except as hereinafter provided, the provisions of §125.12(2) and (3), Wis. Stats., shall be applicable to proceedings for revocation or suspension of licenses or permits granted under this section. Revocation or suspension proceedings may be initiated upon written complaint by the Town Chairperson or by the Town Board upon its own motion.

(b)*Repossession of License or Permit.* Whenever any license or permit shall be revoked or suspended pursuant to this subsection, the Town Clerk shall notify the licensee or permittee and the Town Constable of such revocation or suspension and the Constable shall take physical possession of the license or permit wherever it may be found and file it in the office of the Clerk.

(c)*Effect of Revocation of License.* No license shall be issued for any premises if a license covering such premises has been revoked within 6 months prior to application. No license shall be issued to any person who has had a license issued pursuant to this section revoked within 12 months prior to application.

12.03 CIGARETTE RETAILER LICENSE. (1) REQUIRED. No person shall sell cigarettes in the Town without first obtaining a license from the Town Clerk. The provisions of §134.65, Wis. Stats., are hereby adopted and made a part of this section by reference.

(2)LICENSE FEE. See the Town Fee Schedule on file in the office of the Town Clerk.

12.04 COIN OPERATED MACHINES. (1) DEFINITION. A coin operated machine is any machine activated by the insertion of a coin or coins and designed for amusement of the person operating the device or the sale of certain products, including, but not limited to, jukeboxes; video and pinball machines; pool, shuffleboard and similar games; and cigarette, newspaper, food and beverage vending machines.

(2)LICENSE REQUIRED. No person shall install, lease or set up any coin operated machine for use on any premises in the Town without first obtaining a license from the Town Clerk.

(3)APPLICATION. (a) Application for a license hereunder shall be made to the Town Clerk on a form furnished by the Clerk. The following information shall be required:

1.The applicant's name.

2.Type, brand and general description of all machines.

3.Identifying numbers of all machines.

4.Location of machines.

(b)The applicant shall consent in such application to reasonable inspection of his devices to determine ownership and character of the device.

(4)FEE. See the Town Fee Schedule on file in the office of the Town Clerk.

(5)POSTING OF LICENSES. All licenses for coin operated machines shall be attached in plain view upon the respective licensed devices.

(6)PRIZES AND GAMBLING PROHIBITED. No person shall offer, make, give or award any prize, money or coin to any person through or by reason of the use or operation of a coin operated machine. No licensee shall permit his coin operated devices to be used for gambling purposes.

12.05 PEDDLERS, CANVASSERS, SOLICITORS AND TRANSIENT MERCHANTS. (1) DEFINITIONS. (a) *Peddler.* A person who goes from place to place within the Town offering for sale property which he carries with him. It includes vendors who distribute their products to regular customers on established routes.

(b)*Canvasser or Solicitor.* A person who goes from place to place within the Town soliciting orders for the future delivery of property or for services to be performed in the future. It does not include any person who occupies any place within the Town for the purpose of exhibiting samples and taking orders for future delivery.

(c)*Transient Merchant.* A person who engages, at a fixed location in the Town, in the temporary business of selling property at such location. It does not include a person who does not sell from stock, but exhibits samples for the purpose of securing orders for future delivery only. It includes a person who associates temporarily with any local business or conducts business in the name of a local merchant, dealer or auctioneer.

(2)LICENSE REQUIRED. Except as provided by sub. (3) below, no person shall conduct any of the activities enumerated in sub. (1) above without a license therefor, as provided by this section.

(3)EXEMPTIONS. No license shall be required hereunder of the following:

(a)Persons selling personal property at wholesale to dealers in such articles.

(b)Newsboys.

(c)Children under 18 years of age who are residents of the Town.

(d)Merchants or their employes delivering goods in the regular course of business.

(e)Farmers or truck gardeners offering to sell the products of the farm or garden occupied and cultivated by them.

(f)A veteran holding a special State license under §440.51, Wis. Stats., but he shall comply with subs. (7) through (11) below.

(g)Any person soliciting for charitable, religious, patriotic or philanthropic purposes where the proceeds thereof are devoted solely to the purposes of the organization, but shall comply with subs. (8), (10) and (11) below.

(h)Sales required by statutes or order of a court.

(i)Bona fide auction sales conducted pursuant to law.

(4)INVESTIGATION FEE. At the time of filing his application, the applicant shall pay to the Town Clerk $5 to cover the cost of investigation of the facts stated in the application.

(5)INVESTIGATION. The Chief of Police shall cause the applicant and the facts stated in the application to be investigated and shall, within 5 days, return the application to the Town Clerk with his endorsement approving or disapproving the application.

(6)BOND. (a) *When Required.* Every applicant who is not a resident of Washington County or who represents a firm whose principal place of business is located outside of the State shall file with the Town Clerk a surety bond in the amount of $500, approved by the Town Chairperson, conditioned that the applicant will comply with all provisions of the ordinances of the Town and State laws regulating peddlers, canvassers, solicitors and transient merchants, and guaranteeing to any person doing business with the licensee that all money paid as a down payment will be accounted for and applied according to the representations of the licensee; and further guaranteeing that property purchased for future delivery will be delivered according to the representations of the licensee.

(b)*Action on Bond.* Action on such bond may be brought by any person aggrieved.

(7)EXCESSIVE NOISE PROHIBITED. No person licensed hereunder shall, in hawking his wares, create any noise annoying to a person of ordinary sensibilities.

(8)USE OF STREETS. No licensee shall use the public streets or sidewalks for purposes of sales in such a manner as to impede or inconvenience the public use of the streets or sidewalks.

(9)DISPLAY OF LICENSE. Any person licensed hereunder shall carry his license with him while engaged in licensed activities and shall, upon request, display such license to any officer of the Town or any person with whom he seeks to do business.

(10)HOURS RESTRICTED. No person licensed hereunder shall call at any residence or other place between 9:00 P.M. and 9:00 A.M., except by appointment.

(11)PROHIBITED PRACTICES. No licensee shall:

(a)Call at any place where a sign is displayed bearing the words “No Peddlers,” “No Solicitors” or words of similar meaning.

(b)Remain on the premises after being requested to leave by the owner, occupant or person in authority.

12.06 JUNK DEALERS. (1) LICENSE REQUIRED. No person shall engage in the business of buying, selling, gathering, delivering or storing old iron, brass, copper or other base metals, paper, rags or glass, any recyclable material unless no value is given therefor, and all articles and things discarded as manufactured articles commonly referred to as “junk,” without first obtaining a license from the Town Board. No Town license shall be issued until the applicant has obtained a State Salvage Dealers License under §218.205, Wis. Stats.

(2)EXCEPTION. No license shall be required for the storage of wrecked motor vehicles stored within service garages and filling stations or on any service garage or filling station site, as provided in sec. 10.06 of this Code.

(3)APPLICATION. Applications for such license shall be made on forms supplied by the Town Clerk and filed with the Clerk.

(4)LICENSE FEE. See the Town Fee Schedule on file in the office of the Town Clerk.

(5)REFERRAL TO TOWN BOARD. The application shall be referred to the Town Board which may grant, grant with conditions, or deny the license.

(6)RESTRICTIONS APPLICABLE TO JUNK DEALERS. (a) No junk shall be displayed or stored outside the fenced area of the premises.

(b)(Rep. Ord. #1-06)

(c)No licensee shall conduct his business in such manner as to disturb unduly the peace and quiet of the neighborhood. The premises shall at all times be kept in a clean and wholesome condition and in full compliance with this section and in accordance with the reasonable rules, regulations and directions of the Town Board.

(d)(Am. Ord. #1-06) No more than 15 junked cars shall be stored at any one time unless a greater number is permitted through a conditional use permit issued by the Town for the zoning district in which the salvage or junk yard is located or the operation is a legal nonconforming use under ch. 17 of this Code.

(e)Effective means for the elimination of the rodents and vermin commonly infesting junk yards shall be administered by all licensees hereunder.

(f)Every license hereunder shall comply with all applicable provisions of this Code and all applicable State and Federal laws and regulations.

(g)Every junk dealer shall keep a record of all copper, brass, guns, watches and other valuable materials purchased with the name and address of the person from whom purchased, the kind and quantity purchased, the serial number of the item purchased, and the date of the transaction. Such record shall be entered in a book which shall be open to inspection by police officers at any time.

(h)No junk shall be purchased from any person under 16 years of age without the written consent of the parent or guardian of such person.

(7)REVOCATION AND SUSPENSION OF LICENSE. (a) Upon complaint being made in writing by any official of the Town to the Town Board that any licensee hereunder has violated any of the provisions of this section, the Town Board shall cause a summons and complaint to be served upon the licensee to appear before it at the time specified in the summons, which shall be not less than 10 days after the date of the service thereof, to show cause why his license shall not be revoked or suspended. The Town Board shall thereupon proceed to hear the matter and, if it finds that the allegations of such complaint are true, may revoke or suspend the license of such person. The provisions hereunder shall not be effective unless the licensee has received a copy of the complaint from the Building Inspector and such licensee has been given a reasonable time to correct the condition complained of or to otherwise satisfy such complaint.

(b)Whenever a license is revoked, the licensee shall have a period of 45 days from the date of such revocation to liquidate his business, during which time he shall be required to comply with all the terms and conditions of this section.

(8)DEFINITION (Cr. Ord. #1-06). The terms “junk” and “junked vehicles” shall have the meaning stated in sec. 10.06 of this Code.

12.07 MOBILE HOMES AND MOBILE HOME PARKS. (1) STATE STATUTES ADOPTED BY REFERENCE. The provisions of §66.0435, Wis. Stats., and the definitions therein are hereby adopted by reference.

(2)PARKING OUTSIDE LICENSED MOBILE HOME PARKS. (a) *Restricted.* No occupied mobile home shall be permitted to be located in the Town unless the same is in a licensed mobile home park, except those mobile homes occupied outside of a mobile home park on the effective date of this section.

(b)*Exception.* Paragraph (a) above is not intended to restrict the location of one-family manufactured homes which meet the applicable one-family standards set forth in Ch. 101, Wis. Stats.

(3)PARK LICENSE REQUIRED. No person shall establish or operate upon property owned or controlled by him within the Town a mobile home park without having first secured a license therefor from the Town Board. The application for such license shall be filed with the Town Clerk and shall be accompanied by a fee of $2 for each space in the existing or proposed park, but not less than $25. Such parks shall comply with Wis. Adm. Code H77, which is hereby adopted by reference. The license transfer fee is $10.

(4)ADDITIONS TO PARKS. Licensees of mobile home parks shall furnish information to the Town Clerk and Assessor on such homes added to their parks within 5 days after their arrival on forms furnished by the Clerk.

(5)PARKING PERMIT FEES. There is imposed on each mobile home located in the Town a parking permit fee, such amount to be determined in accordance with §66.0435, Wis. Stats. The fees shall be paid to the Town Clerk, monthly, on or before the 10th day of the month for which they are due. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each mobile home therein and to remit such fees to the Clerk. Failure to do so is to be treated like a default in payment of personal property taxes and subject to all procedures and penalties applicable under Chs. 70 and 74, Wis. Stats.

(6)TEMPORARY USE. This section shall not prohibit the temporary use of any mobile home or recreational vehicle by the personal guests of the owner of property within the Town provided such use shall be limited to 15 days in any one calendar year. With the permission of the Town Board, the owner of property whose dwelling has been substantially damaged by fire or other accidental means may be permitted to keep a mobile home in the Town for a period of not to exceed 4 months upon payment in advance of the monthly parking permit fee required under this section.

(7)TERMINATION OF PERMISSION TO MAINTAIN MOBILE HOME. The Town Board shall have the power, after notice to the owner of any mobile home, the occupant thereof, or the owner of the land on which it is located, to require such mobile home to be removed from the Town if such mobile home has fallen into neglect, is unfit for dwelling purposes, is a detriment to the valuation of adjoining properties, or if any provision of this section has been violated.

12.08 REGULATION AND LICENSING OF DOGS. (1) DOG LICENSE REQUIRED. It shall be unlawful for any person in the Town to own, harbor or keep any dog more than 5 months of age without complying with the provisions of this section and §§174.05 through 174.10, Wis. Stats., relating to the listing, licensing and tagging of same.

(2)LICENSE FEES. See the Town Fee Schedule on file in the office of the Town Clerk.
(3)LATE FEES. The Town Treasurer shall assess and collect a late fee from every owner of a dog 5 months of age or older if the owner failed to obtain a license prior to April 1 of each year or within 30 days of acquiring ownership of a licensable dog, or if the owner failed to obtain a license before the dog reached licensable age.

(4)CHANGE OF OWNERSHIP. If there is a change in ownership of a licensed dog or kennel during the license year, the new owner may have the current license transferred to his name upon the payment of a transfer fee as designated on the Town Fee Schedule on file in the office of the Town Clerk.

(5)TRANSFER PROHIBITED. No person shall use for any animal a license receipt or license tag issued for another animal.

(6)KENNEL LICENSE OPTION. The owners of kennels may opt to pay a kennel license fee of $50 for a kennel of 12 dogs or less plus $3 for each dog in excess of 12 in lieu of the fees provided in sub. (2) above and the Town Treasurer shall issue tags for each dog owned by the kennel owners. No kennel may be located in a residential area. A conditional use permit is required for a kennel, see section 17.17(4).

(7)RABIES VACCINATION REQUIRED. It shall be unlawful for any person to keep a dog in the Town which is over 5 months of age and has not received a rabies vaccination as required by §95.21(2), Wis. Stats. No dog license shall be issued until a certificate of rabies vaccination issued by a veterinarian has been presented. A rabies vaccination tag shall be attached to the collar of all licensed dogs at all times, except as provided in §95.21(2)(f), Wis. Stats.

(8)DEFINITIONS. In this section, unless the context of subject matter otherwise require, the terms used shall be defined as follows:

(a)*Owner.* Any person owning, harboring or keeping a dog and the occupant of any premises on which the dog remains or to which it customarily returns daily for a period of 10 days is presumed to be harboring or keeping the dog within the meaning of this section.

(b)*At Large.* A dog which is off the premises of the owner and not under the control of some person either by leash or otherwise, but an animal within an automobile of any other person with the consent of the animal's owner shall be deemed to be upon the owner's premises.
(c)*Kennel* Any establishment wherein dogs are kept for the purpose of breeding, sale or sporting purposes.

(9)RESTRICTIONS ON KEEPING OF DOGS. It shall be unlawful for any person within the Town to own, harbor or keep any dog which:

(a)Habitually pursues vehicles upon any street, alley or highway.

(b)Molests passersby or assaults or attacks any person without provocation.

(c)Is at large within the limits of the Town.

(d)Habitually barks or howls to the annoyance of any person or persons. This paragraph shall not apply to hospitals conducted for the treatment of small animals.

(e)Kills, wounds or worries any domestic animal.

(10)DOGS RUNNING AT LARGE AND UNTAGGED DOGS. (a) *Dogs Running at Large.* A dog is considered to be running at large if it is off the premises of its owner and not under the control of the owner or some other person, as defined in sub. (8)(b) above.

(b)*Untagged Dogs.* A dog is considered to be untagged if a valid license tag is not attached to a collar which is kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

(c)*Dogs Subject to Impoundment.* Peace officers shall attempt to capture and restrain any dog running at large and any untagged dog.

