

WIND ENERGY FACILITY (Revised 10-13-10)

PURPOSE

The purpose of the Wind Energy Facility (WEF) Ordinance is to provide a regulatory scheme for the construction and operation of WEFs in the Town of Glenmore, subject to reasonable restrictions, which will preserve the public health and safety. The ordinance will distinguish between a large WEF that is used to generate energy for commercial sale and a small WEF that is primarily used to generate energy for use by the Landowner.

DEFINITIONS

1. Ambient Noise. Intermittent noise events such as from aircraft flying over, dogs barking, mobile farm or construction machinery and the occasional vehicle traveling along a nearby road are all part of the ambient noise environment, but would not be considered part of the background noise unless they were present for at least 90% of the time.
2. Blade Glint. Reflection of the sun off the surface of wind turbine blades.
3. Blade Throw. The distance a turbine blade or pieces of a broken blade could be thrown in the event of a mechanical failure.
4. Broadband Noise. The “swishing” or “wooshing” sound emitted as a function of a WES operation.
5. Good Neighbor Payments. Monetary compensation made to the Landowner, within a specified radius of a WES, which is a part of the WES CUP agreement between the Owner and the Town.
6. Hub Height. The distance measured from ground level to the center of the turbine hub.
7. Independent. Not controlled or influenced by the Owner.
8. Infra-sound. Sound with energy in the frequency range of 20 Hz and below is considered to be infra-sound and is normally considered to not be audible unless in relatively high amplitude.
9. Inhabited Structure. An occupied building existing prior to the conditional use application which includes, but is not limited to: residences, schools, churches, daycare facilities, public libraries, community buildings, places of employment and farm buildings where humans work on a daily basis.
10. Karst Feature. A geological feature that can act as a direct conduit for pollutants to enter groundwater, wells, springs and streams.
11. Landowner. The legal entity that owns the property on which a WEF is located.
12. Low Frequency Noise. An ongoing noise that impairs the health of a resident emitted during periods of turbulence as the blades are buffeted by changing winds that can cause structural vibration. Low frequency noise refers to sounds with energy in the lower frequency range of 20 to 200 Hz.
13. MET Tower. A meteorological tower used for the measurement of wind speed.
14. Noise. Any unwanted sound.
15. Non-participating Property. Real property that has no WEF or is in a different WEF.
16. Non-participating Residence. A residence located on a non-participating property.

17. Owner. The legal entity that owns a WEF.
18. Rotor Diameter. Diameter of the circle swept by the rotating blades.
19. Shadow Flicker. Moving shadows caused by the rotation of the turbine blades passing in front of the sun.
20. Total Height. The vertical distance from ground level to the tip of a wind turbine blade when the tip is at its highest point.
21. Town. Town of Glenmore and/or appointed or elected officials thereof.
22. Wind Energy Facility (WEF). An electricity generating facility consisting of one or more WES under common ownership or operating control and including substations, MET towers, cables/wires, and other buildings accessory to such facility.
23. Wind Energy System (WES)-Large. A wind energy system of one (1) wind tower and turbine that has a nameplate capacity of more than one hundred (100) kilowatts and/or a total height of more than one hundred seventy (170) feet and less than five hundred (500) feet and is used to generate energy for commercial sale.
24. Wind Energy System (WES)-Small. A wind energy system of one (1) wind tower and turbine that has a nameplate capacity of one hundred (100) kilowatts or less and a total height of one hundred seventy (170) feet or less and is primarily used to generate energy for use by the Landowner.

WIND ENERGY FACILITY-LARGE

A. GENERAL REQUIREMENTS

1. Location

A large WEF is a conditional use and may be located in areas zoned agriculture, business, industrial or rural residential.

No WES shall be located within any floodplains, shorelands, wetland areas or areas of karst features. A copy of all necessary DNR permits to cross any of these areas is required prior to issuing a building permit. A map indicating floodplains, shorelands, wetlands and areas of karst features in the proposed land parcels shall be submitted to the Town Zoning Administrator. Any karst features discovered must be reported to the Brown County Land Conservation Department.

2. Setback

The WES wind tower in a large WEF must be set back from any existing inhabited structure no less than one-half (1/2) mile.

Each WES wind tower shall be set back from the nearest property line, public road, communication and/or electrical lines a distance no less than three and one-tenth (3.1) times its total height.

An Owner shall measure WES setback distances as a straight line from the vertical center line of the wind turbine tower to the nearest point on the permanent foundation of an inhabited structure or to the nearest point on the property line or feature, as applicable.

The wind tower in a large WEF must be set back from any existing natural gas line the distance indicated by the natural gas line representatives. Owner shall provide to the Town Clerk a letter from natural gas line representatives stating the proper setback needed.

Setbacks could be decreased if written permission of a waiver is secured from the affected parties. In no instance shall the setback from an inhabited structure be decreased to less than one and one-tenth (1.1) times the total height of the wind tower. A notarized copy of the written permission shall be filed with the Town Clerk. Also, such permission must be recorded at the Brown County Register of Deeds and a copy of the recorded document shall be filed with the Town Clerk.

