

## CHAPTER 17 Door County Code

### DOOR COUNTY WIND ENERGY FACILITY ORDINANCE

#### CHAPTER 1 TITLE; AUTHORITY; GENERAL PROVISIONS

- 1.01 Title.** This Ordinance shall be known as the “Door County Wind Energy Facility Ordinance,” hereinafter known as “this Ordinance.”
- 1.02 Authority.** This Ordinance is adopted pursuant to the authority granted by Sec. 66.0401 – 66.0403, Wis. Stats.
- 1.03 Purpose.** The purpose of the Ordinance is to provide a regulatory framework for the construction and operation of Wind Energy Facilities (WEF) in the County of Door, subject to reasonable restrictions that will preserve or protect the public health and/or safety.
- 1.04 Applicability.**
- (1) This Ordinance shall be in effect in the unincorporated areas of Door County, Wisconsin.
  - (2) WEFs that do not exceed 170 feet in Total Height are exempt from this ordinance except provisions relating to critical communications (e.g., s. 3.02(2)(c), 4.03(5) and 4.07).
  - (3) This Ordinance applies to all Meteorological Towers (MET) that exceed 170 feet in Total Height. METs that do not exceed 170 feet in Total Height are subject to the provisions relating to critical communications (e.g., s. 3.02(2)(c), 4.03(5) and 4.07).
- 1.05 Compliance.** No WEF shall be installed, operated, or maintained except in full compliance with this Ordinance and Sec. 66.0401 – 66.0403, Wis. Stats.
- 1.06 Abrogation.** It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing ordinance.
- 1.07 Severability.** If any section, paragraph, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- 1.08 Warning and disclaimer of liability.** This Ordinance shall not create a duty or liability on the part of or a cause of action against Door County, its officers or employees thereof, for any damages that may result from administration of or reliance on this Ordinance.
- 1.09 Law.** All references to the Wisconsin Statutes or Wisconsin Administrative Code include the Statute or Code in effect at the time of enactment of this Ordinance or as subsequently amended or revised.
- 1.10 Appeals.**
- Any person aggrieved by any decision of the Zoning Administrator may appeal to the Board of Adjustment pursuant to Sec. 59.694(4) Wis. Stats.
- Any person aggrieved by a determination made by the Resource Planning Committee or Board of Adjustment under this Ordinance may appeal the determination to the circuit court for a review.
- 1.11 Effective date.** This Ordinance shall be effective, following enactment by the Door County Board of Supervisors, immediately upon publication thereof.

## CHAPTER 2 DEFINITIONS

As used in this Ordinance, the following terms shall have the meanings indicated:

“Ambient noise” - Intermittent noise events present for at least 90% of the time.

“Applicant/Permit Holder/Owner” - The person, firm, corporation, company, limited liability corporation or other entity which applies for approval under this Ordinance, as well as the applicant’s successor(s), assign(s) and/or transferee(s) as to any approved WEF or testing facility. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WEF or testing facility. The duties and obligations regarding approval for any approved WEF or testing facility shall be with the owner of the WEF or testing facility, and jointly and severally with the owner and operator or lessee of the WEF or testing facility.

“Application” - An application for a WEF Siting Permit under this Ordinance.

“Blade Glint” - The intermittent reflection of the sun off the surface of the blades of a single or multiple Wind Turbines.

“Building permit” - A zoning permit issued under the Door County Zoning Ordinance (Ordinance #2-95), as amended; or a town zoning permit issued under the authority of Sec. 60.61, Wis. Stats.; or a Wisconsin building permit issued under the authority of Sec. 101.65, Wis. Stats.

“FAA” - The Federal Aviation Administration.

“Hub Height” - The distance to the center of the turbine hub as measured from ground level to the center of the Wind Turbine hub.