(d)*Penalties.* If the owner of a dog, negligently or otherwise, permits the dog to run at large, or permits a dog to be untagged, the owner shall forfeit $50 for the first offense and $100 for subsequent offenses.

(11)DUTY TO REPORT ANIMAL BITE. Every person, including the owner or person harboring or keeping a dog or other animal, who knows that such animal has bitten any person shall immediately report such fact to the Sheriff.

(12)QUARANTINE OR SACRIFICE OF ANIMALS SUSPECTED OF BITING A PERSON OR BEING INFECTED WITH RABIES. (a) *Quarantine or Sacrifice of Animal.* The Health Officer may order a dog or other animal quarantined if he has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the animal cannot be captured, the officer may kill the animal. The officer may kill an animal only as a last resort or if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

(b)*Quarantine Order.* If a quarantine is ordered, the owner of the dog shall be subject to the provisions of §95.21(5), (6) and (8), Wis. Stats.

(13)SETTING ANIMALS AT LARGE PROHIBITED. No person shall open any door or gate of any private premises for the purpose of setting any dog or other animal at large, except the owner of such animal.

(14)IMPOUNDING AND DISPOSITION OF DOGS. (a) *Impounding of Dogs.* A police officer or other person restraining a dog running at large shall notify the County Humane Society or take such animal to the Humane Society. The police officer shall attempt to identify the dog and notify the owner and shall keep a public record of all such dogs impounded.

(b)*Release of Dog to Owner or Representative.* The pound may release the dog to the owner or his representative if the owner or representative:

1.Gives his name and address.

2. Presents evidence that the dog is licensed and vaccinated against rabies.

3.Pays the dog's boarding fee.

(c)*Release of Dog to Person Other Than Owner.* If the owner of the dog is unknown or does not reclaim the dog within 7 days, the pound may release the dog to a person other than the owner if such person:

1.Gives his name and address.

2.Signs a statement agreeing to license the dog and have the dog vaccinated against rabies.

(15)NUMBER OF DOGS PER HOUSEHOLD LIMITED. No person, except a kennel licensee, shall own, harbor or keep more than 3 dogs that are more than 5 months of age except in a place or places where animals are impounded or restrained, as specified in this section. If a total of more than 3 dogs are owned, harbored or kept in or by any one household, the head of the household shall be deemed the person so owning, harboring or keeping such animals, notwithstanding that the dog license or licenses may be issued to other members of the household as owners of such dogs.

(16)PENALTIES. In addition to other penalties provided in this section, the following penalties are imposed:

(a)*Failure to obtain Rabies Vaccination.* A dog owner who fails to have a dog vaccinated against rabies, as provided in this section, shall, upon conviction, forfeit not less than $50 nor more than $100.

(b)*Refusal to Comply With Quarantine Order.* An owner of a dog or other animal who refuses to comply with an order issued under this section to deliver the animal to a police officer, the pound designated by the Town Board, or veterinarian, or who does not comply with the conditions of an order that the animal be quarantined, shall, upon conviction, forfeit not less than $100 nor more than $500.

12.09 KEEPING OF VICIOUS DOGS REGULATED. (1) DEFINITIONS. The terms used in this section are defined as follows:

(a)*Vicious Dog.* 1. Any dog with a propensity, tendency or disposition to attack, cause injury or otherwise endanger the safety of human beings or other domestic animals as evidenced by its habitual or repeated chasing or snapping, or barking and/or snarling in a threatening manner.

2.Any dog which attacks a human being or another domestic animal without provocation.

3.Any dog owned or harbored primarily or in part for the purpose of dog-fighting, or any dog trained for dog-fighting.

4.Any pit bull dog.

(b)Pit Bull Dog.

1.The pit bull terrier breed of dog.

2.The Staffordshire bull terrier breed of dog.

3.The American pit bull terrier breed of dog.

4.The American Staffordshire terrier breed of dog.

5.Dogs of mixed breed or of other breeds than listed under subpars. 1. to 4. above whose breed or mixed breed is commonly known as pit bull, pit bull dog or pit bull terrier.

(2)REQUIREMENTS AND PROHIBITIONS. (a) *Leash and Muzzle.* No person owning, harboring or having the care of a vicious dog may suffer or permit such dog to go outside its kennel or pen unless the dog is securely leashed with a leash no longer than 4 feet in length. No person may permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. The dog may not be leashed to inanimate objects such as trees, posts and buildings. A vicious dog on a leash outside the dog's kennel shall be muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals. A vicious dog shall not be required to be muzzled when shown either in a sanctioned American Kennel Club show or upon prior approval of the Town Board.

(b)*Confinement.* All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in par. (a) above. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a vicious dog shall be locked with a key or combination lock when the dog is within the structure. The structure shall have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than 2 feet. All structures erected to house vicious dogs shall comply with all zoning and building regulations of the Town. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

(c)*Confinement Indoors.* No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the building on its volition. No vicious dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(d)*Prohibited in Multiple Dwellings.* No vicious dog may be kept within any portion of any multiple dwelling.

(e)*Signs.* All owners, keepers or harborers of vicious dogs shall, within 15 days of the effective date of this section, display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." A similar sign is required to be posted on the kennel or pen of the dog.

(f)*Insurance.* All owners, keepers or harborers of vicious dogs shall, within 30 days of the effective date of this section, provide proof to the Town Board of public liability insurance in a single incident amount of $50,000 for bodily injury to or death of any person or for the damage to property owned by any person which may result from the ownership, keeping or maintenance of vicious dogs. The insurance policy shall provide that no cancellation of the policy will be made unless a 10-day written notice is first given to the Town Chairperson. The owner or custodian of the dog shall produce evidence of the required insurance upon request of a law enforcement officer. This paragraph does not apply to dogs kept by law enforcement agencies.

(3)VICIOUS DOG DETERMINATION. The Town Board shall investigate every dog complaint and make a determination as to whether or not such dog is "vicious," as defined in sub. (1) above. In the event the Board makes a determination that a dog is "vicious," he shall so inform the owner, keeper or harborer of such dog and provide such person with a copy of this section.

(4)APPEAL OF VICIOUS DOG DETERMINATION. Any person aggrieved by the determination of the Town Board, as provided in sub. (3) above, may appeal such determination with the Town Board.

(5)DISPOSITION OF VICIOUS DOGS. Any vicious dog which attacks a human being or domestic animal may be ordered destroyed by the Town Board or humane officer when, in the judgment of a court of competent jurisdiction, the dog represents a continuing threat of serious harm to human beings or domestic animals.

(6)PENALTY. Any person who violates any provision of this section shall, upon conviction, be subject to the payment of a forfeiture, as provided in sec. 25.04 of this Code. A separate offense shall be deemed committed on each day on which a violation of this section occurs or continues.

12.10 KEEPING OF WOLF-DOG HYBRIDS REGULATED. (1) DEFINITIONS. The terms used in this section are defined as follows:

(a)*Wolf-Dog Hybrid.* Any cross-breed resulting from the mating of a domesticated dog and a wolf, coyote, jackal or dingo or resulting from the mating of any wolf-dog hybrid and another wolf-dog hybrid or a domesticated dog.

(b)*Canine Animal.* Includes all members of the family canidae except foxes.

(c) *Domesticated Dog.* Canis familiaris.

(d) *Wolf.* Includes both canis lupus and canis niger.

(e) *Coyote.* Canis latrans.

(f) *Jackal.* Canis aureus.

(g) *Dingo.* Canis dingo.

(2)ENCLOSURE REQUIREMENTS. A wolf-dog hybrid may be kept only in an enclosure that meets the following minimum requirements:

(a)The enclosure shall be constructed of woven, galvanized after weaving wire, securely anchored by stainless steel or copper rings. Such enclosure shall be not less than 500 square feet in extent plus 250 square feet for each additional canine animal kept therein and shall be the location in which the animal is primarily kept.

(b)The enclosure shall extend to a height of not less than 8 feet and shall be surrounded from ground level to a height of 4 feet by 1/4 inch galvanized mesh screening.

(c)The base and top of the enclosure shall be constructed of securely anchored wire mesh and extend inward a distance of not less than 2 feet at the top of each enclosure at an angle of not less than 450**,** and at the base shall be covered by at least 4 inches of crushed stone.

(d)The enclosure shall be kept locked with a case hardened lock at all times when the animal is unattended and the enclosure shall have double entrance gates or doors so as to prevent an animal from escaping past an open gate or door.

(e)Any person who was, at the time of the enactment of this section, the owner of a single wolf-dog hybrid may obtain an exemption from the requirements of sub. (2) above by obtaining an inspection by the Building Inspector. The inspection fee shall be $50. The Inspector shall file a report with the Town Board as to the adequacy of the enclosure to protect the safety of the public and provide for the well being of the animal. The Board shall review the report and if the Board is satisfied that the owner has provided a secure enclosure that is adequate for the protection of the public and the well being of the animal, it may issue a written exemption from the terms of sub. (2) above. Such exemption shall be valid for the animal's lifetime provided, however, that a conviction of the owner for allowing the animal to run at large in violation of this section shall void such exemption. In issuing exemptions, the Board shall consider the size and observed behavior of the animal and any prior convictions of the owner for allowing any animal to run at large. The Board may require modifications to be made to existing enclosures as a condition of issuing an exemption.

(3)WOLF-DOG BITES; SACRIFICE OF ANIMAL. Every person, including the owner of a wolf-dog hybrid, who knows such animal has bitten any person shall immediately report such fact to the Town Chairperson. Pursuant to §95.21(4)(b) and (6), Wis. Stats., the Chairperson may kill such animal, taking care to preserve the head, and deliver such animal to a veterinarian for preparation of the carcass to be sent to the State Laboratory of Hygiene for testing.

(4)TRANSPORTATION. A wolf-dog hybrid may be transported only if confined in a secure, locked container with no openings not covered with fine mesh screen. This paragraph does not prohibit the walking of such animal on a leash, provided that said animal is muzzled at all times.

(5)REGISTRATION PAPERS. In order to insure compliance with the terms of this section, no person in possession of any registration papers, certificate, advertisement or other written evidence by which the blood lines of a canine animal found within the Town or its ownership might be ascertained may refuse to produce the same for the inspection of any law enforcement, conservation or public health officer or court upon demand.

(6)EXCEPTION. The provisions of this section shall not apply to doctors of veterinary medicine in temporary possession of such animals in the ordinary course of their practices. dog hybrid.

(7)PENALTY. Violation of any provision of this section, except sub. (7) above, shall be subject, upon conviction, to a forfeiture of not less than $75 nor more than $500 plus the costs of prosecution for each violation. Any person who violates sub. (7) above shall forfeit not more than $1,000 plus the costs of prosecution for each violation. Each day a violation occurs or continues constitutes a separate offense. Any person who is in default in the payment of forfeitures or costs imposed hereunder, unless found indigent by the court, shall be imprisoned in the County jail for up to 30 days for each violation or until payment has been made.

12.11 STORAGE OF JUNKED AUTOMOBILES (Cr. Ord. #6-07)**.** (1) No person, firm, partnership or corporation, shall accumulate or store any junked automobiles or parts thereof outside of any building on any real estate located within the Town, except upon a permit issued by the Town Board.

(2)No accumulation or storage of such material shall be permitted within 500 feet of the center line of any town road, except upon a permit issued by the Town Board.

(3)The permit issued by the Town Board shall be signed by the Chairperson and Clerk, thereof, and shall specify the quantity and manner of storing such junk. Such permit shall be revocable at any time by the Board after a hearing at which it has been found that the permit holder has failed the refuse to comply with the ordinance or restriction providing regulations for the storage of such junked automobiles or parts thereof. Such hearing may be held by the Town Board upon its own motion, or upon the complaint in writing, duly signed and verified by a complainant. Such complaint shall state the nature of the alleged failure to comply with such regulation. A copy of the complaint, together with a notice of the hearing, shall be served upon the permit holder not less than 10 days prior to the date of hearing.

(4)Any person, firm, partnership or corporation now engaged in the business of accumulating or storing and leading accumulated or stored junked automobiles, or parts thereof, outside of any building on real estate within the corporate limits of any city or village, or within 2,000 feet outside of the corporate limits of a city or village, or within 750 feet of the center line of any State trunk or Federal highway in any town on August 19, 1939, may, at any time within 6 months after such date upon application therefore to the Town Board upon showing such facts, be granted a permit for such place of accumulation or storage; any person, firm, partnership or corporation succeeding a business now engaged in the accumulating or storage and leading accumulated and stored junked automobiles, or parts thereof, outside of any building on real estate, as here and before provided, may likewise be granted such permit.

(5)For purposes of this section, “junked automobile" means any automobile which cannot be safely or legally operated, either because it is partially disassembled or wrecked or otherwise disabled or mechanically nonfunctional or because it is without current registration or registration plates.

(6)Any person, firm, partnership or corporation violating any provision hereof shall, upon conviction, be subject to a forfeiture of not less than $10 nor more than $50 for each offense and, in default of payment of said forfeiture, shall be imprisoned in the County jail for a period not exceeding 30 days. Each day that a junk automobile, as herein defined, shall be stored contrary to the provisions hereof, shall constitute a separate and distinct offense.