3. Clearance

The vertical distance from the ground level to the tip of a WES blade when the blade is at its lowest point must be no less than seventy-five (75) feet.

4. Electrical Wires

All electrical wires associated with a WEF, other than wires necessary to connect the WES to its base and to overhead collection lines, must be located underground. All electrical components of the WEF shall conform to relevant and applicable Local, State, and National codes.

5. Design

Wind towers shall maintain a galvanized steel finish, or subject to any applicable standards of the Federal Aviation Administration (FAA) and, if painted, a neutral color shall be used so as to reduce visual obtrusiveness. Applicant shall submit a certification by the manufacturer stating that the proposed blade coating will not create a reflective surface conducive to blade glint.

The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the WEF to the natural setting and built environment.

A WEF shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the FAA or other applicable authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. All towers and structures shall comply with the "Obstruction Marking and Lighting" requirements, amended from time to time, of the FAA in cooperation with the Federal Communications Commission (FCC). Where "Dual Lighting Systems" are optional, it shall be mandatory that white strobe lighting be used during daylight hours only and the red light shall be utilized at night. The Town Board may require use of shielding or control systems approved by the FAA to reduce visibility of lighting to individuals on the ground.

Each WES generator shall meet or exceed applicable standards and regulations of any agency of the State or Federal government with the authority to regulate wind powered generators. If such standards and regulations are changed retroactively, then Owner shall bring the WES generator into compliance with such applicable revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or Federal agency. Failure to bring the WES generator into compliance with such revised standards and regulations shall constitute a violation of the ordinance. **(see VIOLATIONS AND PENALTIES SECTION)**

A determination of no hazard shall be obtained from the FAA prior to installation and a copy of such determination shall be filed with the Town Clerk. If a permit issued by the Wisconsin Department of Transportation is required, Owner will not install the WES generators until such a permit is issued and a copy is filed with the Town Clerk.

No word or graphic representation, other than appropriate warning signs and Owner or Landowner identification, may be placed on a WES.

Any above ground electrical equipment associated with a WES must be located under the sweep area of a blade assembly.

6. Road Conditions

An assessment of the Town road condition, including videos and/or photographs, shall be performed by a Town Official and the Owner or Owner's representative prior to the beginning of construction and/or reconstruction, any major maintenance projects, and at the time of decommissioning.

Owner shall reimburse the Town for any and all repairs and reconstruction to the public Town roads resulting directly from the construction of the WEF.

Any subsequent damage to the public roads resulting directly from reconstruction, any major maintenance and at the decommissioning of the project shall be repaired in accordance with the above.

An escrow account, held at the Denmark State Bank in the name of the Town, must be established for repairs and maintenance of the roads to cover construction and/or reconstruction, any major maintenance projects, and decommissioning. The Town will have full rights to withdraw funds, at any time, for documented repairs. The amount of the escrow is to be determined by the Town Board prior to the Conditional Use Permit (CUP) approval and be based on the size of the WEF.

Owner shall provide written notice to the Town regarding the dates of construction, reconstruction, any subsequent major maintenance projects and decommissioning.

7. Right-of-Way Excavation

A right-of-way excavation and utility permit shall be required for any excavation conducted in the Town of Glenmore right-of-way.

Owner shall follow requirements of the "**Right of Way Excavation/Utility Lines**" section under **General Provisions** in the **Town of Glenmore Zoning Ordinance**.

8. Blasting Activity

All blasting shall be conducted in conformance with the "**Blasting**" section of the **Town of Glenmore Zoning Ordinance** and applicable State and Federal laws and regulations.

9. Drain Tile Fields

Where large WEF construction cuts through a private or public drain tile field, the drain tile must be repaired and reconnected to properly drain the site to the satisfaction of the Landowner.

10. Driveway Permit

A driveway permit shall be required. Owner shall follow the requirements of the "**Driveway Permits**" section of the **Town of Glenmore Zoning Ordinance**.

All driveways or service roads shall be constructed so farm equipment can move on or over them without impairment.

11. Landscaping

All landscaping must be properly maintained, including grass cutting.

B. SAFETY AND HEALTH

1. A WES, including any wind system accessories, must be secured against unauthorized access by means of a locked barrier or security fence. All access doors to the WES and electrical equipment shall be lockable.

2. Exterior of towers shall not be climbable up to fifteen (15) feet above ground level.

3. All new substations shall be fenced to prevent public access.

4. An Owner shall post and maintain up-to-date warning signs containing a 24 hour emergency contact telephone number, information identifying the Owner and sufficient information to identify the location of the individual tower within the WES. An Owner shall post these signs at every intersection of a WES access road with a public road and at each WES location.