“Impermissible interference” - The blockage of wind access to a WEF for which a permit has been granted under this Ordinance, if such blockage is by any structure or vegetation on property of an owner notified under s. 3.02(3). “Impermissible interference” does not include:

1. Blockage by a narrow protrusion, including but not limited to a pole or wire, which does not substantially block wind from a WEF.
2. Blockage by any structure constructed, under construction or for which a building permit has been applied for before the date the last notice is mailed or delivered under s. 3.02(3).
3. Blockage by any vegetation planted before the date the last notice is mailed or delivered under s. 3.02(3).

“Met Tower” - A meteorological tower used for the measurement of wind speed.

“Owner” - At least one owner, as defined under Sec. 66.0217(1) (d), Wis. Stats., of property.

“Shadow Flicker” - The effect when the blades of an operating wind turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his/her immediate environment.

“Total Height” - When referring to a Wind Turbine, the distance measured from ground level to the blade extended at its highest point.

“Wind Energy Facility” - An electricity generating facility consisting of one or more Wind Turbines, including any substations, Met towers, cables/wires and other buildings accessory to such facility.

“Wind Energy Facility Siting Permit” - A construction and operating permit granted in accordance with the provisions of this Ordinance.

“Wind Turbine” - A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator, including the turbine, blade, tower, base and pad transformer, if any.

## CHAPTER 3 PERMIT PROCEDURE

**3.01 Permit requirement.** No WEF shall be constructed, installed, reconstructed, substantially repaired, improved, extended, enlarged, relocated, or converted without a WEF Siting Permit as required under this Ordinance.

**3.02 Permit applications.**

- 1) An application for a WEF Siting Permit under this Ordinance shall be submitted to the Zoning Administrator on the application form provided by the Door County Planning Department. The application form shall be accompanied by scaled drawings and other descriptive information sufficient to enable the Zoning Administrator to determine whether or not the requirements of this Ordinance will be satisfied. Additionally, the application shall include the name, address and telephone number of owners of property on which the applicant proposes impermissible interference restrictions.
- 2) An application for a WEF Siting Permit shall also include the following:
  - a) Sound study. For any proposed WEF, the applicant shall submit a sound study prepared by a registered professional engineer who is qualified to do so based on training, education and experience. The study shall include an analysis of existing sound levels, predicted (post WEF installation and operation) sound levels, the difference between existing and predicted future sound levels, anticipated sound level impacts and measures necessary to minimize or eliminate these impacts. Particular attention shall be paid to noise-sensitive receptors (e.g., daycare centers, hospitals, libraries, residences and schools) that may be affected by the proposed WEF. In terms of a general context for assessing sound impacts, 50 dBA outdoors and 45 dBA indoors are deemed maximum acceptable sound levels. Any expense associated with this study, including further evaluation by the County, shall be paid by the applicant.
  - b) Shadow flicker and blade glint study. For any proposed WEF, the applicant shall submit a shadow flicker and blade glint model prepared by a registered professional engineer who is qualified to do so based on training, education and experience. The study shall identify occupied structures within a one mile radius of any proposed Wind Turbine where shadow flicker and blade glint may be present and describe measures that shall be taken to mitigate these problems, including but not limited to a change in location of the facility, a change in the operation of the facility, or grading or landscaping mitigation measures. Any expense associated with these studies, including any further analysis required by the County, shall be paid by the applicant
  - c) Critical communications study. For any proposed WEF, the applicant shall submit a critical communications study prepared by a registered professional engineer who is qualified to do so based on training, education and experience, which affirmatively demonstrates the WEF will not interfere with critical communications (e.g., radio, telephone, microwave and/or television signals). The study will include certification that no WEF will be installed in any location where its proximity to existing critical communication systems would produce interference (electromagnetic or other) with signal transmission or reception. If the study identifies potential signal interference, the applicant shall provide a plan for necessary remedial measures (e.g., a replacement signal) that will restore reception to at least the level present before installation and/or operation of the WEF. Any expense associated with these studies, including any further analysis required by the County, shall be paid by the applicant.
  - d) Construction site erosion and storm water runoff control plans which have been approved by the County. The storm water runoff control plan shall include proposed quantity and quality best management practices for the on-site management

of storm water during construction, after installation, and post-decommissioning of any WEF.