12.12 Wind Energy Systems

Section 1 - Title

This Ordinance may be cited as the Town of Kewaskum's Wind Energy Systems Ordinance 12.12. The Town of Kewaskum, Washington County, State of Wisconsin ordains as follows:

Section 2 - Findings, Purpose, and Authority

1. **Findings** - Wind Energy Systems ("WES"), while an increasingly important part of a renewable energy portfolio, can have certain adverse impacts. In this regard, the Town finds that the report issued by the National Research Council entitled "Impacts of Wind-Energy Projects," May 2007 ("2007 NRC Report"), addresses several important public health and safety issues relative to wind energy facilities that require regulation by the Town. The Town further finds that the provisions of the "Draft Model Wind Ordinance for Wisconsin" as promoted by the State of Wisconsin's Department of Administration, are inadequate to reasonably protect public health and safety. The Town also finds the Public Service Commission of Wisconsin's delay of the Wind Siting Council's 2019 report of special concern. The Wind Siting Council is expected to meet every five years. These concerns are regarding the expectations of more recent studies possibly having been conducted in this five-year period that may bring to light more definitive conclusions regarding the health and safety of our community. Reference is made to the reference sheet attached hereto as Exhibit A. With these concerns in mind, the Town Board of the Town of Kewaskum finds and declares that:
    a. The Wisconsin State Constitution legally obligates government officials to protect the health, safety, and well-being of their community.
    b. Shortsighted planning has often resulted in the creation of problem industries that adversely affect public health and quality of life, compromise aesthetics, and degrade community character. Industrial WES are not exempt from those problems, and careful siting and protection are of paramount importance. This Ordinance will contribute to this effort.
    c. Regulation of the siting and installation of wind turbines is necessary for protection of the health, safety, and well-being of neighboring property owners, 2 the general public, the local economy, local ecosystems, and regional military facilities.
    d. The findings set forth in this section are cumulative and interactive, and they shall be liberally interpreted in conjunction with one another.
    e. Industrial WES have increased significantly in number and can potentially be sited without sufficient regard to their impact on the health, welfare, and safety of residents, especially in small, rural communities.
    f. While wind energy is a semi-renewable energy resource of electricity generation, and under some circumstances it may reduce the use of nonrenewable energy sources, the possible benefits must be balanced against potential negative impacts to local citizens, local economy, local ecosystems, and regional military facilities.
    g. WES represent significant potential negative aesthetic and environmental impacts because of their enormous size, lighting, and shadow flicker effects.
    h. WES are industrial by their nature and are not compatible with pastoral communities due to their disruption of views and skylines, especially in rural communities (like this) without many high, unnatural structures.
    i. This community has many scenic viewsheds, and some of these would be negatively impacted by industrial WES.
    j. This community is surrounded by other communities that share our agricultural and rural residential character.
    k. Construction of WES can create traffic problems and damage local roads.
    l. Portions of land within our community are designated as State regulated wetlands.
    m. This community's geology includes erodible soils and high-water tables. This community's geology may be incompatible with certain industrial development. Risks include aquifer and well water contamination via soil overburden infilling on shallow bedrock.
    n. If not properly regulated, installation of WES in areas with similar geology have the potential to create numerous additional drainage paths which might allow contaminated ground water to

directly enter into the aquifer below. For instance, construction of miles of wide gravel access roads increases the number of drainage paths for the contaminated water to contaminate drinking water for our and other nearby communities.

o. Installation of WES can create drainage problems through erosion and lack of sediment control of facilities and access road sites and harm farmlands through construction methods utilized.
p. Independent experts have concluded that industrial wind energy turbines can adversely affect meteorology up to fifteen (15) miles away. The resulting changes like lower humidity levels can result in reduced regional agriculture yields.
q. WES may be a significant source of noise and vibration for the community. These can have negative health impacts on nearby residents, particularly in quiet rural areas. These can also negatively affect the quiet enjoyment of the area, properties, and quality of life of residents. According to various medical experts and the World Health Organization, the infrasound component of such noise can be the most problematic.
r. The WES's noise and vibration may also negatively affect wildlife. Some noise and vibration impact on wildlife relate to predator-prey behaviors, mating opportunity, and other behaviors that can adversely impact wildlife populations and diversity.
s. Our community boasts many species of birds and is a habitat for many species of wildlife, both year-round and seasonal.
t. Independent experts (e.g., ornithologists) have concluded that Industrial Wind Turbines/ ("IWTs") kill large quantities of birds. Especially troublesome are the raptors that are destroyed.
u. Independent experts (e.g., chiropterologists) have concluded that bats killed by IWTs can result in an appreciable reduction in regional agricultural yields. Estimates have been done for every U.S. County, and these experts have projected that this could adversely affect our local economy by more than 1.2 million dollars a year.
v. WES can cause danger to humans, animals and ecosystems, resulting from ice throw, turbine collapse, oil contamination, and annoyance.
w. In certain circumstances, WES can cause electromagnetic interference with various types of communications, including cell phones, radios, and televisions.
x. Independent experts have concluded that IWTs can have other adverse health effects on wildlife, livestock, and domestic animals.
y. WES without proper setbacks, can adversely affect property values, which can cause economic hardship to property owners. Reductions in property values could reduce our community's tax base, resulting in a tax rate increase on all community property owners.
z. Review of professional and legal literature demonstrates there can be serious legal and economic downsides for landowners entering into complicated and one-sided lease/easement contracts written by WES developers not available for public review and discussion.
aa. WES have the potential to adversely interfere with orderly development of our community, including single-family residences and small subdivisions, by making such development unappealing.
bb. The community and its citizens desire to maintain the pastoral, rural nature of this region. WES conflict with the culture and character of this community.
cc. WES need to be regulated for proper removal when no longer in operation.
dd. Due to the unusually broad array of potentially problematic findings, and the lack of scientifically proven net benefits, the Precautionary Principle dictates that our community be particularly conservative and cautionary in its regulation of industrial wind energy and its granting of a license.
ee. In formulation of this Ordinance, many studies have been reviewed and taken into consideration. Other energy ordinances through the U.S. have been analyzed. Experiences of other communities with industrial wind energy have been studied by Members of the Town Board.

2. **Purpose** - The purpose of this Ordinance is to require the owner of a proposed WES to be located in the Town of Kewaskum to obtain a license from the Town prior to beginning construction activities in order to protect public health and safety, to minimize or prevent potential adverse off-site impacts from on-site and off-site operations, and to promote the general welfare of the people and communities within the Town of Kewaskum.

3. **Authority** - This Ordinance is adopted under the powers granted to the Town of Kewaskum by Wis. Stat. §§ 60.10, 60.22(3), and 61.34, its authority under§ 66.0401 and§ 66.0403, and other authority under the statutes, and its adoption of village powers under§ 60.10(2) (c). Any amendment, repeal or recreation of the statutes relating to this Ordinance made after the effective date of this Ordinance is incorporated into this Ordinance by reference on the effective date of the amendment, repeal, or recreation.
4. **Application for Local Approval** - Wisconsin Courts have recognized that the evaluation of an application for local approval of a WES requires a case-by-case approach. The Town must receive information about the specifics of a particular proposed WES and then decide whether a restriction is warranted. Town ordinances may not arbitrarily set a one size fits all scheme of requirements for any WES.

Section 3 - Definitions

As used in this Ordinance, the following terms shall have the meanings indicated. Words not defined in this Ordinance shall be given their ordinary and common meaning.

Accessory building: A building that is located on the WES property. Accessory Equipment: Any equipment serving or being used in conjunction with a Large Wind Energy System ("LWES"). The term includes utility or transmission equipment, power supplies, generators, batteries, equipment buildings, and storage sheds, shelters, or similar structures.

Administrative Approval: The Town of Kewaskum has the right to review applications and the right to approve or disapprove applications submitted by the WES.

Blade Glint: The intermittent reflection of the sun off the surface of the blades of one or more wind turbines.

Board: This refers to the Town Board for the Town of Kewaskum, Washington County, State of Wisconsin.

Conservation Area: Such areas include natural areas protected by law, such as wetlands that meet the definition in the Clean Water Act 33 USC Sec.1251 et seq,; shoreland areas; water bodies; riparian buffers; populations of endangered or threatened species or habitat for such species; archaeological sites, cemeteries, and burial grounds; important historic sites; other significant natural features and scenic viewsheds; and existing trails or corridors that connect the tract to neighboring areas.

dBA: A-weighted decibels, abbreviated dBA (or dBa or dB(a)], is an expression of the relative loudness of sounds in air as perceived by the human ear. With A-weighting, the decibel levels of low frequencies are reduced compared to the middle and high frequencies (A-weighted energy equivalent sound level). Unless specified otherwise, in this Ordinance dBA means LAeq (energy equivalent sound level).

Electrical Transmission Tower: An electrical transmission structure used to support high-voltage overhead power lines. The term shall not include any utility pole.

FAA: The Federal Aviation Administration or successor agency.

Infrasound: Low frequency sounds that are not ordinarily hearable by humans. All sounds are energy waves, so humans can be affected by infrasound despite not being aware of its presence. The World Health Organization has concluded that health effects due to low frequency components in noise are estimated to be more severe than for community noise in general.

kW: Kilowatt

LWES (Large Wind Energy System): A LWES has a total installed nameplate capacity of 300 kilowatts or greater and consists of individual wind turbines that have an installed nameplate capacity of more than 100 kilowatts.

Maintenance: The cleaning, painting, repair, or replacement of defective parts (including plumbing, electrical, or mechanical work that might require a building permit) in a manner that does not alter the basic design or composition of a structure, such as a wind turbine.

Meteorological Measuring Device: An instrument, such as an anemometer, that measures wind speed. This is often on a tower, typically located at hub-height of the anticipated turbines. Modification or Modify: Any change, addition, removal, swap-out, exchange, and the like that does not qualify as "Repairs and/or Maintenance" as defined herein is a Modification. Also included is any change, addition, swap-out, exchange, and the like that requires or results in changes and/or upgrades to the structural integrity of a turbine.

Necessary: What is technologically required for the equipment to function as designed by the manufacturer. Anything less will restrict or inhibit the provision of service as intended and described in the Application. Necessary does not mean what may be desired or preferred technically.

Ordinary Maintenance: Actions that ensure that the WES is kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity and structural integrity. Ordinary Maintenance does not include Modifications.

Owner: means (A) a person with a direct ownership interest in a wind energy system, regardless of whether the person was involved in acquiring the necessary rights, permits and approvals or otherwise planning for the construction and operation of a wind energy system; or (B) at the time a wind energy system is being developed, a person who is acting as a wind energy system developer by acquiring the necessary rights, permits and approvals for or by planning for the construction and operation of a wind energy system, regardless of whether the person will own or operate the wind energy system.

Person: An individual, trustee, executor, receiver, other fiduciary, corporation, firm, partnership, association, organization, club, etc., acting as an entity.

Repair: The replacement of existing work with the same kind of material used in the existing work, not including additional work that would change the structural safety of the structure or that would affect or change required existing facilities, a vital element of an elevator, plumbing, gas piping, wiring, or heating installations, or that would be in violation of a provision of law or this Ordinance. The term "Repair" or "Repairs" shall not apply to any change in construction.

Shadow Flicker: The visual effect that results when the blades of an operating wind energy turbine pass between direct and indirect light from the sun and an observer and cast an observable, moving shadow on a person or property in the vicinity.

State: The State of Wisconsin

SWES (Small Wind Energy System): A SWES has a total installed nameplate capacity of 300 kilowatts or less and consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts. Such a facility is used primarily for on-site consumption, is an accessory use, and consists of no more than one wind turbine and any associated tower, control and/or conversion electronics.

Temporary: Something intended to exist or does exist for fewer than 180 days, except for an anemometer or other meteorological measuring device that is used to test the wind conditions, which are considered temporary when it exists for two years or less.

Utility Pole: A structure owned and/or operated by a public utility, municipality, electric membership corporation, or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

WES (Wind Energy System[s]): An electricity-generating facility whose primary purpose is to supply electricity. This consists of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and/or facilities.

Wind Energy: Wind turbines convert the kinetic energy of moving air (wind) into mechanical power. Note that the term "wind energy" is more technically correct than saying "wind power".

Wind Farm: A marketing term for a LWES.

Windmill: A wind-driven machine that does not produce electricity.

Wind Turbine: A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator. Such a system might include a nacelle, rotor, tower, pad transformer, and other appurtenant structures and/or facilities.

Wind Turbine Height: The distance measured from the lowest adjacent grade to the highest point of the structure, including any attachments, such as a lightning protection device or a turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Section 4 - Wind Energy Systems License Required

1. **License Requirement.** Except as provided in Section 4-6(a), a Person is prohibited from commencing construction activities on a WES or operation of a WES in the Town without first obtaining a license from the Town Board ("WES license"). The requirements for applying for a WES license is provided in Section 5.
2. **License Term.** An initial license term may be approved for a maximum of 15 years. A license renewal may be for a term of up to 10 years.
3. **License Amendment.** If the Town has issued a WES license, the operator may request an amendment to that license during the license term, using the same process as applies to an original license application.

4. **License Transfer.** A WES license may be assigned or transferred in the manner set forth in Section 9-1.2 hereof.
5. **License Revocation.** A WES license may be suspended or revoked under the procedures in Section 9-2.4(E).
6. **License Exclusion.**
   a. Temporary towers may be erected to use a meteorological measuring device to test the wind conditions on the proposed LWES site. Such towers do not require approval of a WES License. However, each such temporary pole or tower shall comply with the dimensional requirements stipulated by the Town Board. A copy of an FAA determination report as a result of filing the FAA Form 7460- 1, "Notice of Proposed Construction or Alteration of an Object that may Affect the Navigable Airspace," shall be submitted prior to submission of any building permits for such a temporary tower. The temporary pole or tower may be any approved height, but it must be set back from all property lines, vacant or occupied dwelling units, rights-of-way, and access easements by a distance that is greater than 1.5 times its height. The temporary pole or tower may not have any signs; may not be illuminated (except as required by the FAA or Department of Defense); and must be completely removed within two (2) years of the date that it is erected unless the Town Board grants a single one (1) year extension.
   b. An Applicant for a WES that qualifies as a SWES may submit a short form application with a reduced fee, in the discretion of the Town Board. If the Board grants such a request, it shall specify the application requirements and fee for such SWES.

Section 5 - Requirement for Applying for a Wind Energy Systems License or Renewal of an Approval

1. **Pre-Application Consultation Process.** The applicant shall consult with the Town prior to submitting its application. This pre-application consultation is most productive as a series of discussions rather than one meeting. Topics that may be discussed during the pre-application process include, among others, the provisions of this Ordinance and the following:
   a. The application requirements.
   b. Application formats, such as paper versus electronic, Adobe Acrobat (*.pdf) versus Geographical Information System (GIS) data files.
   c. Anticipated review timelines and important milestones.
   d. When and how permits/approvals from state and/or federal regulatory agencies should be shared with the Town.
   e. Filing procedures of the Town for handling confidential information.
   f. Fees associated with the review of a wind energy system application. Wis. Admin. Code § PSC 128.32(5)
2. **Pre-application Notice.** At least 90 days before an applicant files an application with the Town to construct a wind energy system, the applicant must provide written notice of the planned wind energy system to all of the following:
   a. Landowners within one mile of a planned wind turbine host property.
   b. The political subdivision(s) within which the wind energy system may be located (wind energy system refers to all wind energy facilities, e.g., turbines, collector lines, substation).
   c. Emergency first responders and air ambulance service providers serving the political subdivision(s).
   d. The Wisconsin Department of Transportation.
   e. The Public Service Commission of Wisconsin.
   f. The Department of Natural Resources, Office of Energy.
   g. The Wisconsin Department of Agriculture, Trade, and Consumer Protection.
   h. The Office of the Deputy Undersecretary of the U.S. Department of Defense.
   i. The notice must include the following:
      i. A complete description of the proposed wind energy system including the number and size of the planned wind turbines.
      ii. A map showing the planned location of all wind energy system facilities.
      iii. Owner contact information.
      iv. A list of potential permits or approvals the owner anticipates may be necessary for

construction of the wind energy system.

v. Whether the owner will request a joint application review process under Wis. Admin. Code § PSC 128.30(7) and each political subdivision that may participate in the joint review process.