5. Owner shall ensure that ice from WES blades does not impact any inhabited structure or Non-Participating Landowner's property. A report shall be prepared by an Independent Wisconsin Registered Licensed Professional Engineer, selected by the Town Board at the Owner's expense, that indicates the maximum distance that ice can be thrown from the turbine blades. The report shall be provided to the Planning Commission prior to CUP application review. If the report indicates ice throw exceeds the setback, the setback will be increased.

6. Owner shall ensure that WES blade throw does not impact any inhabited structure or Non-Participating Landowner's property. A report shall be prepared by an Independent Wisconsin Registered Licensed Professional Engineer, selected by the Town Board at the Owner's expense, which indicates the maximum blade throw. The report shall be provided to the Planning Commission prior to CUP application review. If the report indicates blade throw exceeds the setback, the setback will be increased.

7. An Owner shall use shadow flicker computer modeling to estimate the amount of shadow flicker anticipated to be caused by a WES and shall design the WES so that computer modeling indicates that no inhabited structure will experience more than twenty (20) collective hours per year of shadow flicker under planned operating conditions.

An Owner shall operate the WES in a manner that does not cause collectively more than twenty (20) hours per year of shadow flicker at an inhabited structure from any or all WES. The collective twenty (20) hours per year will be allocated on a first come, first served basis so that no inhabited structure receives more than twenty (20) hours per year collectively from all WEF(s) combined. If an inhabited structure experiences more than twenty (20) hours per year collectively of shadow flicker under the WES normal operating conditions, the Owner(s) shall use operational curtailment to comply.

8. A WEF shall be sited and operated so that it does not interfere with telephone (including cellular and digital), standard digital TV (antenna), microwave, satellite (dish), navigational, weather forecasting facilities, internet, broadband or radio communications and reception to and from neighboring areas. The Town may modify this list in order to encompass all future electromagnetic communications and technological mediums for home and business operations. The Owner shall be responsible for the full cost of any remediation necessary to provide equivalent or better alternate service or correct any problems. Remediation shall continue for the life of the project. Should remediation not be completed within five (5) business days, the Owner shall be required to cease operations until remediation is completed.

The Owner shall respond within twenty four (24) hours to any request for a communications interference investigation by a Property Owner within the project boundary or within a three (3) mile radius beyond the project boundary. Testing shall commence within five (5) business days of the request. Owner is responsible for remediation within five (5) business days from determination of interference caused by the WEF. Remediation shall continue for the life of the project.

The Owner shall provide a critical communications study prepared by an Independent Wisconsin Registered Licensed Professional Engineer, selected by the Town Board at the Owners expense. The study shall show that the proposed WEF will not interfere with emergency (fire, police/sheriff, ambulance), radio, two-way communications (base stations, mobile, hand held radios, including digital), paging, broadband, standard digital TV (antenna), telephone (including cellular and digital), microwave, satellite (dish), navigational, weather forecasting facilities, internet or radio communications and reception to and from neighboring areas. The Town may modify this list in order to encompass all future electromagnetic communications and technological mediums for home and business operations

9. Owner shall take reasonable steps to minimize interference with the operation of all flights or air space required for hospitals, medical centers and airports. A determination of no hazard shall be obtained from the local air ambulances and be submitted with the CUP application. A copy shall also be given to the Town Clerk.

10. Landowners within one (1) mile of all WES and trenches have the option of getting their wells tested pre-construction and up to twelve (12) months post-construction at the expense of the Owner. If a well which tested safe prior to construction is discovered to be no longer safe after construction, the owner will take immediate action to restore the well to its pre-construction safe condition. No remediation method will be exempt including, but not limited to, replacement of the well. Owner's requirement to restore any well will include full replacement of the well. All costs associated with restoring or replacing the well shall be paid by Owner.

11. Noise modeling shall be performed by an Independent Qualified Acoustical Consultant selected by the Town Board at the Owners expense. Results of the modeling shall be submitted with the CUP application. If the modeling shows that noise levels will exceed stated design limits listed below, setback must be adjusted. The noise modeling required will be determined by the Town and shall include, but not be limited to, infra-sound, low frequency noise, broad spectrum and full spectrum testing.

Pre-construction baseline noise studies shall be conducted by an Independent Qualified Acoustical Consultant selected by the Town Board at the Owner's expense. Within twelve (12) months after the WEF is operational, and within four (4) weeks of the anniversary date of the pre-construction baseline noise study, the Owner shall perform post-construction noise studies. Pre-construction and post-construction noise studies shall be filed with the Town Clerk. Findings shall be forwarded to the Town Board as soon as possible.

The noise design limit for all WES generators shall not exceed 35 dBA for any period of time when measured at the exterior of any inhabited structure on a non-participating property existing at the date of approval.

In the event audible noise, due to WES operations, contains a steady pure tone, such as a whine, whistle, screech or hum, the Owner shall immediately take corrective action to permanently eliminate the noise. Upon receipt of a complaint, the Owner shall use operational curtailment to eliminate the steady pure tone until the Owner permanently corrects the problem.