- e) Plan for disposal of liquid, solid and any hazardous wastes (e.g., crates, packaging material, damaged or worn parts, used oils and lubricants). The purpose is to insure that any solid and hazardous wastes are removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
  - f) A contingency plan to prevent or minimize human health or environmental damage in the event of an accidental or emergency discharge of hazardous substances (e.g., petroleum products), including a spill prevention, control and counter-measures plan.
  - g) Life cycle and decommissioning plan. The applicant shall submit a life cycle and decommissioning plan, prepared by a competent person (e.g., professional engineer, contractor capable of decommissioning, or other person with suitable experience or expertise in decommissioning) outlining the anticipated means and cost of removing the WEF at the end of its serviceable life or upon becoming a discontinued use. The plan shall include:
    - 1) the anticipated life of the WEF;
    - 2) the anticipated type and frequency of maintenance;
    - 3) a cost estimate for decommissioning at the end of the WEF's anticipated life, expressed in current dollars.
    - 4) the method of ensuring that funds will be available for decommissioning and restoration; and
    - 5) the anticipated manner in which the project will be decommissioned and the site reclaimed/restored.
  - h) An engineering certificate from the manufacturer's engineer or another qualified engineer certifying that the WEF as proposed is within accepted professional standards given local site, climate and other conditions.
  - i) Proof of financial assurance per s. 5.02.
  - j) A fee established by the Door County Board of Supervisors. Applicant shall also reimburse the actual, direct and necessary out-of-pocket fees and expenses incurred by the County in processing the application.
- 3) The Zoning Administrator shall determine if an application is complete and shall notify the applicant of this determination. If an applicant receives notice that an application has been deemed complete, the applicant shall deliver by certified mail or by hand a notice to the owner(s) of any property that the applicant proposes to be an impermissible interference restricted property by the permit and recorded as such with the Door County Register of Deeds under s. 3.05(2). The Zoning Administrator shall supply the notice form, which shall include, without limitation by enumeration:
- a) The name and address of the applicant, and the address of the land upon which the WEF will be located.
  - b) Notice that an application has been filed by the applicant.
  - c) Notice that the WEF Siting Permit, if granted, may affect the rights of the notified owner to develop his or her property and to plant vegetation.
  - d) The telephone number, address and office hours of the Zoning Administrator.
  - e) Notice that any person receiving such notice under this section, s. 3.02(3), may request a hearing under s. 3.03 within 30 days after receipt of the notice, and the address and procedure for filing the request.

The applicant shall, within 15 days of delivery of the last notice, submit to the Zoning Administrator a copy of a signed receipt for every notice delivered under this paragraph.

- 4) The applicant shall also notify the following agencies, via certified mail or by hand, of the WEF application after the Zoning Administrator has deemed the application complete:
  - a) Door County Resource Planning Committee
  - b) Public airports in Door County
  - c) FAA
  - d) Wisconsin Bureau of Aeronautics
  - e) Door County Emergency Services
  - f) Door County Sheriff's Department
  - g) Door County Highway Department
  - h) City of Sturgeon Bay Police Department
  - i) City of Sturgeon Bay Utilities
  - j) Utilities within 1 mile of any proposed Wind Turbine
  - k) School districts within 1 mile of any proposed Wind Turbine
  - l) Municipality where the WEF will be located

The applicant shall, within 15 days of delivery of the last notice, submit to the Zoning Administrator a copy of a signed receipt for every notice delivered under this section.

**3.03 Hearing.** Within 30 days after receipt of a notice under s. 3.02(3), any person who has received such notice may file a request for a hearing on the granting of a permit, or, the Resource Planning Committee may determine that a hearing is necessary even if no such request is filed. If a request is filed or if the Resource Planning Committee determines that a hearing is necessary, the Resource Planning Committee shall conduct a hearing on the application within 90 days after the last notice is delivered per s. 3.02(3). At least 30 days prior to the hearing, the Zoning Administrator shall notify the applicant, all owners notified under s. 3.02(3) and any other person filing a request for notification of the time and place of the hearing.