3. **Other State Regulatory Reviews.** In addition to meeting the requirements of the Town, as specified in the application filing requirements below in Section 6 of this Ordinance, the applicant may need to consult and/or acquire permits/approvals from the Wisconsin Department of Natural Resource (DNR), Wisconsin Department of Transportation (WisDOT), Federal Aviation Administration (FAA), U.S. Fish and Wildlife Service (USFWS), and U.S. Army Corps of Engineers (USACOE). Communication and approvals from other regulatory agencies may need to be shared with the Town.
4. **WisDOT Permits and Review.** WisDOT oversize and overweight permits will be required for transporting large wind turbine components to turbine construction sites. In addition, a review by the WisDOT Bureau of Aeronautics for high structure permits may also be required.
5. **DNR Permits and Review.** The DNR permits required for the project can be identified during the preapplication process. DNR regulates construction site erosion control and storm water management plans, wetland and waterway permits, and incidental take permits for endangered or threatened species. The type of permits and approvals depends on the location of the project and ancillary facilities being proposed. DNR may require field studies related to wetlands, waterways, or threatened or endangered species.
6. **Application for a License.** The applicant shall submit an application for a Wind Energy System that contains all required documentation and information required under Section 6 to the Town Clerk. The Town will determine the reasonably necessary number of paper and electronic copies of the application that should be filed by the applicant (PSC 128.30(4)). Each copy of the application shall include all worksheets, maps, and other attachments included in the application (PSC 128.30(4)). The complete application must be made available to the public at a local library and at the Town's business office or some other publicly accessible location (PSC 128.30(6)(a)). The applicant should submit sufficient copies for the Town to conduct its review as well as the copies needed for public review of the application. The Town will determine the appropriate formats for the application copies.
   a. On the same day an application for a wind energy system is filed, the applicant shall also, under Wis. Stat. § 66.0401 (4) (a) 3., use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located within one mile of the proposed location of any wind energy system facility. The notification shall include all of the following:
      i. A complete description of the wind energy system, including the number and size of the wind turbines.
      ii. A map showing the locations of all proposed wind energy system facilities.
      iii. The proposed timeline for construction and operation of the wind energy system.
      iv. Locations where the application is available for public review.
      v. Owner contact information.
7. **Application for Renewal of a License**. The owner/operator of a WES shall make a written request to the Town Clerk for a renewal of the license no later than October 1 of the year in which the license will expire.
8. **Preliminary Review. Preliminary Hearing, Proposed Decision.**
   a. Preliminary Review. The review for completeness will start the day after the applicant notifies the Town Clerk in writing that all application materials have been submitted. At that point, the Town Clerk shall forward an application or a request for renewal to the Town Board for initial review, and the Town Board will initiate a 45- day completeness review period. The applicant will be notified if an application is deemed complete by the end of the 45-day period and, if it is not, what the applicant must do in order to make it complete.
   b. Additional Information. If the application is found to be incomplete, the Town shall send the applicant a letter identifying the deficiencies and may request that the applicant submit additional information. The applicant may then submit revised or supplement application materials as requested by the Town for a new 45-day application completeness review. There is no time limit for an applicant to submit the revised or supplemental materials in order to remedy identified deficiencies. If the Town makes no completeness determination in writing within the

defined review period, the application is deemed complete.

c. Proposed Decision. Upon completion of its review of the application and a review of any report from retained experts, the Town Board shall issue a proposed decision on whether to grant a WES license, with or without conditions, or to deny the application or request.

9. Decision by the Town Board.

a. Notice and Hearing, Proposed Decision. Upon the issuance of a proposed decision under Section 5-8(c), the Town Clerk shall place the preliminary decision of the Town Board on the Town's posting sites and make it available for public inspection at the Town Hall. The Town Board shall set a date for a public hearing on the preliminary decision and, for an application for a WES license, give Class II public notice and post the notice in the designated posting places at least 15 days prior to the date scheduled for the hearing, and mail the notice to all neighboring landowners. At the public hearing, the Town Board shall take public comment on the proposed decision.

b. Town Board Final Decision. Following the receipt of public comments at the public hearing and any submitted written comments, the Town Board may make a final decision whether to grant a WES license or to renew a license or set a date for a subsequent Town Board meeting during which the Town Board will make a final decision.

c. Basis of Proposed and Final Decisions. The Town Board shall base its proposed and final decisions on a review of the application, any available retained experts' reports, public comments and information provided at the public hearing, and other relevant information at the discretion of the Town Board, including but not limited to, the following:

   i. Conflict with safety and safety-related codes and requirements.
   ii. The use or construction of a WES that is contrary to an already-stated purpose of a specific zoning or land use designation.
   iii. The operation of an LWES would be a net economic liability to the community.
   iv. The operation of an LWES would create unacceptable health risks to the public.
   v. The placement and operation of an LWES that would create unacceptable risks to wildlife and/or regional ecosystems.
   vi. The placement and location of a WES would result in a conflict with, or compromise, or significantly change, the nature or character of the surrounding area.
   vii. The operation of an LWES would create unacceptable interference with any type of civilian or military radar systems.
   viii. Conflicts, as determined by the Town Board, with the military's unrestricted ability to use the Restricted Air Space, including no flight hazards and/or use limitations. In addition, the Planning Board will consider. whether construction or operation of the proposed WES would encroach upon or would otherwise have a significant adverse impact on the mission, training, or operations of any military installation or branch of military in the State, and possibly result in a detriment to continued military presence in the State.
   ix. Conflicts with any provisions of this Ordinance.

d. Application Approval. In the case of an application for a WES license, the Town Board shall grant the license if it determines that the operation of the WES will be consistent with the standards and the purposes of this Ordinance.

e. Renewal. In the case of a request for renewal of a license, the Town Board shall grant the request for renewal if it finds that there have been no material violations of the Ordinance or the license which have not been appropriately remedied, the operator has not received multiple or recurring citations or orders for violations of the WES license or this Ordinance.

f. Denial. If the Town Board denies an application for a WES license or denies a request for renewal of a license, the Town Board shall notify the Applicant in writing.

Section 6 - Wind Energy Systems License Application Requirements

1. **Project Overview.**

a. Project Owners. The applicant shall identify the owners of the proposed project including their names, addresses, and percentage of ownership. If different, the applicant shall identify the operators of the proposed project including names and addresses.

b. Project Description. The applicant shall describe all features of the proposed project including the size and location of the project area, the number and the capacities of the proposed wind turbines, the lifespan of the facility, operation and maintenance (O&M) building, collector circuits, the number of participating property owners, and the facilities necessary to connect the project to the transmission system.

c. Application Maps. The applicant shall provide maps that use the best and most recent data available. Maps must clearly portray the project in a format and scale that is unambiguous and easy to understand. Labels and symbology used on the maps must be clearly visible. The scale of the maps and number required to show all relevant data will be discussed during pre-application consultations. Maps should show all pertinent aspects of temporary and permanent features discussed in the application:
   i. Aerial photographs not more than three years old.
   ii. Project data:
      1. Project area (at a minimum all properties within 0.5 mile of any proposed wind energy system facility)
      2. Proposed wind turbine sites
      3. Proposed turbine pads
      4. Proposed construction footprints at turbine sites
      5. Properties with project easements or other forms of land rights
      6. Proposed underground collector circuits
      7. Proposed overhead collector circuits
      8. Proposed electric lines and structures
      9. Proposed access roads
      10. Local roads/culverts that would be altered or modified
      11. Proposed construction crane paths
      12. Proposed interconnection facilities, new substation, and/or expansion of an existing substation
      13. Proposed operation and maintenance building, if applicable
      14. Proposed construction laydown areas
      15. Meteorological towers
      16. Any other structure required for the operation of the proposed wind energy system
   iii. Environmental data:
      1. Rivers, lakes, and other waterways
      2. Wetlands (identified by the Wisconsin Wetland Inventory and/or field delineations)
      3. Soils
      4. Topography
      5. Floodplains
      6. Depth to bedrock
   iv. Parcel data:
      1. Private properties
      2. Public properties (symbolized differently than private properties) .
      3. Tribal or other types of properties
      4. Political subdivisions
   v. Land use:
      1. Land cover
      2. Zoning
      3. Sensitive sites (e.g. daycare centers, schools, hospitals, cemeteries, etc.)
      4. Confined animal dairy operations
      5. Airports, airstrips, heliports (public and private) within and near the project area (see Section 3.3 of this document)
      6. Roads
      7. Recreation areas, trails
   vi. Utility data:
      1. Existing transmission

2. Distribution, telephone, or cable lines that would be affected by the proposed project
3. Other existing utilities necessary to understand the proposed project (natural gas lines, railroads, etc.)

d. Wind Turbine Description. The applicant shall provide a technical description of the proposed wind turbine model(s) chosen or being considered including, but not limited to the following:
   i. Dimensions (total height, hub height, blade length, rotor swept area, etc.)
   ii. Turbine capacities
   iii. Cut-in and Cut-out speeds
   iv. Fixed or variable speed – include rpm
   v. Rated wind speed
   vi. Look and finish of wind turbines
   vii. Turbine foundation dimensions, depth, and types
   viii. Transformer type, location, and physical size of transformer pad at each turbine site
   ix. Turbine coolant or heating systems

e. Overhead Collector Circuits.
   i. If overhead collector circuits are part of the proposed project, the applicant shall explain the reason for not constructing the circuits underground.
   ii. The applicant shall provide an inspection schedule for the overhead collector circuits when construction is completed.

f. Substation/Interconnection Facilities. If the proposed wind energy system includes a new substation/interconnection facility or modifications to an existing substation, the applicant shall provide the following information:
   i. Location and dimensions of any new proposed substation, interconnection facility, or addition to an existing substation.
   ii. The location of any electric lines entering and leaving the substation/facility, including turning structures, guy wires, and describe impacts to adjacent landowners.
   iii. The location of any access roads.
   iv. Any equipment noise or facility lighting that might be perceptible to adjacent property owners.
   v. Proposed look and landscaping surrounding facility.

g. Other Proposed Facilities. The applicant shall describe the location and layout for any other facility needed such as:
   i. Parking lots
   ii. Sheds or storage buildings
   iii. Supplies of water, sewers, or septic systems

h. Proposed Turbine Lighting.
   i. The applicant shall submit documentation from the Federal Aviation Administration (FAA) regarding the proposed wind energy system.
   ii. The applicant shall describe the FAA-approved lighting that would be used for the proposed wind energy system, including the substation, O&M building, and any other proposed facilities.
   iii. The applicant shall identify any proposed use of shielding or control systems approved by the FAA to reduce visibility of lighting to individuals on the ground.

i. Safety and security.
   i. The applicant shall identify the wind energy system safety measures that would be used to prevent access and make the turbines not readily climbable by unauthorized individuals.
   ii. The applicant shall provide samples of warning signs that would be located at the base of each wind turbine and at every intersection of a wind turbine access road and a public road.
   iii. The applicant shall identify any safety features that would be used on any other proposed feature of the project.

j. Brownfields (as defined in Wis. Stat. § 560.13(a)(a)). The applicant shall identify the location and describe any facilities that would be constructed on brownfields. The applicant shall also describe the type of brownfield and if there are any construction or operation limitations for the project because of the properties' brownfield status.

k. Proof of Insurance. No more than 15 days after the grant of the license and before construction is initiated, the applicant shall submit proof of general liability insurance relating to claims for property damage or bodily injury in effect during construction, operation, and decommissioning of the proposed facility and shall include the host property owner[s] as additional insured persons on the policy pursuant to PSC 128.18(3)(c).

l. Notices. The applicant shall submit representative copies of all notices and who the notices were/would be issued to, including the following:
   i. Pre-application notice issued 90 days prior to submitting the application in compliance with PSC 128.105(1)(a)
   ii. Public notice of application filing to political subdivision that meets PSC 128.30(5)
   iii. Notice of complaint process in compliance with PSC 128.42(1)
   iv. Notification regarding noise criteria in compliance with PSC 128.14(6)(a), if such notification will be or is anticipated to be used
   v. Notification regarding shadow flicker rules in compliance with PSC 128.15(5)(a), if such notification will be or is anticipated to be used
   vi. Prior to the initial operation of the facility, notification of noise criteria and shadow flicker rules to non-participating residence or occupied community building owners within 0.5 mile of a constructed wind turbine in compliance with PSC 128.14(6)(b) and PSC 128.15(5)(b)

m. Siting Criteria. The applicant shall:
   i. Identify the siting criteria used to design the proposed project.
      1. SWES shall comply with the minimum setback distances shown in Table 2 to PSC 128.61(3)(a), which are:

Setback Description	**Setback Distance** - Wind turbine setback distances shall be determined as a straight line from the vertical centerline of the wind turbine tower to the nearest point on the permanent foundation of a building or residence or to the nearest point on the property line or feature, as applicable. The owner of a nonparticipating residence or occupied community building may waive the applicable wind turbine setback distances of this section for those structures to a minimum setback distance of 1.1 times the maximum blade tip height. The owner of a nonparticipating property may waive the applicable wind turbine setback distance in this section from a nonparticipating property line.
Occupied Community Buildings	1.0 times the maximum blade tip height
Participating Residences	None
Nonparticipating Residences	1.0 times the maximum blade tip height
Participating Property Lines	None

Nonparticipating Property Lines	1.0 times the maximum blade tip height
Public Road Right-of-Way	None
Overhead Communication and Electric Transmission or Distribution Lines - Not including utility service lines to individual houses or outbuildings	1.0 times the maximum blade tip height
Overhead Utility Service Lines - Line to individual houses or outbuildings	None

2. LWES shall comply with the minimum setback distances shown in Table 1 in PSC 128.13(1)(a), which are:

Setback Description	**Setback Distance** - Wind turbine setback distances shall be determined as a straight line from the vertical centerline of the wind turbine tower to the nearest point on the permanent foundation of a building or residence or to the nearest point on the property line or feature, as applicable. The owner of a nonparticipating residence or occupied community building may waive the applicable wind turbine setback distances of this section for those structures to a minimum setback distance of 1.1 times the maximum blade tip height. The owner of a nonparticipating property may waive the applicable wind turbine setback distance in this section from a nonparticipating property line.
Occupied Community Buildings	The lesser of 1,250 feet or 3.1 times the maximum blade tip height
Participating Residences	1.1 times the maximum blade tip height
Nonparticipating Residences	The lesser of 1,250 feet or 3.1 times the maximum blade tip height
Participating Property Lines	None
Nonparticipating Property Lines	1.1 times the maximum blade tip height
Public Road Right-of-Way	1.1 times the maximum blade tip height
Overhead Communication and Electric Transmission or Distribution	1.1 times the maximum blade tip height

Lines - Not including utility service lines to individual houses or outbuildings	
Overhead Utility Service Lines - Line to individual houses or outbuildings	None

ii. Specify whether the siting criteria used meets or exceeds those specified by PSC 128.13(1)(a), Table 1.
iii. Identify if any additional siting criteria or greater setbacks than those specified in PSC 128.13(1)(a), Table 1, were used to design the proposed project.
iv. Describe the reasons for and the effects of any additional siting standards.
v. Discuss how wind turbines were located so as to minimize any individual hardships.
vi. Identify any nonparticipating landowners or community building owners which agreed to a setback waiver as described in PSC 128.13(1)(d)

n. State, Federal, and Local Permits, Approvals, and Correspondence. The applicant shall:
   i. Provide a list of all state, federal, and county permits/approvals required to construct and operate the proposed wind energy system.
   ii. Provide copies of the permits/approvals or their current status including, but not limited to:
      1. DNR wetland and waterway permits
      2. DNR Construction Site Erosion Control and Storm Water Discharge Permit
      3. DNR-approved endangered resource review
      4. If applicable, WisDOT high structure permits
      5. FAA aeronautical study determinations
   iii. Provide copies of all official correspondence between the applicant and all regulatory entities.
   iv. State and Federal Recommendations. The applicant shall:
      1. Provide any non-binding recommendations from state or federal agencies regarding constructing, operating, or decommissioning the proposed wind energy system.
      2. Discuss the recommendations and whether they are incorporated into the proposed wind energy system construction, operation, or decommissioning.
   v. Monetary Compensation. The applicant shall:
      1. Specify if nonparticipating landowners would receive monetary compensation consistent with PSC 128.33(3) and PSC 128.33(3m).
      2. Discuss the criteria for determining which non-participating landowners would receive monetary compensation.
      3. Discuss how and if the payments would be modified annually.
   vi. Decommissioning. The applicant shall:
      1. Provide decommissioning estimates as required by the Town for the actual and necessary cost of decommissioning.
      2. If the wind energy system is or would be more than one megawatt, provide proof of the financial ability of the applicants to fund the actual and necessary cost of decommissioning in a form and amount as required by the Town.
      3. Submit a decommissioning and site restoration plan which includes deconstruction sequence, construction details, environmental impacts, and site restoration. See Section 8-8 of this Ordinance for the decommissioning process.

