Ordinance No. 2026-03
State of Wisconsin
County of Washington
Town of Farmington

AN ORDINANCE REPEALING AND RECREATING SECTIONS 13-1-130, 13-1-131, AND 13-1-132 OF THE ZONING CODE OF THE TOWN OF FARMINGTON

WHEREAS, the Town Board hereby determines that it is necessary to update the Zoning Code in the Town of Farmington to be consistent with state laws regulating wind and solar energy systems; and

WHEREAS, wind and solar energy systems are increasingly viable renewable energy options.

NOW, THEREFORE, the Town Board of the Town of Farmington, Washington County, Wisconsin, does ordain as follows:

Section 1. **Repealing Code**. Sections 13-1-130, Conditional Use Permits Required Wind Energy Systems, 13-1-131, Permit Procedure-Wind Energy Systems, and 13-1-132, Specific Requirements Regarding Wind Energy Systems, are hereby repealed.

Section 2. **Creating Code**. Section 13-1-130, Large Wind Energy Systems, is hereby created to read as follows:

"13-1-130 Large Wind Energy Systems.

(a) **Applicability.** This section applies to all wind energy systems, as defined by § 66.0403(1)(m), Wis. Stats., used to convert wind energy to electrical energy, except for small wind energy systems, as defined in § PSC 128.01(20), Wis. Adm. Code. This section applies to the construction of a wind energy system or the expansion of an existing or previously approved wind energy system.

(b) **Definitions.** The definitions set forth in Wis. Adm. Code Chapter PSC 128 are incorporated herein.

(c) **Permitted uses.** Wind energy systems are permitted uses in all zoning districts, except in areas that are primarily designated for future residential or commercial development, as shown on the Town's Comprehensive Plan that was in existence as of June 2, 2009, or as shown in such maps after December 31, 2015, as part of a required update to a Comprehensive Plan. This subsection shall apply only to wind energy systems having a total nameplate capacity of at least one megawatt (1,000 kilowatts).

(d) **Owner requirements.** The owner requirements specified in Wis. Adm. Code §§ PSC 128.13 to 128.19 related to the following are hereby incorporated in their entirety:

(1) Siting criteria, including setback and height requirements;

(2) Noise criteria;

(3) Shadow flicker;

(4) Signal interference;

(5) Stray voltage;

(6) Construction and operation, including physical characteristics; and

(7) Decommissioning.

(e) **Application and notice requirements.**

(1) At least 90 days before an owner files an application to construct a wind energy system, an owner shall provide written notice that contains the information specified in Wis. Admin. Code § PSC 128.105(2) of the planned system to all of the following:

(a) Landowners within one mile of a planned wind turbine host property;

(b) The Town Clerk;

(c) Emergency first responders and air ambulance providers servicing the Town;

(d) The Wisconsin Department of Transportation;

(e) The Public Service Commission;

(f) The Wisconsin Department of Natural Resources;

(g) The Wisconsin Department of Agriculture, Trade and Consumer Protection; and

(h) The Office of the Deputy Undersecretary of the U.S. Department of Defense.

(2) At least 90 days after filing the notice required under § 335-17E(1) above, an owner shall file with the Town Clerk 12 copies of an application to construct a wind energy system. Such application shall include the information specified in Wis. Adm. Code § PSC 128.30(2). The owner shall also provide documentation showing that the real property owners' consent to the installation of the proposed wind energy system on their property and copies of any wind energy system easements that have been recorded in the Register of Deeds Office. The owner shall ensure that all information contained in the application is correct.

(3) On the same day an owner files an application with the Town Clerk, the owner shall provide written notice of the filing to property owners and residents located within one mile of the proposed location of the wind energy system facility. Such notification shall meet the requirements of Wis. Adm. Code § PSC 128.30(5)(a).

(4) As soon as possible after receiving the application for a wind energy system, the Town Clerk shall publish a Class 1 Notice, under Wis. Stats. Chapter 985, stating that an application for a wind energy system has been filed with the Town. The Notice shall include the following:

(a) Brief description of the proposed wind energy system and its proposed location;

(b) The locations where the application is available for public review;

(c) The method and time period for public comments; and

(d) The approximate schedule for reviewing the application by the Town.