**3.04 Permit grant.**

- 1) A WEF Siting Permit shall be granted if it is determined that:
  - a) The requirements of this Ordinance are met, and
  - b) No person has demonstrated that s/he has present plans to build a structure that would create an impermissible interference by showing that s/he has applied for a building permit prior to receipt of a notice under s. 3.02(3), or has expended at least \$500 on planning or designing such a structure, or any other credible evidence that s/he has made substantial progress toward planning or constructing a structure that would create an impermissible interference.
- 2) A WEF Siting Permit shall be granted subject to any condition deemed necessary to minimize the possibility that the future development of nearby property will create an impermissible interference.
- 3) A WEF Siting Permit may include conditions or exemptions deemed necessary to protect public health and safety.
- 4) A WEF Siting Permit holder shall not exercise any of the privileges and rights granted under said permit until and unless the financial assurances described in s. 5.02 are in full force and effect.

- 5) A WEF Siting Permit may only be transferred with the prior written consent of the Zoning Administrator.

### **3.05 Recordation of permit.**

If a WEF Siting Permit is granted:

- 1) The Zoning Administrator shall prepare notice of the granting of the permit. The notice shall include the identification required under Sec. 706.05(2)(c), Wis. Stats. of the owner and the property upon which the WEF is or will be located and for any owner and property restricted by the WEF Siting Permit under s. 3.06, impermissible interference and remedies. It shall also state that the property(ies) may not be developed and vegetation may not be planted so as to create an impermissible interference with the WEF, unless the permit affecting the property(ies) is terminated under s. 3.07 or an agreement affecting the property is filed under s. 3.08 and recorded with the Door County Register of Deeds.
- 2) The WEF Siting Permit holder shall record with the Door County Register of Deeds the notice under 3.05(1) for each property specified under sub. (1) and for the property upon which the WEF is or will be located.

### **3.06 Impermissible interference and remedies.**

- 1) Any person who uses property that has been recorded as restricted under s. 3.05(2) in a manner that creates an impermissible interference to a WEF Siting Permit that has been granted shall be liable to the permit holder for damages, except as provided under s. 3.06(2), for any loss due to the impermissible interference, court costs and reasonable attorney fees unless:
  - a) The building permit was applied for prior to receipt of a notice under s. 3.02(3); or
  - b) A permit affecting the property is terminated under s. 3.07; or
  - c) An agreement affecting the property is filed under s. 3.08.
- 2) A WEF Siting Permit holder is entitled to an injunction to require the trimming of any vegetation which creates an impermissible interference. If the court finds on behalf of the WEF Siting Permit holder, s/he shall be entitled to a permanent injunction, damages, court costs and reasonable attorney fees.
- 3) The onus to proceed under s. 3.06 and the burden of proving the existence of an impermissible interference rests with the WEF Siting Permit holder.

### **3.07 Termination of wind access rights.**

- 1) Any right protected by a permit under this Ordinance shall terminate if the Zoning Administrator determines that the WEF which is the subject of the permit is:
  - a) Not installed and producing energy within 2 years after the date of issuance of the permit; or
  - b) At the end of its serviceable life; or
  - c) A discontinued use, defined as a WEF that has not produced energy for two (2) years; or
  - d) Permanently removed.
- 2) The Zoning Administrator shall give the WEF Siting Permit holder written notice, delivered by certified mail or by hand, of intent to terminate the permit and provide an opportunity for the WEF Siting Permit holder to request a hearing on the proposed termination under s. 3.07(1). The WEF Siting Permit holder shall have 30 days from receipt of written notice to request a hearing before the Resource Planning Committee regarding the matter of permit termination.

- 3) If a WEF Siting Permit is terminated, the permit holder may be charged for the cost of creating and recording a notice of termination with the Door County Register of Deeds. The notice of termination shall be recorded with the notices recorded under s. 3.05(2).