2. Project Construction Description and Impacts

a. The applicant shall provide the anticipated construction schedule, inservice date, and any seasonal or regulatory constraints and electric system outage constraints.
b. The applicant shall describe the sequence for constructing the proposed wind energy system.
c. The applicant shall describe the construction impacts and zone of disturbance that may be associated with the construction of each type of facility.
d. If applicable, the applicant shall discuss construction methods that would be used where

bedrock is close to the surface and the potential impacts.

e. The applicant shall Identify any soil conditions related to site geology, groundwater, contamination, erosion, etc. that might create circumstances requiring special methods or management during construction.

f. Construction and Delivery Vehicle Descriptions. The applicant shall:
   i. Identify roads and routes in the project area that would be used by construction equipment and to haul heavy and oversized equipment and materials.
   ii. Describe the types of construction equipment and delivery vehicles that would use local roads. Diagrams and information should specify the following details:
      1. Gross vehicle weight (loaded and unloaded for all vehicles using local roads
      2. Overall vehicle length
      3. Turning radius
      4. Minimum ground clearance
      5. Minimum slope tolerance
   iii. Roads and Infrastructure Impacts.
      1. Local Infrastructure Impacts. The applicant shall identify and discuss any anticipated impact of the wind energy system on local infrastructure during construction and during operation, including but not limited to roads, bridges, culverts, sewer, and electric distribution or any other lines.
      2. Road Modifications. The applicant shall describe and submit the following information regarding modifications to local roads necessary for the construction of the proposed wind energy system (e.g., turn radii expansion, road culvert reconstruction to withstand heavy traffic, impacts to wetlands or drainage swales due to road modifications, etc.):
         a. Location of road modifications.
         b. Complete description of modification.
         c. Tree clearing that would occur along roads (in road ROW and on private property).
         d. Environmental issues associated with road modification.
         e. Any post-construction changes to road modifications.
      3. Road Impacts. The applicant shall:
         a. Describe the process which would be used to determine the condition of roads pre-construction and post-construction.
         b. Describe how and when road repairs would be performed on local roads and how disputes on causes of road damage would be resolved.
      4. Electric Distribution and Other Lines. The applicant shall:
         a. Provide the likely locations where existing electric distribution and other lines would need to be disconnected in order to allow passage of equipment and materials.
         b. Describe how residents would be notified before disconnection of local power, telephone, or cable.
         c. Estimate the typical duration of the outage resulting from equipment or materials delivery.
   iv. Access Roads. The applicant shall:
      1. Provide the width of access roads during construction and postconstruction.
      2. Describe construction materials.
      3. Describe any site access control (i.e., fences or gates).
   v. Crane Paths. The applicant shall:
      1. Description of width and depth of crane path preparations.
      2. Describe construction materials.
      3. Describe any site access control (i.e., fences or gates).
      4. Discuss post-construction management of crane paths and methods that would be used to recover the land.
   vi. Collector Circuits (overhead and underground). The applicant shall:
      1. Identify the length and location of collector circuits that would be constructed.

2. Describe the voltage of collector circuits.
3. Describe the configuration of collector circuits.
4. Discuss construction methods for collector circuits (i.e., trench dimensions, burial method, collector poles, etc.).

vii. Temporary Laydown Areas. The applicant shall:
1. Identify the location, footprint, and existing land use of all temporary laydown/staging areas and any additional temporary workspace.
2. Describe the impacts on the proposed areas.

viii. Hazardous Materials. The applicant shall:
1. Provide a list of hazardous materials to be used on-site during construction and operation of the proposed project.
2. Discuss spill containment and cleanup measures including the Spill Prevention, Control, and Countermeasures (SPCC) and Risk Management planning.

ix. Post-Construction Restoration. For each temporary impact, the applicant shall describe the revegetation and restoration efforts after the facilities are constructed, including at locations of access roads, crane paths, and laydown areas.

3. Community Impacts

a. Existing Land Uses. The applicant shall:
 i. Describe existing land uses within one-half mile of all proposed wind turbine sites.
 ii. Discuss any changes to existing land uses that occurred since the pre-application notice was provided.
 iii. Discuss how the construction and operation of wind turbine sites and related facilities might impact the identified existing land use.
 iv. Discuss how the impacts have been minimized or would be mitigated.
 v. Describe the potential aesthetic impacts to the community and how these impacts would be mitigated.
 vi. Provide representative photo simulations of the proposed project in the project area.

b. Agriculture. The applicant shall:
 i. Describe how the design of the proposed wind energy system minimizes the conversion of land from agricultural use.
 ii. Describe construction methods that would be used to minimize soil compaction, topsoil mixing, and damage to drainage systems on agricultural lands.
 iii. Aerial Spraying or Seeding Operations. The applicant shall:
 1. Discuss the use of aerial spraying for pest control or seeding at project area farm operations.
 2. Discuss the impacts of the proposed wind energy system on aerial spraying or seeding operations.
 3. Identify potential mitigation of these impacts including monetary compensation.

c. Airports and Airspace. The applicant shall:
 i. Identify the location and owner of private and public airports, airstrips, or heliports in the project area or which may be affected by the proposed project including:
 1. Public airports within 5 miles of the nearest turbine location.
 2. Private use airports/landing strips within two miles of the project area.
 ii. Identify the location and owner of any heliports at a medical facility used for air ambulance service within the project area or which may be affected by the proposed project.
 iii. Discuss any wind turbine setbacks used in the vicinity of airports or heliports to protect airport approaches including:
 1. Any turbine locations subject to height limitation zoning or land use controls due to municipally owned public use airports as specified under Wis. Stat. § 114.136.
 2. Any turbine locations that would be subject to a WisDOT tall structure permit under Wis. Stat. § 114.135.

d. Construction Impacts to Project Area. The applicant shall:
 i. Discuss the anticipated traffic congestion during construction that would be experienced on project area roads and how the congestion would be minimized and mitigated.

   ii. Discuss the anticipated noise and lighting disturbances during construction and how the impacts would be minimized and mitigated.

e. Noise from Operating Wind Turbines. The applicant shall:
   i. Discuss how the proposed wind energy system is designed to minimize noise at nonparticipating residences or occupied community buildings to the extent practicable.
   ii. Provide noise estimates that show compliance with a noise standard established by the political subdivision under PSC 128.14.
   iii. Specify whether the noise criteria used to design the project will result in the following at the outside wall nearest a proposed wind turbine of nonparticipating residences or occupied community buildings under normal operating conditions:
      1. Noise from the proposed wind energy system would not exceed 50 dBA during daytime hours of 6 a.m. to 10 p.m.
      2. Noise from the proposed wind energy system would not exceed 45 dBA during the nighttime hours of 10 p.m. to 6 a.m.
   iv. Provide methods for assessing pre-construction noise levels for the proposed project.
   v. Provide methods for assessing post-construction noise levels.
   vi. Identify the properties of nonparticipating residences and occupied community buildings for which the applicant has secured noise waivers.

f. Shadow Flicker from Operating Wind Turbines. The applicant shall:
   i. Discuss how the proposed wind energy system is designed to minimize shadow flicker at nonparticipating residences or occupied community buildings.
   ii. Provide the results of shadow flicker computer modeling that show the operation of the proposed project would not exceed shadow flicker limits established by the Town under PSC 128.15
   iii. Specify whether the shadow flicker criteria used to design the project will result in shadow flicker not exceeding 30 hours per year of shadow flicker at nonparticipating residence or occupied community buildings.
   iv. Based on computer modeling, identify the properties of nonparticipating residences or occupied community buildings that would experience 20 hours or more of shadow flicker.
   v. Describe the options for mitigating shadow flicker on nonparticipating residences or occupied community buildings that would experience 20 or more hours of shadow flicker.
   vi. Identify the properties of nonparticipating residences and occupied community buildings for which the applicant has secured shadow flicker waivers.

g. Signal Interference of Commercial and Personal Communications from Operating Wind Turbines. The applicant shall:
   i. Discuss how the proposed wind energy system is designed to minimize signal interference to commercial communications and personal communications to the extent practicable.
   ii. Specify whether any wind turbines are proposed within existing line-of-sight communication paths used by government or military entities to provide services essential to protect public safety.
   iii. Identify and discuss the types and particulars of commercial and personal communications that may be affected by the operation of the proposed wind energy system, including:
      1. Line-of-site analysis for potential interference with microwave communications.
      2. Analysis of the potential television interference within the project area and within one mile of the project boundary.
      3. Aviation radar installations, Doppler weather radar installations of the National Weather Service, and any broadcast television stations.
      4. Any other personal communications systems such as cell phone, radio, and internet (Wi-Fi).
   iv. Discuss the potential options that would be available to mitigate interference of commercial and personal communications.
   v. Describe the procedure for communication complaint resolution that would be established once the wind energy system is operational and during the life of the project.

h. Stray Voltage. The applicant shall:
    i. Discuss the involvement and recommendations of the local electric distribution company regarding the testing for stray voltage prior to construction of all dairy and confined animal operations within 0.5 mile of a wind energy system.
    ii. Briefly discuss the involvement of PSCW staff in determining the manner in which stray voltage testing would be conducted and on which properties.
    iii. Identify the dairy or confined animal operations within 0.5 miles of any proposed wind energy system facility.
    iv. Submit the testing procedures that would be used on the identified properties prior to the start of construction and post-construction when the wind energy system is fully operational.

i. Emergency Procedures. The applicant shall:
    i. Identify the first responders the applicant has worked with regarding emergency planning for the proposed wind energy system.
    ii. Describe the collaborative process for developing local emergency plans between the applicant and area first responders.
    iii. Provide a copy of the emergency plan (it may be filed confidentially) or its status.
    iv. Provide details for any first responder annual training that would be conducted by the applicant.

j. Complaint Resolution. The applicant shall describe the procedures that would be used for complaint resolution when the wind energy system is operational and during the life of the project.

k. Shared Revenue and Community Benefits.
    i. For each political subdivision, the applicant shall provide an estimate of the shared revenue resulting from the proposed project, if applicable (Wis. Stat. ch. 79).
    ii. The applicant shall describe any other benefits (e.g., employment, infrastructure improvements) the community would receive due to the operation or construction of the proposed project.

Section 7 - Installation and Design

1. **LWES Power Collection** - The electrical connection system from the turbines to a collection point or substation shall, to the maximum extent possible, be placed underground. The power from that collection point or substation may use overhead transmission lines if approved by the Town Board.
2. **In addition to all other design and installation requirements elsewhere in this Ordinance, the WES shall do all of the following:**
    a. Be a non-obtrusive and conventional color/finish (such as light blue, off-white, or light gray that blends with the sky and the agricultural and rural residential character of the Town).
    b. Be designed to reasonably minimize the conversion of land from agricultural use. PSC 128.12(2).
    c. Not be artificially lighted, except to the extent required by the FAA or other applicable authority that regulates air safety.
    d. Not display advertising material or signage other than warnings, equipment information, or indicia of ownership on a wind turbine. An owner may not attach any flag, decorative sign, streamers, pennants, ribbons, spinners, fluttering, or revolving devices to a wind turbine. An owner may attach a safety feature or wind monitoring device to a wind turbine. PSC 128.18(1)(a).
    e. Place appropriate warning signage on or at the base of each wind turbine.
    f. Place and maintain up-to-date signs containing a 24-hour emergency contact telephone number, information identifying the owner, and sufficient information to identify the location of the sign within the WES. An owner shall post these signs at every intersection of a wind energy system access road with a public road and at each wind turbine location.
    g. Use reasonable efforts to avoid causing interference with commercial communications and personal communications to the extent practicable as described in PSC 128.16(3), including the following:
        i. The LWES may not be constructed within existing line-of-sight communication paths that

are used by government or military entities to provide services essential to protect public safety. PSC 128.16(1)(c). The Town may require an owner to provide information showing that wind turbines and other wind energy system facilities will be in compliance with this requirement.

- ii. Commercial communications interference mitigation. The LWES shall use reasonable and commercially available technology to mitigate interference caused by a LWES with commercial communications in use when a LWES begins operation. Before implementing mitigation measures, the owner of the LWES shall consult with affected parties regarding the preferred mitigation solution for commercial communications interference problems. Except as provided in sub. 4, the owner shall mitigate commercial communications interference caused by the LWES by making the affected party's preferred reasonable mitigation solution effective until either the LWES is decommissioned or the communication is no longer in use, whichever is earlier. PSC 128.16(2)
- iii. Personal communications interference mitigation. The LWES shall use reasonable and commercially available technology to mitigate interference with personal communications in use when a LWES begins operation caused by a LWES. The Town may require an owner to use reasonable and commercially available technology to mitigate interference with personal communications that were not in use when the LWES began commercial operation, if a LWES is causing the interference and the interference occurs at a location at least 0.5 mile from a wind turbine. Before implementing mitigation measures, the owner of the LWES shall consult with affected parties regarding the preferred mitigation solution for personal communications interference problems. Except as provided in sub. 4, the owner shall mitigate personal communications interference caused by the LWES by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is decommissioned or the communication is no longer in use, whichever is earlier. PSC 128.16(3)(a) and (b).
- iv. Mitigation protocol. The Town may, under a protocol established under PSC 128.50 (2), require the owner of a LWES to implement a new mitigation solution that becomes commercially available before the LWES is decommissioned to address interference for which mitigation is required under sub. 2 or 3 and for which the original mitigation solution implemented is only partially effective. PSC 128.16(4).

h. Clearly mark guy wires and supports, so that the wires and supports are clearly visible to low flying aircraft, per PSC 128.18(1)(h).

i. In order to minimize damage to agricultural lands and soils per PSC 128.18(3)(am), have a leak containment system for oil, hydraulic fluids, and other non- solids that is certified by an expert (such as an engineer, turbine manufacturer, etc.) acceptable to the Planning Board that all such fluids will be captured before they reach the ground. The Applicant shall pay the cost(s) of the expert.

j. Prepare an incident response plan that ensures that local emergency responders have the necessary equipment and training to effectively handle emergencies such as oil spills, turbine fires, turbine structural damage (or collapse) of equipment, including access to heavy equipment needed for rescue of trapped personnel.

k. Notify the Town Board of the occurrence and nature of an LWES emergency within 24 hours of an LWES emergency.

l. Establish and maintain liaison with the Town Board and with fire, police, and other appropriate first responders serving the LWES to create effective emergency plans that include all of the following:

- i. A list of all the types of LWES emergencies that require notification.
- ii. Current emergency contact information for first responders and for the LWES Applicant, including names and phone numbers.
- iii. Procedures for handling different types of LWES emergencies, including written procedures that provide for shutting down the LWES or a portion of the system as appropriate.
- iv. Duties and responsibilities of the Applicant and of first responders in the event of an

LWES emergency.

v. An emergency evacuation plan for the area within 0.5 mile of an LWES, including the location of alternate landing zones for emergency services aircraft.

m. Review the emergency plan at least annually in collaboration with fire, police, and other appropriate first responders to update and improve the emergency plan as needed.
n. Distribute current copies of the emergency plan to the Town Board, fire, police, and other appropriate first responders as identified by the Town Board.
o. Require the Applicant to provide annual training for fire, police, and other appropriate first responders regarding responding to an LWES emergency until the LWES has been decommissioned.
p. As to emergency action plans and procedures, do the following:
   i. Furnish its operator, supervisors, and employees who are responsible for emergency action a copy of the current edition of the emergency procedures established under this subsection to ensure compliance with those procedures.
   ii. Train the appropriate operating personnel to ensure they have knowledge of the emergency procedures and verify that the training is effective.
   iii. As soon as possible after the end of an LWES emergency, review employee activities to determine whether the procedures were effectively followed.

