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Town of Medina

Dane County, WI

Solar Energy Ordinance 2023-01

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1.01 **Purpose**

The Town of Medina has by adoption of this ordinance established authority, to regulate materials, location, height, and maintenance of solar energy systems in order to prevent the creation of nuisances and to minimize or prevent potential adverse off-site impacts from on-site and off-site operations, and to promote the general welfare of the public.

1.02 **Applicability**

This ordinance applies to all Systems that generate electricity within the Town of Medina designed for nominal operation at a capacity of 1,000 kilowatts (kw) or more.

1.03 **Definitions**

- (a) Construction Activities. Initiation of any construction, land clearing, or land disturbance related to construction, installation, or operation of a solar energy system.
- (b) Solar Energy System, System. Equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy.

1.04 **License Required**

- (a) License Requirement. A person is required to obtain a solar license from the Town Board before commencing Construction Activities on a System or operation of a System in the Town of Medina.

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- (b) License Term. An initial license term may be approved for a maximum of 35 years. A license renewal may be for a term up to 10 years.
- (c) License Amendment. If the Town has issued a solar license, an amendment may be requested during the license term. The amendment process is identical to the original license application.
- (d) License applicant shall submit an application to the Town Clerk.
 - (b) Application for renewal of solar license. The holder of the solar license 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.

1.05 Preliminary review and proposed decision

- (a) Preliminary review. The Town Clerk shall forward an application or request for renewal to the Town Board for an initial review. The Board will determine whether additional information or expertise is necessary to evaluate the application.
- (b) Additional information. The Board reserves the right to request additional informational information from the applicant.
- (c) Proposed decision. Upon completion of the Board's review of the application and reviews of reports from any retained experts, the Board shall issue a proposed decision on whether to grant a solar license, with or without conditions, or to deny the application or request.

1.06 Decision by Town Board

- (a) Notice and Hearing. Upon issuance of the proposed decision under 1.06(c), the Town Clerk shall place the preliminary decision of the Board on the Town's website and make it available for public inspection at the Town Hall. The Board shall set a date for a public hearing on the preliminary decision, as well as give Class III public notice and post the notice in the designated posting places at least 15 days prior to the date scheduled for the hearing. The Board shall also mail the notice to all neighboring landowners. At the public hearing, the Board shall take public comment on the proposed decision.
- (b) Final decision. Following public comment and review of any submitted written comments, the Board may make a final decision to grant the license request, grant the renewal, or set a date for a subsequent Board meeting to make a final decision.
- (c) Basis of decisions. The proposed and final decisions shall be based on the 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 Board.
- (d) Application consistency. The Board shall grant the license if it determines the operation of the System will be consistent with the Standards and purpose of this Ordinance.
- (e) Renewal request. The Board shall grant the renewal if it finds there have been no material violations of this Ordinance, and if there were citations issued, the issue has been remedied.

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- (f) Denial. If the Board denies the application or renewal, the Board shall notify the applicant in writing.

1.07 Application

- (a) Application requirements. All applicants shall submit a detailed site plan, which shall include the following:
 - i. A map;
 - ii. Information about the owner of any lands upon which any part of the System will be located;
 - iii. The name, address, phone number and email address of the operator;
 - iv. An operation plan detailing the construction, operations, and decommissioning phases over the life of the project, including estimated time lines for each;
 - v. Information showing that the System will comply with the minimum standards stated in this Ordinance.
- (b) Developer agreement. The Board may enter into a developer agreement with an application that supersedes in whole or in part the requirements of this Ordinance.
- (c) Permit Fee: As identified in the Town of Medina Fee Schedule.

1.08 Minimum standards

The Board shall grant a solar license if it finds that the proposed System will be consistent with the following minimum standards and the purposes of this Ordinance:

- (a) The System will be appropriately buffered and screen from public view;
- (b) The construction and operation of the System will not adversely impact town roads;
- (c) All applicable Federal, State and local permits and approvals have been or will be obtained prior to commencement of operation;
- (d) The operator will maintain compliance with state and federal environmental requirements including stormwater management;
- (e) The operator will limit the normal hours of operations at the site, particularly construction activities and activities causing excessive light to be shed from the site onto neighboring property, to avoid disturbance of the use and enjoyment of neighboring property;
- (f) The operator will limit night lighting to the level that is minimally necessary for security for safety;
- (g) Every effort, consistent with legal requirements for safety, shall be made to minimize illumination of the night sky and neighboring properties;
- (h) The operator will control off-site noise levels to the extent practicable to avoid adverse impacts on neighboring properties, particularly during construction activities;
- (i) The operator shall comply with all applicable noise limits;
- (j) Any hazardous chemicals or other materials will be stored, used, and disposed of in accordance with applicable state and federal law;
- (k) The System shall not be sited on Group I or II agricultural soils;

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- (l) Systems shall not be sited over lands designated as Community Residential, Rural Residential, Commercial, Business Park, or Parks, Open Space, or Environmental Corridors;
- (m) Site, grading, stormwater management, and erosion control plans shall comply with associated Town, County and State regulations;
- (n) System proposals shall include an evaluation of environmental, wildlife habitat, architectural, archeological cultural, and other resources on or near such site, and avoid negative impacts on such resources;
- (o) Adequate security and other legal assurances shall be required to provide that financial resources are available to remove the solar field and all associated equipment and infrastructure when one of the following occurs:
 - i. The System's usefulness or life span is exhausted;
 - ii. Other technologies render the System obsolete;
 - iii. The System is no longer cost effective;
 - iv. The owner or operator goes out of business or is otherwise financially unable to maintain the System or remove the equipment and infrastructure following uses;
- (p) Restrictions shall be placed on the System property to prevent future development.

1.09 Inspection and penalties

- (a) Inspection. The Town Building Inspector, a retained expert, or another authorized representative of the Town, may make inspections or undertake other investigations to determine the condition of a System 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 at least 48 hours notice.
- (b) Violations. The following are violations under this Ordinance:
 - i. Engaging in construction, installation, or operation of a System without a solar license granted by the Board or a developer agreement;
 - 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;
 - v. Failure to comply with any agreements entered into as a condition of approving a license;
 - vi. Failure to take appropriate action in response to a notice of violation or citation, or other order issued by the Town.

1.10 Hearings

- (a) Any person's application or renewal that was denied may request a hearing on the matter before the Board. The individual will file a written petition to the Clerk requesting the

hearing and setting forth his or her name, address, telephone number, and a brief statement of the reason for requesting the hearing. This petition shall be filed within 30 days of receipt of denial of application or renewal. Upon receipt of the petition, the Clerk may set a time and place for hearing before the Board and, if a hearing is scheduled, shall give the petitioner and other interested parties written notice hereof via certified mail.

- (b) After a hearing under 1.10(a), the Board, by majority vote of the members present, shall sustain, modify or withdraw the denial of application or renewal. The petitioner shall be notified within 10 days in writing of the Board's findings.
- (c) The proceedings of the hearing, including the findings and decision of the board and reasons therefore, shall be summarized in writing and entered as a matter of public record in the office of the Clerk. The public record shall also include a copy of every notice and order issued in connection with the case.

1.11 Remedies

- (a) The Board may take the following actions against any person in violation of this Ordinance:
 - i. Issue a stop work order;
 - ii. Issue a notice of violation and order that specifies the action to be taken to remedy the situation;
 - iii. Issue a citation;
 - iv. Refer the matter to legal counsel for consideration and commencement of legal action, including the assessment of forfeitures found in 1.12, and injunctive relief;
 - v. License suspension or revocation, after giving notice and holding a hearing.

1.12 Penalties

- (a) Any person or entity who violates this Ordinance may be assessed a forfeiture of not less than \$500.00 per violation nor more than \$5,000.00 per violation, and/or be subject to injunctive relief. Each day a violation exists constitutes a separate violation.
- (b) Any person or entity who violates this Ordinance shall pay court costs and reasonable attorney's fees associated with a forfeiture assessed under 1.12(a) and for any action for injunctive relief sought by the Town. The remedies provided herein shall not be exclusive of other remedies.
- (c) 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).

1.13 Severability, interpretation, abrogation

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

1.14 Effective date

This ordinance shall take effect upon publication or posting.

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Adopted this ____ day of _____, 2022.

Town of Medina, Dane County, Wisconsin.

Todd Weinberger, Chairperson

Attestation:

_____, Clerk
Tammy Jordan

Published/Posted: _____