Noise levels may exceed criteria listed above if written consent from the affected Property Owners has been obtained allowing noise levels to exceed the maximum limits otherwise allowed. A notarized copy of the written permission shall be filed with the Town Clerk. Also, such

permission must be recorded at the Brown County Register of Deeds and a copy of the recorded document shall be filed with the Town Clerk.

Response to complaints must be made within five (5) days. Noise tests will be conducted by an Independent Qualified Acoustical Consultant selected by the Town Board. Costs associated with the first testing will be paid by the Owner. Subsequent costs of testing will be paid by the offending party.

12. Owner will employ good utility practice to ensure that the WEF will not cause stray voltage or electromagnetic fields (EMF) that would affect any property. For purposes of this CUP, stray voltage is defined as neutral-to-earth voltage measured from the electrical system neutral and/or any structure bonded to this neutral-to-earth that adversely affects humans or animals. For purposes of this CUP, EMF are defined as a concentration of electric charges or magnetic forces that adversely affects humans or animals.

Owners shall seek written permission from Landowners prior to stray voltage testing. An Owner shall work with the local electric distribution company to test for stray voltage at all dairy and confined animal operations within one (1) mile of a WEF, including new substations and underground wiring, pursuant to the stray voltage protocol established by the Public Service Commission of Wisconsin (PSCW).

Testing shall be performed before any WEF construction activity begins and after the WEF is operational. Test results shall be provided to all Landowners whose property was tested. Test results shall also be filed with the Town Clerk. Those findings shall be forwarded to the Town Board as soon as possible. Owner shall not be required to perform testing on property where the Landowner has refused to grant permission for the testing.

Stray voltage testing shall be conducted upon a written complaint from Property Owners within one (1) mile of the WEF. Testing may be ordered by the Town Board at the expense of Owner. Owner will shut down the WEF as reasonably needed, but in no event longer than one hour, for testing to determine whether the WEF is the cause of stray voltage or EMF problems. If the WEF is determined by said testing to be the cause, then the WEF operation shall cease until the problems are solved. Representatives of the affected Landowners and Owner shall monitor the testing and review the test results. Should the test results indicate that any stray voltage or EMF increase is due to the WEF, Owner shall pay the cost for all necessary steps to eliminate the problem.

Costs associated with the first testing will be paid by the Owner. Subsequent costs of testing will be paid by the offending party.

13. Prior to the application of the CUP, the Owner shall develop and submit an emergency action plan designed to minimize the possibility and extent of personal injury and property damage regarding the WEF. The plan should include procedures for prompt response to all emergencies, including but not limited to, fire, natural disaster, equipment damage or injury to any person. The plan should include a communication contact list and sufficient information to provide adequate guidance to each person that must implement these procedures.

In an emergency, the Owner of an affected WES shall immediately cease operation of the affected WES for the duration of the emergency. Emergency shall mean a condition or situation caused by the affected WES that presents an imminent physical threat of danger to life or significant threat to property as determined by the Town Board or emergency responders.

Within 24 hours, an Owner shall notify the Town Board of the occurrence and nature of the WES emergency.

An Owner shall establish and maintain liaison with the Town Board, fire, police and other appropriate first responders serving the WEF to create effective emergency plans that include all of the following:

- A) A list of the types of WEF emergencies.
- B) Current emergency contact information for first responders and for the Owner, including names and phone numbers.
- C) Written procedures for handling different types of emergencies that provide for shutting down the WEF or a portion of the WEF as appropriate.
- D) Duties and responsibilities of the Owner and of first responders.
- E) An emergency evacuation plan for the area within one-half (1/2) mile of any WEF including the location of alternate landing zones for emergency services aircraft.

The Owner shall review the emergency plan at least annually with Town, fire, police and other appropriate responders to update and improve the plan as needed.

The Owner shall distribute current copies of the emergency plan to the Town Board, the Town Clerk, fire, police and other appropriate responders as identified by the Town Board.

The Town Board may require the Owner to provide WEF emergency annual training for fire, police and other appropriate first responders until the WEF has been decommissioned. The cost of time spent by the appropriate emergency personnel shall be reimbursed by the Owner.

The Owner shall do all of the following:

- 1) Furnish its operators, supervisors and employees, who are responsible for emergency action, a copy of the current emergency procedures to ensure compliance with those emergency procedures.
- 2) Train the appropriate operating personnel to ensure they have knowledge of the emergency procedures and verify that the training is effective.
- 3) As soon as possible after the end of the WEF emergency, review employee activities to determine whether the procedures are effectively followed.

14. Owner shall follow a regular maintenance schedule consistent with all manufacturer's recommendations to ensure safe operation.

Owner shall submit to the Town Clerk a yearly report of the maintenance records of the WEF site plus any health and safety issues that have arisen.

15. All solid waste and hazardous waste generated during construction, reconstruction, operation, maintenance or decommissioning shall be removed from the site in a timely manner consistent with Local, State, and Federal regulations.

16. Representatives of the Town, along with Owner's representatives, shall be allowed to inspect the WES generator site at ground level after providing not less than 24 hours advance written notice to Owner.