3. **Conditions for Approval of an Application to Construct a WES**. In addition to whether the WES satisfies all other provisions of this Ordinance, including but not limited to those provisions requiring the WES to reasonably minimize the conversion of land from agricultural use and to site wind turbines to minimize individual hardships, and whether the WES satisfies the County processing rules as a conditional use or permitted use pursuant to County Code, the Town hereby establishes the following as conditions for approval of an application to construct a WES:
   a. Whether an owner of a WES has consulted with and received any non-binding recommendations for constructing, operating, or decommissioning the WES from a state or federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the WES.
   b. Cooperation with any study of the effects of WES coordinated by a state agency.
   c. An owner of a WES must offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence if the residence is located within 0.5 mile of a constructed wind turbine. For one turbine located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation may not exceed $600. For two turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation may not exceed $800. For three or more turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation may not exceed $1,000. The initial annual monetary compensation under this subsection shall apply to agreements entered into in 2011. For agreements entered into in 2012 and thereafter, the initial annual amounts shall increase each year by the greater of two percent or the increase in the Consumer Price Index, as described in s. 196.374 (5) (bm) 2. b., Stats., from the previous year. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under this chapter and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under this chapter.
   d. An owner of a WES must offer an agreement that includes monetary compensation to a farm operator farming on a nonparticipating property located within 0.5 mile of a constructed wind turbine if the farm operator demonstrates all of the following:
      i. Substantial evidence of a history, before the WES owner gives notice under PSC 128.105 (1), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans, or sweet corn on all or part of a farm field located within 0.5 mile of a constructed wind turbine.
      ii. A material reduction in potato, pea, snap bean or sweet corn production or a material increase in application costs on all or part of a farm field located within 0.5 mile of a constructed wind turbine as a result of the WES's effect on aerial spraying practices.
   e. The owner of a WES must submit to the Town Board copies of all necessary state and federal permits and approvals. 35 F. The owner of a WES must file an annual report with the Town

Board documenting the operation and maintenance of the wind energy system during the previous calendar year.

Section 8. Post-License Approval Requirements.

1. **WES Certification.** Prior to operation of any approved and constructed WES, the Applicant must provide a certification that the project complies with applicable codes, industry practices and conditions of approval (where applicable).
2. **LWES Indemnification.** The granting of the Town's LWES License shall contain an indemnification provision that shall require the Applicant to hold harmless and indemnify the real property owner for all of the following:
   a. Any violation of federal, state, or local law by the owner of the wind energy system.
   b. Any damages or bodily injury caused by the construction, operation or decommissioning of the wind energy system. PSC 128.11(2).
3. **Fees.** Non-refundable Fees shall be as follows:
   a. The initial application fee for a LWES shall be $2,500.00 which shall reimburse the Town for reasonable expenses relating to the review and processing of an application for a wind energy system; provided, however, the fee amount could increase based on the nature and review of the application. The Town Board may waive part or all of the application fee, in its discretion, for a SWES.
   b. The Town's fee or reimbursement requirement under Section 8-3.a shall be based on the actual and necessary cost of the review of the wind energy system application and shall include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts.
4. **Reservation of Authority to Inspect WES.** In order to verify that the holder of a license for a WES and any and all lessees, renters, and/or licensees of it, have placed and constructed such facilities in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, Ordinances and regulations and other applicable requirements, the Town may inspect all facets of said license holders, renter's, lessee's or licensee's 36 placement, construction, and maintenance of such facilities, including all turbines, towers, buildings, and other structures constructed or located on the site.
   a. WES shall not begin operation until all approvals required under this Ordinance shall have been obtained and all required certifications are provided.
   b. Following the issuance of any approval required under this Ordinance, the Town Board or its designee shall have the right to enter onto the Site upon which a WES has been placed, at reasonable times, in order to inspect such WES and its compliance with this Ordinance.
   c. After undertaking such inspection, the Town Board or its designated representative shall provide notice of any non-compliance with the terms of this Ordinance or the conditions of approval of any license issued hereunder and shall provide the Applicant or Applicant with a reasonable time frame to cure such violation, such time frame to be determined based upon the seriousness of the violation, its actual and/or potential impact upon public safety, and the actual and/or potential impact of the violation upon Town residents and/or local ecosystems.
5. **WES Road Related Damage.** Consistent with PSC 128.30(2)(k), the owner of a WES shall provide a process for assessing road damage caused by its activities and, additionally, shall conduct road repairs related to such activities at its own expense. In the event of the owner’s failure to maintain and repair such road damage, the Town may, but shall not be obligated to, maintain, or repair such road damage and charge the cost of such maintenance or repairs as a special charge or special assessment against the owner of the WES. Pursuant to and without waiving any rights under Wisconsin Statute 86.02, “Injury to highway”, should Town road surfaces or rights of way become damaged by any means, including, but not limited to, unloading of equipment onto Town roads or travel of equipment over Town roads, the owner of a WES, or individuals associated therewith, causing such damage shall be liable for damages up to and including treble the costs of remediation of the damaged road surface.
6. **WES Noise Impacts.**
   a. The noise generated by the operation of a WES may not exceed 50 dBA during the daytime hours and 45 dBA during the nighttime hours as measured at the outside wall of a nonparticipating residence or occupied community building that existed when the owner gave notice pursuant to PSC 128.105(1) or for which complete publicly available plans for

construction were on file with the Town Board within 30 days of the date when the owner gave notice pursuant to PSC 128.105(1). Nighttime hours are the hours beginning at 10:00 p.m. and ending at 6:00 a.m. daily and daytime hours are the hours beginning at 6:00 a.m. and ending at 10:00 p.m. daily.
  b. The owner of an adjacent nonparticipating residence or adjacent occupied community building may relieve the owner of the WES of the requirement to meet any of the noise limits in this section by written contract as provided in PSC 128.14(5) and (6).
  c. For a SWES, the owner of the SWES shall comply with all other noise limitations, notification and compliance rules as prescribed by PSC 128.61(3)(b), (4) and (6), if applicable.
  d. If an owner of a WES receives a complaint regarding a violation of the noise standards contained in PSC 128.14 and the owner has not provided the Town with the results of an accurate test conducted within two years of the date of the complaint showing that the WES is in compliance with the noise standard at the location relating to the complaint, the owner shall promptly conduct a noise study to evaluate compliance with the noise standards at that location using the most current version of the noise measurement protocol as described in PSC 128.50(2).

7. **LWES Annual Reports.** Annual reports. The owner shall file an annual report with the Town Board documenting the operation and maintenance of the wind energy system during the previous calendar year, as required by PSC 128.33(5).
8. **Abandonment and Decommissioning.**
  a. The following applies to both Large and Small Wind Energy Systems, whereas Section 8 b applies solely to large Wind Energy Systems.
    i. A wind energy system that is at the end of its useful life and/or does not generate electricity for a continuous period of 360 days will be deemed abandoned and the department may send a Notice of Abandonment to the owner. Exemptions under PSC 128.60 and modifications under PSC 128.61 apply to all Small Wind Energy Systems.
    ii. If, within 30 days of receipt of a Notice of Abandonment, the owner provides the department with information showing to the department's satisfaction that the wind energy system has not been abandoned, the department will withdraw the Notice.
    iii. Unless the department withdraws the Notice of Abandonment, a wind energy system tower must be decommissioned as prescribed by PSC 128.19. If the owner fails to remove a wind energy system and 38 reclaim the site, the county may remove or cause the removal of the wind energy system and arrange for the reclamation of the site.
  b. The following decommissioning process applies only to Large Wind Energy Systems:
    i. An owner of a LWES shall decommission and remove the LWES when the facility is at the end of its useful life. A LWES is presumed to be at the end of its useful life if the LWES generates no electricity for a continuous 360-day period. Exemptions under PSC 128.60 and modifications under PSC 128.61 apply to all SWESs.
    ii. Upon application by the owner of the LWES, the Town shall grant an extension of the time period for returning the LWES to service by one or more additional 180-day periods if the owner demonstrates it is likely the LWES will operate again in the future and any of the following occur:
      1. The owner submits a plan to the Town that demonstrates an ongoing good faith effort to return the LWES to service and outlines the steps and schedule for returning the LWES to service in a reasonable period of time, including by repairing, replacing or repowering the LWES as necessary to generate electricity.
      2. The owner demonstrates that the LWES is part of a prototype or other demonstration project being used for ongoing research or development purposes.
      3. The owner demonstrates that the LWES is being used for educational purposes.
    iii. The Town may deny a request for an extension under sub. b if the LWES has not generated any electricity for a continuous period of 540 days or more and the Town finds that the owner is not capable of returning the LWES to service within a reasonable period of time.
    iv. A LWES is irrebuttably presumed to be at the end of its useful life if the LWES generates

no electricity for a period of 540 days and any of the following occur:

1. The owner does not request an extension of the time period for returning the LWES to service under sub. ii.
2. The Town denies a request for an extension under sub. iii. and any appeal rights have expired.

v. When decommissioning is required, the owner of the LWES shall begin decommissioning within 360 days after the LWES has reached the end of its useful life. The owner shall complete decommissioning and removal of the LWES within 540 days after the LWES has reached the end of its useful life.

c. The following financial responsibilities apply only to Large Wind Energy Systems:

i. An owner of a LWES with a nameplate capacity of one megawatt or larger shall provide the Town with and maintain proof of financial assurance of the owner's ability to pay the actual and necessary cost to decommission the LWES before commencing major civil construction activities such as blasting or foundation construction at the LWES site. An owner may comply with this paragraph by choosing to provide a bond, deposit, escrow account, irrevocable letter of credit, or some combination of these financial assurances, that will ensure the availability of funds necessary for decommissioning throughout the expected life of the LWES and through to completion of the decommissioning activities, consistent with PSC 128.19(3).

1. An owner of a LWES shall provide the Town with three estimates of the actual and necessary cost to decommission the LWES. The cost estimates shall be prepared by third parties agreeable to the owner and the Town. The amount of financial assurance required by the Town shall not exceed the average of the three estimates.
2. An owner of a LWES shall establish financial assurance that is acceptable to the Town and that places the Town in a secured position, subject to 8-c. 1. The financial assurance must provide that the secured funds may only be used for decommissioning the LWES until such time as the Town determines that the LWES has been decommissioned, as provided for in PSC 128.30(5)(b), or the Town otherwise approves the release of the funds, whichever occurs first.
3. An owner of a LWES shall establish financial assurance that allows the Town to access funds for the purpose of decommissioning the LWES if the owner does not decommission the LWES when decommissioning is required, consistent with PSC 128.19(3)(c)(4).

ii. The Town may periodically request information from the owner of the LWES regarding industry costs for decommissioning the LWES. If the Town finds that the future anticipated cost to decommission the 40 LWES is at least ten percent more or less than the amount of financial assurance provided under this section, the Town may correspondingly increase or decrease the amount of financial assurance required but shall not adjust the financial assurance required under this paragraph more often than once in a five-year period.

iii. The Town may require an owner of a LWES to submit a substitute financial assurance of the owner's choosing if an event occurs that raises material concern regarding the viability of the existing financial assurance.

iv. Except as provided below in sub. v if a LWES was constructed on land owned by a person or persons other than the owner of the LWES, the owner of the LWES shall ensure that the property is restored to preconstruction condition, unless otherwise provided in a contract signed by an affected landowner, considering any modifications needed to comply with DNR requirements.

v. If a LWES was constructed on a brownfield, as defined in § 238.13(1)(a), Wis. Stats., the owner of a LWES shall restore the property to eliminate effects caused by the LWES, except for the effects of environmental remediation activities, as defined in § 238.13(1)(d), Wis. Stats.

d. Decommissioning review. An owner of a WES shall file a notice of decommissioning completion with the Town when a WES approved by the Town has been decommissioned and removed.

The Town shall conduct a decommissioning review to determine whether the owner has decommissioned and removed the WES as required by PSC 128.19(1)(a) and, for LWES, whether the owner has complied with its site restoration obligations under PSC 128.19(4) when applicable. The owner of the WES shall cooperate with the Town by participating in the decommissioning review process and, for LWES, ensure the obligations under PSC 128.19(3) are met.

9. **LWES Surety for Removal, when Decommissioned.** In accordance with the financial responsibilities referenced above in Section 8-8-c, the owner shall place with the Town an acceptable letter-of-credit, bond, or other form of security that is sufficient to cover the cost of removal at the end of each WES turbine's useful life, as detailed in the decommissioning plan. Such surety shall be at least $200,000 for each wind turbine; provided, however, the Town Board may approve a reduced surety amount that is not less than 125% of a cost estimate that is certified by an engineer, salvage company, or other expert acceptable to the Town Board. This calculation will not take into account any estimated salvage values. The Town shall use this surety to assure the faithful performance of the decommissioning terms and conditions of the Applicant's plan and this law. The full amount of the bond or security shall remain in full force and effect until all necessary site restoration is completed to return the site to a condition comparable to what it was prior to the WES, as determined by the Town Board. The Applicant will be responsible for assuring that any subsequent Assigns of the LWES will provide acceptable surety to the Town prior to any transfer of ownership.
10. **WES Complaints.** The WES must provide a complaint resolution process as required by PSC 128.40 in order to address complaints by aggrieved persons, which shall include an initial response within 30 days of receipt of such complaint and a good faith effort to resolve the complaint within 45 days of receipt of such complaint. In addition, the Town shall also set up a process for filing and handling WES complaints by aggrieved person if the complaint is not resolved within 45 days. The Town may establish a monitoring committee to oversee resolution of complaints regarding LWESs, whose recommendations on reasonable resolution of complaints may include seeking reimbursement from the owner for reasonable expenses relating to review and resolution of the complaint(s) which may include cost of services provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts.
11. **Compliance Monitoring.** The following compliance monitoring standards apply only to Large Wind Energy Systems, where all such systems are also subject to PSC 128.36.
    a. The Town may establish a procedure to monitor compliance by the owner with any condition on an approved wind energy system or to assess when wind energy system facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public.
    b. The Town may also require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the political subdivision regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.
12. **LWES Lease Agreements.** The Applicant shall legally file the entire lease document and a record of all signed leases shall be maintained by the Town Board.
13. **Post Construction Filing Requirements**. The following post construction filing requirements apply only to Large Wind Energy Systems.
    a. Within 90 days of the date a wind energy system commences operation, the owner shall file with the Town and the Wisconsin Public Service Commission an as-built description of the wind energy system, an accurate map of the wind energy system showing the location of all wind energy system facilities, geographic information, system information showing the location of all wind energy system facilities, and current information identifying the owner of the wind energy system.
    b. An owner shall label each wind turbine location described in its filing and shown on the map of the wind energy system with a unique identifier consistent with the information posted at the wind turbine location under PSC 128.18(1)(g).