**3.08 Waiver.** A WEF Siting Permit holder may waive by written agreement all or part of any rights protected by a permit. A copy of such agreement shall be recorded with the Door County Register of Deeds with the notice(s) recorded under s. 3.05(2).

**3.09 Preservation of rights.** The transfer of title to any property shall not change the rights and duties under this Ordinance.

## **CHAPTER 4 WIND ENERGY FACILITY REQUIREMENTS**

**4.01 Permitted Locations.** Wind Energy Facilities may only be constructed in areas that are designated as Exclusive Agricultural, Prime Agricultural, General Agricultural, Countryside, and Heartland-10 on the official Door County Zoning Ordinance (Ordinance #2-95) maps, as amended, whether the area is under County zoning or not.

### **4.02 Visual Appearance; Lighting; Powerlines.**

- 1) Wind Turbines shall be painted a non-reflective, non-obtrusive color.
- 2) At WEF sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend with the natural setting and the existing environment.
- 3) WEFs shall not be artificially lighted, except to the minimum extent required by the FAA or other applicable authority.
- 4) Wind Turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the WEF and the utility procuring the power.
- 5) Electrical controls and control wiring shall be wireless or below ground. WEF collector wiring connected to the transmission or distribution network, adjacent to that network, may be above ground.

### **4.03 Setbacks.**

Setbacks shall be measured from the outermost edge of the closest Wind Turbine's rotor blade.

Setbacks may be reduced per written easement recorded with all property owners located within the setback radii. Easements shall be approved in consultation with Door County Corporation Counsel.

- 1) Inhabited structures: A WEF shall be set back from the nearest residence, school, hospital, church, public library, and/or places of frequent public gathering (e.g., public park shelters, pavilions, restroom facilities, band shells, or campgrounds; and cemeteries) a distance no less than the greater of (a) two (2) times its Total Height, or (b) one thousand (1,000) feet.
- 2) Property lines: A WEF shall be set back from the nearest property line the distance of the fall zone, as certified by a professional engineer, plus ten percent (10%) of its Total Height or a distance no less than 1.1 times its Total Height, whichever is greater.
- 3) Public and private roads: A WEF shall be set back from the nearest public or private road or other right of way the distance of the fall zone as certified by a professional engineer, plus ten percent (10%) of its Total Height, or a distance no less than 1.1 times its Total Height, whichever is greater. This setback shall be measured from the nearest boundary of the underlying right-of-way.

- 4) Telephone and electrical lines: A WEF shall be set back from above-ground public electrical power lines, telephone lines, or unimproved utility easements for same the distance of the fall zone, as certified by a professional engineer, plus ten percent (10%) of its Total Height, or a distance no less than 1.1 times its Total Height, whichever is greater. Setbacks from existing power or telephone lines shall be measured from the lines themselves. If no power line or telephone line exists within a utility easement, the setback shall be measured from the nearest utility easement right-of-way boundary.
- 5) Critical communications systems:
  - a) A WEF shall be set back a distance no less than ½ mile to existing critical communication structures, unless the applicant/permit holder/owner has submitted a plan to provide a replacement signal that would restore reception to at least the level present before operation of the wind energy system in the event of signal interference; and
  - b) A WEF shall be set back a distance no less than five hundred feet from either side of the line of sight of an existing critical microwave communications link, unless the applicant/permit holder/owner has submitted a plan to provide a replacement signal that would restore reception to at least the level present before operation of the wind energy system in the event of signal interference.

**4.04 Minimum ground clearance.** The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.

**4.05 Sound levels and measurement.** The applicant/permit holder/owner shall conduct a study on sound per s. 3.02(2)(a).