17. Landowners who accept the good neighbor payment would still have the same protection that the Glenmore WEF ordinance affords to all Residents.

C. PROCEDURE

It is unlawful for any person to construct, install, or operate a WEF that is not in compliance with this ordinance or with any conditions issued pursuant to this ordinance.

PRE-APPLICATION NOTICE

1. At least ninety (90) days before an Owner files an application to construct a WEF, an Owner shall use certified mail to provide the pre-application notice of the planned WEF to all of the following:

- A) Landowners within two (2) miles of a planned WEF.
- B) Towns within which the WEF may be located.
- C) Emergency first responders and air ambulance service providers serving a town within which the WEF may be located.
- D) The Wisconsin Department of Transportation (DOT).
- E) The Public Service Commission of Wisconsin (PSCW).
- F) The Department of Natural Resources (DNR).
- G) The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP).
- H) The Office of the Deputy Undersecretary of the United States Department of Defense.

2) At least 180 days before filing an application to construct a WES with a maximum blade tip height exceeding 600 feet, the Owner shall provide, by certified mail, written notice of the planned WEF to the PSCW.

The Owner shall include all of the following in the pre-application notice:

- A) A complete description of the WEF including the number of turbines, total height and megawatts of all the planned WES(s).
- B) A map showing the planned location of all WES.
- C) Contact information of the Owner.
- D) A list of all potential permits or approvals the Owner anticipates may be necessary for construction of the WEF.
- E) Whether the Owner is requesting a joint application review process through the PSCW and the name of each Town that may participate in the joint review process.

A copy of all notices, methods of notification and names and addresses of those notified, must be certified as completed by the Owner and provided to the Zoning Administrator and the Town Clerk.

CONDITIONAL USE PERMIT (CUP) APPLICATION NOTICE

On the same day an Owner files a CUP application for a WEF, the Owner shall use certified mail to provide written notice of the filing of the application to Landowners and Residents located within two (2) miles of the proposed location of the WEF. The notification shall include all of the following:

- A) A complete description of the WEF including the number of turbines, total height and megawatts of the WES(s).
- B) A map showing the locations of all proposed WES.
- C) The proposed timeline for construction and operation of the WEF.
- D) Locations where the application is available for public review.
- E) Owner contact information.

After the Town receives an application for a WEF, a notice is required to be published by the Town in accordance with Wisconsin Statutes. The notice shall include a brief description of the proposed WEF and its proposed location, the locations where the application is available for public review, the method and time period for the submission of public comments to the Town and the approximate schedule for review of the application by the Town.

CONDITIONAL USE PERMIT (CUP) REQUIREMENTS

A CUP is required for each WEF. The fee required for a CUP shall be six hundred (\$600) dollars per WES.

Owner must provide a site plan including:

- A) Proposed location and distance of the WES with reference to the property lines of the parcel/parcels on which they are located, including GPS coordinates.
- B) Any inhabited structures on the parcel or on an adjacent parcel.
- C) The right-of-way of any public road that is within six hundred (600) feet.
- D) The location of MET towers, active and abandoned wells within one-half ($\frac{1}{2}$) mile of each WEF and existing WEFs within two (2) miles.

In addition, the following information is required:

- 1) Name, corporate status, address, and telephone number of the person signing the application and certifying that the application is true and correct.
- 2) Name, corporate status, address, and telephone number of the Owner.
- 3) Name, corporate status, address, and telephone number of the Landowner.
- 4) Legal description of the property.
- 5) Scale diagram showing proposed location of aboveground and underground electrical wiring, communication line location, access routes, landscaping, and fencing proposed by Owner.
- 6) Location of any overhead utility lines adjacent to the property.
- 7) A signed statement indicating the Owner shall comply with all applicable Local, State, and Federal codes, laws, orders, regulations, and rules including applicable State construction and electrical codes.
- 8) Number, description, and design specifications of each WES including the manufacturer, model, capacity, blade length, total height, megawatts and lighting.
- 9) Drawing showing a cross section, elevation, and diagram of the proposed tower and the tower foundation.

Owner agrees to reimburse the Town's attorney fees in relation to the evaluation, preparation, adoption and implementation by the Town of this CUP. Owner shall pay the fees within sixty (60) days of the execution of this CUP.

A new CUP must be obtained under the following conditions: 1) WEF expands beyond the original application information provided; 2) After the issuance of a building permit, the Town Board would determine there to be a significant change to the project.

A CUP issued pursuant to this ordinance expires if the WEF is not installed and functioning within two (2) years from the date the CUP is issued or the WEF is out of service or otherwise unused for a continuous twelve (12) month period. A CUP may be renewed by the Town Board if there are extenuating circumstances. Notification of the intent to renew must be made ninety (90) days in advance of the permit expiration date. Renewal fee will be six hundred (\$600) dollars per WES.

