

ORDINANCE NO. 11, SERIES OF 2011

AN ORDINANCE AMENDING CHAPTER 44 - ZONING CODE – ARTICLE IX – DIVISION 4. WIND ENERGY SYSTEMS – SECTION 364 SPECIAL USE PERMITS, SECTION 365 PROCEDURE AND SECTION 366 SPECIFIC REQUIREMENTS OF THE MUNICIPAL CODE OF THE VILLAGE OF LITTLE CHUTE

BE IT ORDAINED by the Village Board of Trustees, Village of Little Chute, Outagamie County, Wisconsin as follows:

Section 1. Village of Little Chute Municipal Code, Zoning Code, Article IX – Division 4, Wind Energy Systems, Sections 44-364, 44-365 & 44-366 are amended as follows:

ARTICLE IX. SATELLITE EARTH STATIONS; TELEVISION OR RADIO ANTENNA TOWERS; WIND ENERGY SYSTEMS

DIVISION 4. WIND ENERGY SYSTEMS

Sec. 44-364. Special use permits.

(a) *Definitions.* The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Windmill, Traditional Dutch means windmills which are used to mill grains through direct mechanical systems.

Wind energy systems (WES) means windmills which are used to produce electrical ~~or mechanical~~ power.

(b) *Approval required.* No owner shall, within the village, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.

(c) *Separate permit required for each system.* A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.

(d) *Basis of approval.* The ~~village board and~~ plan commission shall base their determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the village and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise,

dust, smoke or odor and such other factors as would be appropriate to carry out the intent of this chapter.

Sec. 44-365. Procedure.

- (a) *Application.* The permit application for a wind energy system shall be made to the zoning administrator on forms provided by the village. The application shall include the following information:
 - (1) The name and address of the applicant.
 - (2) The address of the property on which the system will be located.
 - (3) Applications for the erection of a wind energy ~~conversion~~ system shall be accompanied by a ~~plat or survey~~ site plan drawn to scale for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one premises, the ~~plan~~ ~~plat or survey~~ shall show all properties to be served and the means of connection to the wind energy ~~conversion~~ system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
 - (4) An accurate and complete written description of the use for which ~~conditional use special grant~~ is being requested, including pertinent statistics and operational characteristics.
 - (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, location of all underground utilities on the property, location of all aboveground utility lines within two times the height of the WES.
 - (6) Dimensional representation of structural components of the tower construction, Schematic of electrical systems including existing and proposed electrical connections, Manufacturer's installation and operation instructions and design information, and Certification by a registered professional engineer that the WES design is sufficient to withstand wind load requirements.
 - (7) Any other information which the zoning administrator, ~~plan commission~~ ~~village board~~ or building inspector may deem necessary to the proper review of the application.
 - (8) The zoning administrator shall review the application, and, if the application is complete and contains all required information, shall refer it to the ~~plan~~ ~~commission~~~~village board~~.
- (b) *Hearing.* Upon referral of the application, the ~~plan commission~~ ~~village board~~ shall schedule a public hearing thereof following the procedures in article IV of this chapter, pertaining to conditional use permits.
- (c) *Determination.* Following public hearing and necessary study and investigation, the ~~plan commission~~~~village board~~ shall, as soon as practical, render its decision and a copy

be made a permanent part of the ~~board's~~ minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions.

(d) *Termination.* When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the ~~plan commission~~~~village board~~ following a public hearing thereon.

(e) *Changes.* Subsequent change or addition to the approved plans or use shall first be submitted for approval to the ~~plan commission~~~~village board~~ and if, in the opinion of the ~~plan commission~~~~board~~, such change or addition constitutes a substantial alteration, a public hearing before the ~~plan commission~~~~village board~~ shall be required and notice thereof be given.

(f) *Approval does not waive permit requirements.* The approval of a permit under this division shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

Sec. 44-366. Specific requirements.

- (a) *Additional standards.* Wind energy ~~conversion~~ systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this section in addition to those found elsewhere in this article.
- (b) *Application.* Applications for the erection of a wind energy ~~conversion~~ system shall be accompanied by a ~~plat or survey~~ site plan drawn to scale for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one premises, the ~~plan~~ ~~plat or survey~~ shall show all properties to be served and the means of connection to the wind energy ~~conversion~~ system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- (c) *Construction.* Wind energy ~~conversion~~ systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than 40 pounds per square foot in area.
- (d) *Noise.* The maximum level of noise permitted to be generated by a wind energy ~~conversion~~ system shall be 50 decibels, as measured on a dBA scale, measured at the lot line.

(e) *Electromagnetic interference.* Wind energy ~~conversion~~ system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy ~~conversion~~ system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.

(f) *Location and height.* ~~Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are equal to their height.~~ Wind energy conversion systems are exempt from the height requirements of this chapter; however, all such systems over 75 feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit applications. All new WES shall meet the following:

- (1) Installation of any WES may not be nearer to any property line than three (3) times the height of the structure.
- (2) No WES shall be located in any setback, dedicated easement, nor dedicated roadway.
- (3) The minimum distance between the ground and any blades, sails, or turbines utilized on a WES shall be fifteen (15) feet, as measured at the lowest point of the arc through which the pass.

(g) *Fence required.* All wind energy ~~conversion~~ systems shall be surrounded by a security fence not less than six feet in height. A sign shall be posted on the fence warning of high voltage.

(h) *Utility company notification.* The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

(i) *Utility Interconnection.* The WES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility's then-current service regulations.

(j) *Electrical Distribution Lines.* All WES electrical distribution lines shall be located underground.

(k) *Required Safety Features.* The following shall apply to all WES facilities.

- (1) All WES shall be designed with an automatic over-speed control to render the system inoperable when winds are in excess of the speeds for which the machine is designed.

- (2) All WES shall have a manually operable method to render the system inoperable in the event of a structural or mechanical failure of any part of the system including the automatic over-speed control.
- (3) All WES shall be designed with an automatic control to render the system inoperable in case of loss of utility power to prevent the WES from supplying power to a de-energized electrical distribution system.
- (4) All WES thereof declared to be unsafe by an official of the village by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared a public nuisance and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures set forth in these Codes of Ordinances.

(l) *Maintenance.* Village personnel shall have the right, at any reasonable time, to enter, in the company of the owner or agent of the owner, the premises to inspect all parts of the system.

Section 2. Severability. If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the above provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or its applications.

Section 3. Effective Date. This Ordinance shall become effective on the date of passage and posting.

Date introduced: June 22, 2011

Approved and adopted: July 6, 2011

VILLAGE OF LITTLE CHUTE

By: _____
Michael R. Vanden Berg, President

Attest: _____

Vicki Schneider, Village Clerk

Ayes: 7

Nays: 0

Abstain: 0