- 1) Audible sound due to WEF operations shall not exceed fifty-five (50) dBA for any period of time when measured at the property line of any residence, school, hospital, church, public library, or place of frequent public gathering existing on the date of issuance of any WEF Siting Permit, or any proposed structure which meets the requirements of s. 3.04(1)(b).
- 2) Audible sound due to WEF operations shall not exceed forty-five (45) dBA inside any occupied structure existing on the date of issuance of any WEF Siting Permit.
- 3) In the event audible sound due to operations contains a steady pure tone, such as a whine, screech, or hum, such sound shall not exceed forty-five (45) dBA for any period of time when measured at the property line of any residence, school, hospital, church, public library, or place of frequent public gathering existing on the date of issuance of any WEF Siting Permit, or any proposed structure which meets the requirements of s. 3.04(1)(b).
- 4) If the ambient sound level causes a WEF that would otherwise be compliant to exceed the applicable standards given above, the applicable standards shall be adjusted to the ambient sound level.
- 5) In the event audible sound due to operations shall exceed the audible sound standards listed above, a waiver to said standards may be granted provided that the following has been accomplished:
  - a) Written consent from the affected property owners has been obtained stating that they are aware of the WEF and the audible sound standards imposed by this Ordinance, and that consent is granted to allow sound levels to exceed the audible sound standards otherwise allowed; and
  - b) The applicant/permit holder/owner shall record a permanent sound impact easement with the Door County Register of Deeds, which describes the burdened properties and which advises all subsequent owners of the burdened property that sound levels in excess of audible sound standards permitted by this Ordinance may exist on or at the burdened property.



6) The applicant/permit holder/owner shall submit to the Zoning Administrator a sound study prepared by a registered professional engineer, qualified by training, education and experience to conduct such a study, certifying compliance with the sound regulations set forth herein no sooner than twelve months and no later than eighteen months of the date when the project becomes fully operational, or at anytime upon receipt of a verified sound complaint. If at any time it is determined that the maximum sound levels set forth herein are exceeded, the applicant/permit holder/owner shall immediately implement any and all measures necessary to permanently reduce sound levels to compliant levels.

**4.06 Shadow flicker and blade glint.** The applicant/permit holder/owner shall conduct a study on shadow flicker and blade glint per s. 3.02(2)(b). Not sooner than twelve months and not later than eighteen months of the date when the project becomes fully operational, or at anytime upon receipt of a verified complaint of shadow flicker and/or blade glint, the applicant/permit holder/owner shall also submit to the Zoning Administrator a shadow flicker and blade glint study prepared by a registered professional engineer, qualified by training, education, and experience to conduct such a study, certifying that shadow flicker and blade glint present no deleterious effects for any occupied structure located within a one-mile radius of any Wind Turbine. If it is determined that shadow flicker and/or blade glint exists at any occupied structures, the applicant/permit holder/owner shall timely implement and maintain all necessary remedial measures.

**4.07 Signal interference.** The applicant/permit holder/owner shall conduct a study on critical communications per s. 3.02(2)(c). Not sooner than twelve months and not later than eighteen months of the date when the project becomes fully operational, or at anytime upon receipt of a verified complaint of signal interference, the applicant/permit holder/owner shall also submit to the Zoning Administrator a critical communications systems interference study prepared by a registered professional engineer, qualified by training, education and experience to conduct such a study, certifying that the WEF does not and will not interfere with critical communications. If it is determined, at any time, that the WEF does interfere with critical communications, the applicant/permit holder/owner shall timely implement and maintain any corrective measure needed to insure that the WEF will not interfere with critical communications.

**4.08 Public infrastructure.** The applicant/permit holder/owner shall avoid, mitigate and repair any and all adverse impacts to any public infrastructure (e.g., road or highway, drainage system, etc.) occasioned by or in any manner related to the installation, operation, maintenance, and repair or decommissioning of the WEF. This includes reimbursement of the County, Town or State for any repairs or reconstruction of any public infrastructure (e.g., road or highway, drainage system, etc.) reasonably deemed necessary by the County, Town or State.

**4.09 Construction site erosion plan and storm water runoff control plan.** The applicant/permit holder/owner shall submit construction site erosion and storm water runoff control plans per s. 3.02(2)(d). The applicant/permit holder/owner shall maintain any storm water runoff control practices described therein during the serviceable life of the WEF.