The term of this CUP is twenty-five (25) years from commissioning. However, the Town reserves the right to revoke entirely, or modify in part, this CUP in the event of a failure of Owner to comply with any term of this CUP or any other obligation presently imposed by the Town.

This CUP will be subject to periodic review by the Town of Glenmore Planning Commission and the Town of Glenmore Town Board. The first review will be one (1) year after operation commences. Thereafter, a review will take place every five (5) years. The purpose of the review is to determine whether the Owner has complied with the terms and conditions of the CUP. There will be a charge for the review process. All escrows and letter of credit amounts are to be reviewed at this time to ensure that funds are sufficient and that they meet inflationary costs.

Any recorded access easement across private lands to a WEF shall name the Owner as having access to the easement and shall also name the Town as having access to the easement.

An Independent Wisconsin Registered, Licensed Professional Engineer, hired by the Town and paid for by the Owner shall review the electrical plans and complete a minimum of two (2) inspections of the project during construction.

Owner will be responsible for overseeing compliance with conditions of this CUP during the construction phase of the project. Upon completion of construction, Owner shall designate all contact persons responsible for overseeing compliance with the conditions of this permit. Owner shall provide addresses, daytime telephone numbers and emergency telephone numbers of designated contact persons to the Town Clerk. The designated contact list must be kept current and all changes shall be filed with the Town Clerk.

Change of ownership should not be valid until the new owner has shown proof of compliance with all specific requirements of the original Owner. Requirements include, but are not limited to, general liability, financial assurance for decommissioning and an escrow account for road repairs. The new Owner will immediately notify the Town Clerk, Town Board and Landowner hosting the WES(s) of any sale of the WES(s). All other information must be updated immediately by the new Owner, including emergency warning signs.

Owner shall develop a Complaint Resolution Procedure to be utilized throughout the operational life of the WEF that can be used to keep track of the complaints made. Town and Owner will agree on complaint procedure prior to the issuance of CUP approval. Copies of the Complaint Resolution Procedure are to be given to the Town Clerk. A record of complaints made to the Town Board shall be maintained by the Town Clerk.

The Town reserves the right to impose impact fees on all WEF projects.

BUILDING PERMIT PROCEDURE

A building permit issued by the Town of Glenmore Building Inspector shall be required for each individual WES prior to construction of said WES. Building permits granted under this ordinance run with the land and are transferable.

Owner shall not alter the location of any WES without first obtaining written consent from the Town Board.

If warranted, the Town Board has the authority to call a public hearing for requested permit modifications at the expense of the Owner.

The following additional information is required at the time the building permit is granted:

- A) Blueprints or drawings that have been approved by a Wisconsin Registered Licensed Professional Engineer showing a cross section, elevation, and diagram for any WES and WES foundation.
- B) Statement describing any hazardous materials that will be used on the property and how those materials will be stored.
- C) Statement that each WES and MET tower will be installed in compliance with manufacturer's specifications, along with a copy of manufacturer's specifications.

POST CONSTRUCTION FILING REQUIREMENTS

Within 90 days of the date a WEF commences operation, the Owner shall file with the Town Clerk and the PSCW an as-built description of the WEF. Also included shall be an accurate map of the WEF showing GPS locations of the WES(s), geographic information and routes of underground wiring. Owner shall label each WES location with a unique identifier consistent with the information posted at the WES location.

E. INSURANCE

A large WEF is required to have a comprehensive coverage policy of public liability insurance insuring against loss or liability caused by Owner's occupation and use of the WEF in an amount not less than five million (\$5,000,000) dollars per occurrence. The Town shall be named as an additional insured. Cancellation of this policy shall be prohibited. The Town shall be a certificate holder in this policy. Annual renewal notice shall be filed with the Town Clerk.

F. FINANCIAL ASSURANCE

Owner shall provide the Town with an irrevocable letter of credit in the amount of three hundred thousand dollars (\$300,000.00) per WES for decommissioning. The irrevocable letter of credit must be issued by the Denmark State Bank in a form approved by the Town attorney for the sole use of the Town. The irrevocable letter of credit must be provided prior to the issuance of a building

permit. The Town reserves the right to adjust the amount of this financial assurance if circumstances warrant.

G. LIABILITY

The Owner of the WEF shall defend, indemnify and hold harmless the Town and their Officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever including attorney fees arising out of the acts or omissions of the Owner concerning the operation of the WEF without limitation.

In addition to the indemnification described above, the Owner shall reimburse the Town its attorney's fees incurred in defending any legal actions brought by third parties challenging the legality or enforceability of the CUP or any portion thereof, or the issuance of any permits to the Owner by the Town or any claim against the Town by any third party related to the WEF. The Town shall notify the Owner promptly upon discovering any claim entitling it to a land use defense reimbursement.

H. DECOMMISSIONING

A WES that is out of service for a continuous twelve (12) month period shall be deemed to have been abandoned. The Town Board shall require the removal of said WES. Written notice must be given to the Owner of said WES if removal is required. The Owner of said WES shall remove the same within the timeframe determined by the Town Board.