Section 9. Miscellaneous.

1. **Fiscal Responsibility.**
    a. The Town Board may, at its discretion, request the most recent annual audited financial report of the licensee prepared by a duly licensed Certified Public Accountant during the review process. If such a report does not exist, the Town Board may, in its sole discretion, require a suitable alternative to demonstrate the financial responsibility of the Applicant and its ability to comply with the requirements of this Ordinance.
    b. No transfer of any LWES, or license, or the sale of more than 30 percent of the stock of such entity (not counting sale of shares on a public exchange) shall occur without written acceptance by such entity of the obligations of the licensee under this Ordinance and the terms of the license and any related Developer's Agreement. Any such transfer shall not eliminate the liability of any entity for any act occurring during its ownership or status as licensee.
2. **Inspection, Enforcement Procedures, and Penalties.**
    a. Inspection. The Town Board, a retained expert, or another authorized representative of the Town, may make inspections or undertake other investigations to determine the condition of a WES in the Town to safeguard the health and safety of the public and to determine compliance with this Ordinance, upon showing proper identification and providing reasonable notice.
    b. Violations. The following are violations under this Ordinance:
        i. Engaging in construction, installation, or operation of a WES without a Wind Energy Facilities License granted by the Town Board or a developer agreement or both.
        ii. Failure to comply with the applicable minimum standards and other terms of this Ordinance.
        iii. Making an incorrect or false statement, including in the information and documentation submitted during the licensing process or during an inspection by the Town or its duly appointed representative, or a representative of another regulatory agency.
        iv. Failure to comply with any conditions of an approval or license, or any agreements entered into as a condition of approving a license.
        v. Failure to take appropriate action in response to a notice of violation or citation, or other order issued by the Town.
    c. Hearings.
        i. Any person affected by a notice, order, or action under this Ordinance, or upon denial of an application for a license or license renewal, may request a hearing on the matter before the Town Board, provided such person files with the Town Clerk a written petition requesting the hearing and setting forth his or her name, address, telephone number, and a brief statement of the reason for requesting the hearing. Such a petition shall be filed within 30 days of the date the notice, order, or action under sub. (4) is served or within 30 days of the date of the approval or denial of a license or an application for a renewal. Upon receipt of the petition, the Town Clerk may set a time and place for a hearing before the Town Board and, if a hearing is scheduled, shall give the petitioner and other interested parties written notice thereof.
        ii. After a hearing under par. i, the Town Board, by a majority vote of the members present, shall sustain, modify, or withdraw the notice, order, or action, or grant or deny the license or license renewal, depending on its findings as to whether the provisions of this Ordinance have been complied with. The petitioner shall be notified within 10 days, in writing, of such findings.
        iii. The proceedings of the hearing, including the findings and decision of the Town Board and the reasons therefore, shall be summarized in writing and entered as a matter of public record in the office of the Town Clerk. Such records shall also include a copy of every notice and order issued in connection with the case.
    d. Remedies. The Town Board may take any appropriate action or proceeding against any person in violation of this Ordinance, including the following:
        i. Issue a stop work order.
        ii. Issue a notice of violation and order that specifies the action to be taken to remedy a situation.
        iii. Issue a citation.
        iv. Refer the matter to legal counsel for consideration and commencement of legal action, including the assessment of forfeitures under sub. (f) and injunctive relief.
        v. Suspend or revoke the WES License under sub. (e) in the event there are repeated

exceedances of the standards or conditions incorporated into a WES License or developer agreement.

e. License Suspension or Revocation. After giving notice and holding a hearing, the Town Board may suspend or revoke a WES license for a violation under this Ordinance.

f. Penalties.

  i. Any person or entity who violates this Ordinance may be assessed a 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.

  ii. Any person or entity who violates this Ordinance shall pay court costs and reasonable attorney's fees associated with a forfeiture assessed under section 9-2.fi. and for any action for injunctive relief sought by the Town. The remedies provided herein shall not be exclusive of other remedies.

g. Non-Waiver. A failure by the Town to take action on any past violation(s) shall not constitute a waiver of the Town's right to take action on any present or future violation(s).

Section 10. Severability, Interpretation, and Abrogation.

1. Severability.

  i. Should any section, clause, provision, standard, or portion of this Ordinance be adjudged unconstitutional or invalid, unlawful, or unenforceable by a final order of a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

  ii. If any application of this Ordinance to a particular parcel of land, WES or project is adjudged unconstitutional or invalid by a final order of a court of competent jurisdiction, such judgment shall not be applicable to any other parcel of land not specifically included in said judgment, unless specifically required by the court.

b. The provisions of this Ordinance shall be liberally construed in favor of the Town and shall not be construed to limit or repeal any other power now possessed by or granted to the Town.

c. This Ordinance is not intended to repeal, annul, or interfere with any easements, covenants, deed restrictions or agreements created prior to the effective date of this Ordinance.

12.13 - Solar Energy Systems Licensing

Section 1 - Title

This Ordinance may be cited as the Town of Kewaskum's Solar Energy Systems Licensing Ordinance 12.13. The Town of Kewaskum, Washington County, State of Wisconsin ordains as follows:

Section 2 - Purpose and Application

1. Purpose**:**
    a. The Town of Kewaskum (hereinafter also referred to as the "Town" or "Township") finds that while solar energy is a semi-renewable energy resource of electricity generation, and under some circumstances it may reduce the use of nonrenewable energy sources, the possible benefits must be balanced against potential negative impacts to local citizens, local economy, and local ecosystems.
    b. Therefore, it is important that installation of Solar Energy Systems is accomplished in a safe, clean, and orderly manner that will minimize potential adverse biological, agricultural, visual, and other environmental impacts. Pursuant to the authority granted by Wis. Stats. § 66.0401, this ordinance is enacted to provide for Town review of proposed Solar Energy Systems and to ensure such systems are properly installed and are sited in a manner that will minimize any adverse impacts without significantly increasing the cost or efficiency of the proposed system or which permits an alternate system of comparable cost or efficiency. To require the operator of a proposed Solar Energy System to be located in the Town of Kewaskum to obtain a permit and/or license from the Town prior to beginning construction activities in order to protect public health and safety, to minimize or prevent potential adverse off-site impacts from on-site and off-site operations and to promote the general welfare of the people and communities within the Town of Kewaskum.
2. Application: This Ordinance shall apply to all Solar Energy Systems.
3. Authority: This Ordinance is adopted under the powers granted to the Town of Kewaskum by Wis. Stat. §§ 60.10, 60.22 (3), and 61.34, its authority under §66.0401 and § 66.0403, and other authority under statutes, and its adoption of village powers under § 60.10 (2)(c). Any amendment, repeal or recreation of the statutes relating to this Ordinance made after the effective date of this Ordinance is incorporated into this Ordinance by reference on the effective date of the amendment, repeal, or recreation.

Section 3 - General Procedures

Where applicable, zoning permits and conditional use permits shall be applied for and reviewed under the procedures established following the Town of Kewaskum Code of Ordinances, including Building Permit and Electrical Permit issuance. Applications will also be reviewed for consistency with the Town of Kewaskum Comprehensive Plan in order to be in compliance with Wis. Stat. 66.1001(3). All elements of the Solar Energy System are to comply with all applicable State, County and Town regulations..

Section 4 - Permits and/or Licenses Required

a. License Requirement. No person or entity shall commence construction activities on a System or operation of a System in the Town without first obtaining a permit and/or required license from the Town board ("solar license"). The requirements for applying for a solar license is provided in Section 6.
b. License Term. An initial license term may be approved for a maximum of 15 years. A license renewal may be for a term of up to 10 years. The operator shall make a written request to the Town Clerk for a renewal of the license no later than October 1 of the year in which the license will expire.
c. License Amendment. If the Town has issued a solar license, the operator may request an amendment to that license during the license term, using the same process as applies to an original license application.
d. License Transfer. A solar license may be assigned or transferred without the express written consent of the Town upon delivery to the Town the documentation that the transferee agrees to

be bound by the obligations of the license under this Ordinance and any developer agreement between the Town and the licensee. (e) License Revocation. A solar license may be suspended or revoked under the procedure.

In addition to a building permit and electrical permit, a separate permit is required for a Solar Energy System installation as follows:

1. Roof-mounted Solar Energy Systems meeting the requirements shall be administratively reviewed/permitted by the Building Inspector.
2. Ground-mounted and pole-mounted Solar Energy Systems meeting the requirements of covering between 100 and 1000 square feet shall be administratively reviewed/permitted by the Town. Systems over 1000 square feet shall require Plan Commission review and Town Board approval. 2
3. Wall-mounted Solar Energy Systems meeting the requirements of greater than 100 square feet shall be administratively reviewed/permitted by the Building Inspector.
4. Large Solar Energy Systems as identified in Section exceeding 1000 square feet of ground cover shall require Plan Commission review and Town Board approval.
5. The requirement for a permit and or licensing may not be avoided by successive installations each of which are smaller than the thresholds established herein. If a successive installation is presented (two or more installations within a 3-year period), such applications will require Town review/approval.
6. All permits and/or licensing shall be subject to the fee schedule approved by the Town Board.
7. Approval process flow chart:

BUILDING PERMIT REQUIRED FOR ALL INSTALLATIONS

	NO PERMIT	PERMIT	TOWN BOARD APPROVAL & LICENSE
Ground	<100 Square feet	>or=100 <1000 Square feet	>or= 1000 Square feet
Roof	Any		
Wall	<100 Square feet	>or= 100 Square feet	

Section 5 - Exempt Installations

The following installations are exempt from a Solar Energy System Permit:

1. If solar panels and any accompanying equipment are mounted upon the roof of a principal structure or accessory structure, the accessory structure is erected primarily for purposes other than for the mounting of solar energy equipment.
2. Solar installations less than 100 square feet (hereinafter "small panels") not to exceed 3 small panels on a given parcel.
3. Installations oriented for public purposes, such as small panel installations for signage and lighting & related equipment within the right-of-way. One panel, or larger, installations within the right-of-way require a permit and Town Board approval.
4. 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.

Section 6 - Application

An application for a permit and/or licensing under this ordinance shall be submitted to the Town Clerk, in accordance with the Town's current policy and procedures and shall contain the following 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. The description shall also include technical specifications and supporting calculations necessary to demonstrate the structural integrity of the installation including, but not limited to the ability to withstand wind.
2. Site Plan. The site plan shall include the following information:
    a. Existing Conditions.

i. Property lines.
ii. Buildings.
iii. Proposed installation location and details.
iv. Existing land use and features (woods, cropland, slopes exceeding 12%, wetlands, etc.).
v. 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).
vi. 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 placed with Town.

b. Proposed Plan.

i. Proposed location and spacing of solar collectors.
ii. Proposed location of access roads for ground-mounted installations greater than 1000 square feet.
iii. Proposed planned location of underground or overhead electric lines connecting the system to the building, substation, or other electric load.
iv. Location of proposed new electrical equipment other than at the existing building or substation that is the connection point for the system.
v. Proposed erosion and sediment control measures.
vi. Proposed stormwater management measures.
vii. 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.
viii. A description of the proposed method of connecting the system to a building or substation,
ix. Proposed maintenance plan for grounds surrounding the system, including storm follow-up, and other actions that will be taken to keep the Solar Energy System operating quietly, efficiently, and not polluting land, water, or air.
x. Proposed plan outlining the use, storage, and disposal of chemicals used in the cleaning of the collectors and/or reflectors.
xi. Proposed plan for the storage, operation, maintenance and possible disposal of any batteries serving the system.
xii. Scaled elevation drawings covering the proposed facilities on the property.
xiii. A description and drawing showing the screening/landscaping plan being proposed.
xiv. Proposed safety and security plan.
xv. For ground-mounted installations with greater than 1000 square feet of panels, a health, safety, endangered species, and environmental sustainability plan is required.
xvi. For ground-mounted installations with greater than 1000 square feet of panels, a geotechnical report for the site from a qualified geotechnical engineer. (Township reserves the right to seek corroboration from a different geotechnical engineer of their choice for validation).
xvii. For ground-mounted installations with greater than 1000 square feet of panels, a proposed sound and vibration level study, following the Wisconsin Department of Natural Resources Measurement Protocol for Sound and Vibration Assessment of Proposed and Existing Electric Power Plants (2008, or current version).
xviii. For ground-mounted installations with greater than 1000 square feet of panels and Primary Use Solar Energy Systems, a decommissioning plan outlining the anticipated means and cost of removing the system at the end of its serviceable life or upon it becoming discontinued use. The plan shall also identify the financial resources set aside to pay for the decommissioning and removal of the system.
xix. Health, safety, endangered species, and environmental sustainability plan.

c. Miscellaneous.

i. The name, address, and telephone number of the owner of the property upon which the system is to be installed. If the applicant is different from the property owner, then this information shall be provided for the applicant as well. Also, the name and address of the party responsible for maintaining the system.

ii. An explanation of the factors considered in citing the facility at its proposed location.

Section 7 - Solar System Regulations

1. Minimum Standards. The Town Board shall grant a solar permit and/or license if it finds that the proposed System will be consistent with the following minimum standards and the purposes of this Ordinance. Pursuant to Wisconsin Law, evaluation of these standards requires a case-by-case evaluation. 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 Building Inspector, 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. The operation of the Solar Energy System will limit the hours of operation at the site to normal daylight hours of dawn to dusk, particularly construction activities and activities causing excessive light to be shed from the site onto neighboring properties, to avoid disturbance of the use and enjoyment of neighboring properties.
   e. The operator of the Solar Energy System will limit night lighting to the level that is minimally necessary for security and worker safety. Every effort, consistent with legal requirements for safety, shall be made to minimize illumination of the night sky and neighboring properties.
   f. The operator of the Solar Energy System will control off-site noise levels to the extent practicable to avoid adverse impacts on neighboring properties, particularly during construction activities. The operator shall comply with all applicable noise limits.
   g. Systems that result in the creation of one (1) or more acres of land disturbance, must provide plans that comply with the WI DNR NR 216 and NR 151 Construction Stormwater Permit Requirements prior to final stormwater and erosion control permitting at the Town.
   h. 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.
   i. Tree removal shall be minimized and mitigated in accordance with proper site design. Large scale removal of trees will require a Town approved mitigation plan.
   j. Screening and/or sound reducing mechanisms are required for all Large Solar Energy Systems, and any installation where noise producing infrastructure is located outdoors.
   k. The applicant shall submit a decommissioning plan, per the standards of this Ordinance, with the permit application.
   l. 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.
   m. 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. Measures to minimize misdirection of reflected solar radiation may be required, including modifying the surface material, placement or orientation of the system and, if necessary, adding screening to block glare.
   n. If the proposed Solar Energy System is within two (2) miles of other neighboring municipalities, the Applicant shall provide written notification of this application to those municipalities.
   o. Power inverters and any sound-producing equipment shall be at least 500 feet from any residential dwelling(s) adjacent to the Parcel covered by the application. If that 500-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 (at boundary line), which plan shall be subject to the review and approval of the Town.
   p. 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 the same, may be deemed a nuisance or a violation of this ordinance.