**4.10 Safety.**

- 1) Any Wind Turbine and/or accessory structure shall not be climbable up to 15 feet above ground level.
- 2) WEF sites shall be secure (e.g., fence, locked gate and locked doors to any Wind Turbine and/or accessory structures).
- 3) Appropriate warning and safety signage shall be placed on any Wind Turbine, accessory structure and/or electrical equipment, and posted at all WEF entrances.

## **CHAPTER 5 CEASED OPERATION**

**5.01 Restoration requirement.** Within six months of the WEF Siting Permit holder having received notification of intent to terminate the permit, or on a date established during the hearing at which the Resource Planning Committee terminates the permit, whichever is later, the WEF shall be removed from the property and the property restored as herein required:

- 1) All WEF components (e.g., Wind Turbines, accessory structures, and other above-ground improvements) shall be removed from the property.
- 2) All items in outdoor storage shall be removed from the property.
- 3) All building foundations, tower pads, and buried electrical improvements shall be removed to a depth of 4 feet below the ground surface.
- 4) All excavated areas shall be filled in and made level with the ground surface surrounding the excavated area with unconsolidated soil material, at least the top 4 inches of which shall be screened topsoil.
- 5) Post-decommissioning storm water runoff plan shall be implemented.

**5.02 Financial assurance.** As a condition precedent to the granting of a WEF Siting Permit, the applicant/permit holder/owner must submit an acceptable form of financial assurance such as cash, performance bond, certificate of deposit, or irrevocable letter of credit. The amount of the financial assurance will be established by the County and be based on what it would cost the County for WEF decommissioning and reclamation in the event the permit holder fails to do so.

The amount of financial assurance shall be reviewed periodically by the County to assure it equals outstanding decommissioning costs. Financial assurance may be adjusted, upwards or downwards, when required by the County. For instance, the County may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for decommissioning.

Such financial assurance shall be kept in full force and effect during the entire time a WEF facility exists or is in place. Such financial assurance shall be irrevocable and non-cancelable until such time as the County certifies that decommissioning and reclamation are complete and releases the obligation. If the owner fails to remove the WEF and reclaim the site, the County may remove or cause the removal of the WEF and the reclamation of the site. The County may recover the cost of decommissioning and reclamation from any financial assurance provided by the owner. Any decommissioning and reclamation cost incurred by the County that is not recovered from the owner will become a lien on the property where the removal or reclamation takes place and may be collected from the landowner in the same manner as property taxes.

## **CHAPTER 6 ADMINISTRATION; ENFORCEMENT**

**6.01 Administration.** The Resource Planning Committee, created by the County Board of Supervisors of Door County, shall be the designated agency, pursuant to s. 66.0403(2), Wis. Stats., to administer this Ordinance. In administering and enforcing this Ordinance, the Zoning Administrator shall be the authorized representative of the Resource Planning Committee.

**6.02 Violations.** It shall be unlawful to construct, install, operate, reconstruct, substantially repair, improve, extend, enlarge, relocate, or convert any WEF in violation of the provisions of this Ordinance. It shall also be unlawful to fail to comply with any condition of the WEF Siting Permit.

**6.03 Enforcement.** The Zoning Administrator may enforce this Ordinance by any lawful enforcement method deemed to be appropriate and necessary. Enforcement options which may be exercised if provisions of this chapter are violated include such measures as stop work orders, permit suspension and/or revocation, citations, pursuant to Sec. 66.0113, Wisconsin Statutes and Chapter 35 of the Door County Code, injunctive relief, and/or forfeiture of financial assurance.

**6.04 Penalties.** Any person, firm, association, corporation, or representative agent who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$500.00 nor more than \$10,000.00 for each day of continued violation. Door County shall also be entitled to other relief deemed appropriate, including reimbursement of the costs of prosecution and reasonable attorney fees.

**6.05 Nonexclusivity.** Adoption of this Ordinance does not preclude Door County from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

**(Ord. 03-99; 03/23/99) (Ord. 2007-17; 01/29/08)**

**Effective Date: February 7, 2008**