The Owner shall:

- A) Remove all WES(s), above ground improvements, and outdoor storage.
- B) Remove all foundations, pads, and underground electrical wires and reclaim the site to a depth of four (4) feet below the surface of the ground.
- C) Remove all hazardous material from the property and dispose of the hazardous material in accordance with Federal and State law.
- D) Remove, clear, and grade any access roads unless the Landowner wants to keep the access road. A copy of the Landowner's intention to keep the access road shall be filed with the Town Clerk.

If such WES is not removed within the time-frame determined by the Town Board, the Town may remove such WES at the expense of the Owner. Any profits associated with the removal of a WES by the Town shall be retained by the Town.

SEVERABILITY-SEE RELATED SECTION IN GLENMORE ZONING

VIOLATIONS AND PENALTIES-SEE RELATED SECTION IN GLENMORE ZONING

WIND ENERGY SYSTEM-SMALL

I. GENERAL REQUIREMENTS

1. Location

A small wind energy system is a conditional use and may be located in areas zoned agriculture, business, industrial, or rural residential.

No turbines shall be located within any floodplains, shorelands or wetland areas. A copy of all necessary DNR permits to cross any of these areas is required prior to issuing a building permit. A map indicating floodplains, shorelands and wetland areas in the proposed land parcels shall be submitted to the Town Zoning Administrator.

2. Setback

The wind tower in a small wind energy system must be set back the total height of the tower plus twenty (20) feet from any property line, public road, or communication and/or electrical lines. A minimum of one (1) acre per wind energy facility is required.

Setbacks could be decreased if written permission of a waiver is secured from the affected parties. In no instance shall the setback from a non-participating inhabited structure be decreased to less than 1.1 times the total height of the wind tower. A notarized copy of the written permission shall be filed with the Town Clerk. Also, such permission must be recorded at the Brown County Register of Deeds and a copy of the recorded document shall be filed with the Town Clerk.

3. Electrical Wires

All electrical wires associated with a small wind energy system (other than wires necessary to connect the wind turbine to the tower wiring, the tower wiring to the disconnect junction box and the grounding wires) shall be located underground. All electrical components of the wind energy facility shall conform to relevant and applicable local, state, and national codes.

4. Design

Small wind towers shall be finished or painted a neutral color so as to reduce visual obtrusiveness.

Towers shall not be artificially lighted unless required by the FAA.

No word or graphic representation, other than appropriate warning signs or manufacturer's identification may be placed on a wind energy system.

Tower shall comply with applicable building codes.

Small wind energy systems that connect to the electric utility shall comply with the Public Service Commission of Wisconsin's Rule 119, "Rules for Interconnecting Distributed Generation Facilities".

5. Blasting Activity

All blasting shall be conducted in conformance with the “**Blasting**” section of the **Town of Glenmore Zoning Ordinance** and applicable state and federal laws and regulations.

6. Driveway Permit

A driveway permit for new driveways shall be required. Owner shall follow the requirements of the “**Driveway Permits**” section of the **Town of Glenmore Zoning Ordinance**.

7. Landscaping

All landscaping must be properly maintained, including grass cutting.

J. SAFETY AND HEALTH

1. All ground mounted electrical and control equipment shall be secured against unauthorized access.

2. The tower shall be installed so as not be climbable for a minimum of eight (8) feet above the ground.

3. Owner must take such reasonable steps as are necessary to prevent, mitigate, or eliminate shadow flicker on any non-participating inhabited structure or non-participating property.

2. Small wind energy systems noise limit shall not exceed 5 dBA over the average of the ambient level, tested for a 24 hour period, as measured at the exterior of any non-participating inhabited structure existing at the date of approval.

Noise levels may exceed criteria listed above if written consent from the affected property owners has been obtained allowing noise levels to exceed the maximum limits otherwise allowed. A notarized copy of the written permission shall be filed with the Town Clerk. Also, such permission must be recorded at the Brown County Register of Deeds and a copy of the recorded document shall be filed with the Town Clerk.

Costs associated with the first testing will be paid by the owner. Subsequent costs of testing will be paid by the offending party.

5. Owner will employ good utility practice to ensure that the Wind Energy Facility will not cause stray voltage or electromagnetic fields (EMF) that affects neighboring properties. For purposes of this permit, stray voltage is defined as neutral-to-earth voltage measured from the electrical system neutral and/or any structure bonded to this neutral to earth that adversely affects humans or animals. For purposes of this permit, electromagnetic fields are defined as a concentration of electric charges or magnetic forces that adversely affects humans or animals.

Stray voltage testing shall be conducted upon any bonafide complaint from neighboring property owners. Testing may be ordered by the Town Board at the expense of Owner. Owner will shut down the Wind Energy Facility as reasonably needed, but in no event longer than one hour, for testing to determine whether the Wind Energy Facility is the cause of stray voltage or EMF problems. If the Wind Energy Facility is determined by said testing to be the cause, then the Wind Energy Facility operations shall cease until the problems are solved. Representatives of the affected

landowners and Owner shall monitor the testing and review the test results. Should the test results indicate that any stray voltage or EMF increase is due to the Wind Energy Facility, Owner shall pay the cost for all necessary steps to eliminate the problem.