2. 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.
3. 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.
4. Wall-mounted Solar Energy Systems. The following standard shall apply to wall-mounted Solar Energy Systems:
    a. 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.
5. 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.
6. 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 Town 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.
7. Large Solar Energy Systems. For purposes of this Ordinance, all Large Solar Energy Systems shall be considered as commercial structures for the purposes of compliance with other provisions of the Town Code of Ordinances. All applications for a Primary Use Energy System shall be conditioned upon entering into a Memorandum of Understanding with the Town 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 Plan Commission under Conditional Use

Review:

a. All elements of the system shall meet or exceed all district regulations based on the applicable zoning district. 8
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 WI DNR NR 216 and NR 151 Construction Stormwater Permit Requirements prior to final stormwater and erosion control permitting by the Town.
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 be at the licensee's cost and consist of canopy and conifer trees at a hedge row at 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 and provide a copy to the town of the 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. Bird diverters and wildlife fencing to exceed full extension of panels.
n. All areas on the Property within any fenced area shall be kept free of weeds and the grass shall be cut to a height of 12 inches or less. No insecticide or herbicide use is permitted on the solar panel fields of the Solar Energy System without Town of Kewaskum Board approval.
o. The applicant shall obtain the approval of the Town Engineer or appointee for erosion and runoff control measures as required by the Town and County Ordinances prior to grading, utility installation, or any other land disturbance activity. The top soil shall not be removed during development. If topsoil is removed it must be stockpiled and remain on site for site reclamation. 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 Town 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 applicants shall be determined by the Town as part of the permit issuing process. Within a reasonable time after determining the primary roads, the Town 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 the applicant during the construction of the project. Once the primary roads are determined, the applicant and the Town 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, or at a lesser interval if so chosen by the Town, applicant and the Town engineer or appointee shall conduct an inspection of the primary roads and, if necessary, applicant shall be required to pay for or make repairs and/or improvements satisfactory to the Town to restore the primary roads to the condition documented at the commencement of the Project or better. Upon the conclusion of the Project, a final inspection and review shall be conducted by the Town 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 guaranty as required by section (q).

q. The applicant shall obtain and deposit with the Town of Kewaskum Clerk a financial guaranty consisting of a Surety Bond or an Irrevocable Letter of Credit in the amount to be determined by the Town to guarantee 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 Town and shall be in a form acceptable to the Town. The financial guaranty shall guarantee 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 bond will be available to the Town for that purpose.

r. The applicant shall immediately notify the Town Board of the occurrence and nature of any Solar Energy System Emergency. The applicant shall establish and maintain a liaison with the Town Board and with fire, police, and other appropriate first responders serving the Solar Energy System to create effective emergency plans that include: current emergency contact information for first responders and The Solar Energy System, written procedures and duties of responsibilities of all parties in handling different types of Solar Energy System emergencies, and an emergency evacuation plan for the area within 1 mile of the Solar Energy System. The applicant shall also review the emergency plan at least annually in collaboration with fire, police, and other appropriate first responders to update and improve the emergency plan as needed as well as distribute current copies of the emergency plan to the Town Board, fire, police, and other appropriate first responders as identified by the Town Board. The Town Board shall require the applicant to provide annual training for fire, police, and other appropriate first responders regarding responding to a Solar Energy System emergency until the Solar Energy System has been decommissioned.

s. Other than the fencing directly surrounding the project substation, O&M (operation and maintenance) and BESS (battery energy storage system) the Project's perimeter fencing shall consist of "deer fencing" (wire mesh), which is a ten-foot-tall woven wire partition with wooden posts. Where commercially reasonable, fences will be set 50 feet within/inside property lines or rights-of-way edges unless otherwise requested from the landowner and agreed upon with the adjacent landowner. Bird diverters must be installed. 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 unpleasing 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 or the Town may fine the applicant thrice the cost it would take to repair it. 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.

t. 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 Town. 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. Pre-existing conditions 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. 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.

u. 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 Town during the pre-construction meeting and post-construction meeting. The top soil shall not be removed during development. If topsoil is removed it must be stockpiled and remain on site for site reclamation. 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 mow, and otherwise maintain all developed acreage inside the fence.

v. 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 Town Board. Applicant will provide the Town 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.

w. 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 similar 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. A larger setback is necessary in order to preserve public health and safety.

x. The applicant acknowledges that the Town has and will incur certain administrative and/or legal costs for, among other things, processing, posting, or mailing of public hearing notifications, studying and/or drafting documents and reviewing the integrity of the primary roads serving as access to the property. As a condition of obtaining a permit, the applicant agrees to pay all of the necessary and reasonable administrative, engineering and legal costs incurred by the Town for, among other things, processing, posting, or mailing of public hearing notifications, studying, redrafting documents and to ensure the integrity of that portion of any primary road serving as an access to a facility site. Applicant understands the legal and/or engineering consultants retained by the Town are acting exclusively on behalf of the Town and not the applicant. Applicant agrees to reimburse the Town for all administrative expenses within 30 days of billing. In the event applicant defaults in the payment of such expenses, in addition to any other remedies which the Town may be entitled, the Town may take funds from the financial guaranty set forth in (q) above and the Town shall recover from applicant all of its costs in enforcing this Ordinance including reasonable attorney fees.

8. 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 Town 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 will specifically address 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 13 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 Town 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 value 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:
      i. 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 Solar Energy System. 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 Solar Energy System was proposed or constructed.
      ii. 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 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.

Section 8 - Decommissioning

The following provisions shall apply to decommissioning:

1. Decommissioning of the system must occur within one (1) year from either the end of the system's serviceable life or from the time that the system becomes a discontinued use. A system shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and timely submitted to the Town outlining the steps and schedule for returning the system to service.
2. Decommissioning shall consist of the following:
    a. The removal of the system's equipment and the removal of the system's foundation to a depth of at least 5 feet under the surface of the ground. An exemption from this requirement may be granted by the Town if it is determined that the removal of the 14 foundation will significantly increase erosion and/or significantly disrupt vegetation on the site.
    b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
    c. The stabilization of soils and/or re-vegetation of the site as necessary to minimize erosion and promote soil nutrient and soil carrying capacity.
3. The decommissioning shall occur in accordance with the decommissioning plan approved by the Town, or any plan amendment approved by the Town.
4. The applicant shall provide the Town with at least two years notice prior to the actual beginning of the decommissioning process. The security as required by (5) below shall be posted with the Town Clerk at least six months prior to the beginning of the decommission process.
5. At the time decommissioning begins, all applicants shall obtain and deposit with the Town of Kewaskum Clerk a financial guaranty consisting of a Surety Bond or an Irrevocable Letter of Credit in an amount to be determined by the Town Engineer to guarantee the performance of all of its obligations concerning the decommissioning of the project. The surety shall run in favor of the Town and shall be in a form acceptable to the Town and/or Town Attorney. The surety shall guarantee the applicant's obligations under this Agreement and that, in the event the parties are unable to agree on the steps required to complete decommissioning, the surety will be available to the Town for that purpose.
6. The applicant acknowledges that the Town 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 Town 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 retained by the Town are acting exclusively on behalf of the Town and not the applicant. Applicant agrees to reimburse the Town for all administrative expenses within 30 days of billing. In the event applicant defaults in the payment of such expenses, in addition to any other remedies which the Town may be entitled, the Town may take funds for the financial guaranty as set forth in (5) above, the Town shall recover from applicant all of its costs in enforcing this Ordinance including reasonable attorney

Section 9 - Review

1. The Plan Commission shall review all required applications under this Ordinance within sixty (60) days of a complete submittal and make its recommendation to the Town Board. If the Plan Commission determines more information is necessary to evaluate the application, it may postpone its recommendation for an additional ninety (90) days, but no further postponements shall occur without the consent of the applicant. The Plan Commission may recommend approval, effective upon the satisfaction of conditions, or denial. The Plan Commission's recommendation shall be made to further

the purposes of this Ordinance. The Plan Commission may not 15 recommend any condition or deny a permit unless it finds such recommendation satisfies one of the following conditions:

a. Does not significantly increase the cost of the system or significantly decrease its efficiency.
b. Allows for an alternative system of comparable cost and efficiency.
c. Adequately addresses all potential impacts to adjoining residential properties, including sound level and screening impacts.

2. The Town Board shall begin its review of the application and Plan Commission's recommendation at its next meeting after receipt of the Plan Commission's recommendation. The Town Board may accept, reject, or modify the Plan Commission's recommendation under the same criteria as applied for the Plan Commission's review.
3. The Plan Commission or the Town Board may request that the applicant submit additional information if the Plan Commission or Town Board determines that the application is incomplete, or if the Plan Commission or Town Board determines that additional information is needed to determine whether the requested approval will meet the requirements of this Ordinance.
4. Upon completion of its review of the application and a review of any report from retained experts, the Town Board shall issue a proposed decision on whether to grant solar license, with or without conditions, or to deny the application or request.
5. Decision by the Town Board.
    a. Notice and hearing: Proposed Decision. Upon the issuance of a proposed decision under sub. (4), the Town Clerk shall place the preliminary decision of the Town Board on the Town's website or typical posting places and make it available for public inspection at the Town Fire Station. The Town Board shall set a date for a public hearing on the preliminary decision and, for an application for a solar license, give Class II public notice and post the notice in the designated posting places at least 15 days prior to the date scheduled for the hearing, and mail the notice to all neighboring landowners. At the public hearing, the Town Board shall take public comment on the proposed decision.
    b. Town Board Final Decision: Following the receipt of the public comments at the public hearing and any submitted written comments the Town Board may make a final decision whether to grant a solar license or set a date for a subsequent Town Board meeting during which the Town Board will make a final decision.
    c. Basis of Proposed and Final Decisions: The Town Board shall base its proposed and final decisions on a review of the application, any available retained experts' reports, public comments and information provided at the public hearing, and other relevant information at the discretion of the Town Board. 16
    d. In case of an application for solar license, the Town Board shall grant the license if it determines that the operation of the System will be consistent with standards and purposes of this Ordinance.
    e. In the case of a request for renewal of a license, the Town Board shall grant the request for renewal if it finds that there have been no material violations of the Ordinance or the license which have not been appropriately remedied, the operator has not received multiple or recurring citations or orders for violations of the solar license or this Ordinance. If the Town Board denies an application for a solar license or denies a request for renewal of a license, the Town Board shall notify the applicant in writing.
    f. Any person aggrieved by the action taken by the Board may appeal as provided by Wisconsin statutes.

Section 10 - Fees

1. An application under this Ordinance shall be accompanied by a fee and, if applicable, an escrow payment in accordance with the Town's fee schedule and escrow procedures. No action may be taken on the application until such fee is paid and the escrow is maintained current with a positive balance.
2. If the application is for a Large Solar Energy System or a Primary Use Solar Energy System, the application shall be accompanied by an escrow fee, as provided under the Town's Fee Schedule, and a Reimbursable Services Agreement, signed by the applicant, and the property owner if different from the applicant, to reimburse the Town for all actual costs incurred reviewing the application, including but not limited to consultants' fees for attorneys, engineers, planners or other relevant specialists. Final

approval may not be effective until all such costs are reimbursed according to the agreement. If such costs are not paid within sixty (60) days of final invoice, such costs may be placed on the tax roll for the subject property as a special charge pursuant to Wis. Stats. § 66.0627. Placement on the tax roll, however, shall not constitute payment for purposes of permit issuance.

Section 11 - Definitions

For the purpose of this Ordinance, 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 Town of Kewaskum Code of Ordinances.

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.

Construction activities - The initiation of any construction, land clearing or land disturbance related to construction, installation or operation of solar energy systems.

Decibel - A unit of measure of sound pressure.

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

Pure Tone - A sound composed of a single frequency.

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.

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.

Real Property Line - The imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

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.

Renewable Energy - Energy from sources that are not easily depleted such as moving water (hydro, tidal and wave power), biomass, geothermal energy, solar energy, wind energy and energy from solid waste treatment plants.

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 - A set of devices that the primary purpose is to collect solar energy and convert and store 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. This also includes transmission facilities dedicated to the 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 (Large scale) - A Solar Energy System with a size greater than 1000 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 smaller than 1000 square feet.

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 Nameplate Capacity - The total of the maximum rated output of the electrical power production equipment for a combined solar project.

Section 12 - Inspection, Violations, Remedies and Enforcement

1. Inspection: The Town Board, a retained expert, or another authorized representative of the Town, may make inspections or undertake other investigations to determine the condition of the System in the 20 Town to safeguard the health and safety of the public and to determine compliance with this Ordinance, upon showing proper identification and providing reasonable notice. Violations: The following are violations under this Ordinance:
    a. Engaging in construction, installation, or operation of a System without a solar license granted by the Town Board.
    b. Failure to comply with the applicable minimum standards and other terms of this Ordinance and established industry standards.
    c. Making an incorrect or false statement, including the information and documentation submitted during the licensing process or during inspection by the Town or its duly appointed

representative, or a representative of another regulatory agency.

   d. Failure to comply with any conditions of an approval or license, or any agreements entered into as a condition of approving a license.
   e. Failure to take appropriate action in response to a notice of violation or citation, or other order issued by the Town.
2. Remedies: The Town Board may take any appropriate action or proceeding against any person in violation of this Ordinance, including the following:
   a. Issue a stop work order.
   b. Issue a notice of violation and order that specifies the action to be taken to remedy a situation.
   c. Issue a citation.
   d. Refer the matter to legal counsel for consideration and commencement of legal action, including the assessment of forfeiture.
   e. Suspend or revoke the solar license in the event there were repeated exceedances of the standards or conditions incorporated into a solar license or developer agreement.
3. Enforcement:
   a. Enforcement of this Ordinance shall be by means of revoking the permit for multiple violations of this Ordinance following written notice from the Town and a failure of the applicant to cure the violations, impositions of forfeitures, and/or injunctive action. Forfeitures shall not be less than $250.00, nor more than $500.00 for each day of non-compliance, together with the costs of prosecution. If such forfeitures are not paid within sixty (60) days of notice, such costs may be placed on the tax roll for the subject property as a special charge pursuant to Wis. Stats. § 66.0627. Placement on the tax roll, however, shall not constitute payment. Enforcement may also be in the form of injunctive relief. If injunctive relief is sought and granted, the defaulting party shall pay all of the Town's costs and expenses, including reasonable attorney's fees, incurred in enforcing the provisions of this Ordinance, whether incurred prior to or after the commencement of any lawsuit. Unpaid amounts shall bear interest at the rate of twelve percent (12%) per annum if not paid within thirty (30) days of billing.
   b. A failure by the Town to take action on any past violation(s) shall not constitute a waiver of the Town's right to take action on any present or future violation(s).

Section 13 - Severability

Should any section, clause, provision, standard or portion of this Ordinance be adjudged unconstitutional or invalid, unlawful or unenforceable by a final order of a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

If any application of this Ordinance to a particular parcel of land or System or project is adjudged unconstitutional or invalid by a final order of a court of competent jurisdiction, such judgment shall not be applicable to any other parcel of land not specifically included in said judgment, unless specifically required by the court.

The provisions of this Ordinance shall be liberally construed in favor of the Town and shall not be construed to limit or repeal any other power now possessed by or granted to the Town.

12.15 PENALTY. Except as otherwise specifically provided in this chapter, any person who shall violate any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in sec. 25.04 of this Code.