Costs associated with the first testing will be paid by the owner. Subsequent costs of testing will be paid by the offending party.

6. All solid waste and hazardous waste generated during construction, operation, or maintenance shall be removed from the site in a timely manner consistent with local, state, and federal regulations.

K. PROCEDURE

It is unlawful for any person to construct, install, or operate a wind energy system that is not in compliance with this ordinance or with any conditions issued pursuant to this ordinance.

1. Prior to the scheduling of any zoning meeting(s) the owner of the proposed wind energy system must notify adjoining landowners, in a letter, of their intent to erect a wind turbine. The Utility must be notified if the owner intends to connect to the grid. A copy of the notice and names and addresses of those notified must be provided to the Zoning Administrator and Town Clerk.

2. A conditional use permit is required for each wind energy facility. The fee required for a conditional use permit shall be two hundred seventy-five (\$275) dollars per wind energy system.

Owner must provide a site plan including:

- a. Proposed location and distance of the tower/towers with reference to the property lines.
- b. Any residence, business, or public building on the parcel or on an adjacent parcel.
- c. The right-of-way of any public road that is within six hundred (600) feet.
- d. Any overhead utility lines.
- e. Wind system specifications including manufacturer and model, rotor diameter, tower height, tower type (free standing or guyed).
- f. Blueprint or drawing of tower and tower foundation.

3. A building permit issued by the Town of Glenmore Zoning Administrator shall be required for each individual wind turbine prior to construction of said wind turbine. Permits granted under this ordinance run with the land and are transferable. Change of location is not allowed.

4. . A permit issued pursuant to this ordinance expires if the wind energy system is not installed and functioning within two (2) years from the date the permit is issued or the wind energy system is out of service or otherwise unused for a continuous twelve (12) month period. A permit may be renewed by the Town Board if there are extenuating circumstances.

L. LIABILITY

The owner of the wind energy facility shall defend, indemnify and hold harmless the Town and their officials from and against any and all claims, demands, losses, suits, causes of action, damages,

injuries, costs, expenses and liabilities whatsoever including attorney fees arising out of the acts or omissions of the owner concerning the operation of the wind energy facility without limitation.

In addition to the indemnification described above, the owner shall reimburse the Town its reasonable attorney's fees incurred in defending any legal actions brought by third parties challenging the legality or enforceability of this permit or any portion thereof, or the issuance of any permits to the owner by the Town. The Town shall notify the owner promptly upon discovering any claim entitling it to a land use defense reimbursement.

M. DECOMMISSIONING

A small wind energy system that is out of service for a continuous twelve (12) month period shall be deemed to have been abandoned. Written notice of abandonment must be given to the owner of the small wind energy system. The owner shall have the right to respond to the notice within 30 days from notice receipt date and provide information to the Town Board that demonstrates the system has not been abandoned.

If the Town Board deems the small wind energy system to be abandoned the owner shall remove the generator from the tower, at the owner's expense, within the time frame determined by the Town Board.

METEOROLOGICAL TOWER(12-1-08)

A meteorological tower (MET Tower) shall be allowed as a conditional use in areas zoned Agriculture, Community Business, Industrial and Rural Residential.

Due notice of the hearing shall be given to the applicant as well as any other individual who has filed a request with the Town Clerk for a written notice of the time and place of the hearing. Due notice of the hearing shall also be given to all owners of any real estate, where side real estate is located within one hundred (100) feet of the subject property.

MET towers shall be removed no later than 2 years from construction. If such MET tower is not removed within the time frame of 2 years from construction, the Town may remove such wind energy system at the expense of the owner. Any proceeds associated with the removal of the MET tower removed by the Town shall be retained by the Town.

A renewal of the conditional use approval may be granted by the Town Board if there are extenuating circumstances.

A MET tower must be set back from any road and/or non-participating properties a distance no less than one and one-tenth (1.1) times its total height.

Financial Assurance: The owner shall provide the Town with an irrevocable letter of credit in an amount equal to the cost of the tower for decommissioning. The letter of credit must be issued by the Denmark State Bank in a form approved by the Town attorney. The letter of credit must be provided prior to the receipt of a building permit. The Town reserves the right to adjust the amount of this financial assurance if circumstances warrant.

Liability: The owner of the MET tower shall defend, indemnify and hold harmless the Town and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever including attorney fees arising out of the acts or omissions of the owner concerning the operation of the MET tower without limitation. In addition to the indemnification described above, the owner shall reimburse the Town its reasonable attorney's fees incurred in defending any legal actions brought by third parties challenging the legality or enforceability of this permit or any portion thereof, or the issuance of any permits to the owner by the Town. The

Town shall notify the owner promptly upon discovering any claim entitling it to a land use defense reimbursement.