(5) Within 45 days of receiving an application, the Plan Commission shall determine whether the application is complete and notify the applicant as to the determination. An application is complete if it meets the requirements of § 335-17E(2), above. If the Plan Commission determines that the application is incomplete, it shall provide notice to the owner stating the reason for the determination, and the owner shall provide the information necessary to complete and refile the application. There is no limit on the number of times an applicant may supplement and refile an application. If the Plan Commission fails to make a determination as to the completeness within 45 days after the application is filed, it shall be deemed complete. Each time an owner supplements an incomplete application, an additional forty-five-day completeness review period shall begin the day after the owner refiles the application.

(6) The Town Clerk shall make an application for a wind energy system available for public review at the Town Hall and at the Kewaskum Public Library, 1225 Fond du Lac Avenue, Kewaskum, Wisconsin 53040.

(7) The Plan Commission shall review and make a recommendation as to the approval of the application. At the Town Board's option, the public meeting may be held by the Town Plan Commission.

(8) The Town Board or Plan Commission may request additional information necessary to understand the wind energy system after the Plan Commission has determined an application is complete. An owner shall provide additional information in response to all reasonable requests in a timely, complete and accurate manner.

(9) The Town Board shall hold at least one public meeting prior to making a decision on the application to inform the public about the proposed wind energy system and to obtain public comments thereon. At least one business day prior to the public meeting, the public may submit written comments to the Town Clerk during the Clerk's regular office hours, by mail, or at the drop-box at the Town Hall.

(10) The Town Board shall approve or disapprove an application no later than 90 days after the day on which the Plan Commission notifies the applicant

that the application is complete. If the Town Board fails to act within the 90 days, or within the extended review period, the application is considered approved. The review period may be extended if, within the initial ninety-day review period, the Town Board authorizes in writing any combination of the following extensions, except that the total amount of time for all extensions granted hereunder may not exceed 90 days:

(a) Up to 45 days if the Town Board needs additional information to determine whether to approve or deny the application;

(b) Up to 90 days if the owner makes a material change to the application for approval;

(c) Up to 90 days for other good cause specified in writing by the Town Board.

(11) If the wind energy system is proposed to be located in more than one political subdivision, the Town may conduct a joint application review process in accordance with Wis. Adm. Code § PSC 128.30(7).

(f) **Conditions of approval.** The Town Board may place conditions on the approval of a wind energy system application or require any of the provisions as outlined in Wis. Adm. Code § PSC 128.33. Any condition of approval must satisfy one of the following conditions:

(1) Serve to preserve or protect the public;

(2) Does not significantly increase the cost of the system or significantly decrease its efficiency;

(3) Allows for an alternative system of comparable cost and efficiency.

(g) **Written decision.**

(1) The Town Board shall issue a written decision to grant or deny an application for a wind energy system. The decision shall include findings of fact supported by evidence in the record. Any denial shall specify the reason for denial.

(2) The Town Clerk shall provide the written decision to the owner and to the Public Service Commission. If approved, the Town shall provide the owner with a duplicate original of the decision, and the owner shall record such original with the Washington County Register of Deeds Office.

(3) Change in ownership does not affect the approval of a wind energy system. The owner shall provide not less than 90 days' prior written notice to the Town Clerk advising of the transfer of ownership.

(h) **Compliance monitoring.** The Town Board, or their designees, shall act as a monitoring committee to determine compliance with any condition established as a condition of approval or to assess when wind energy system facilities are not maintained in good repair and operating condition. The monitoring committee

may establish a compliance monitoring procedure including time lines, provide for payment of reasonable fees, and notice requirements, as it deems appropriate.

(i) **Post-construction filing requirements.** Within 90 days of the date a wind energy system commences operation, the owner shall file with the political subdivision and the Public Service Commission an as-built description of the wind energy system, an accurate map of the wind energy system showing the location of all wind energy facilities, geographic information system showing the location of all wind energy systems and current information identifying the owner of the wind energy system. Each wind turbine location shall be labeled with a unique identifier.

(j) **Modifications.** An owner may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of the Town. The owner shall submit an application for the material change, along with the appropriate fee, to the Town Clerk. The application and notice requirements, except the pre-application notice, the conditions of approval, and the written decision requirements of this chapter shall apply to any application for a material change.

(k) **Complaint process.** The complaint process and notice requirements set forth in Wis. Adm. Code §§ PSC 128.40 and 128.42 are incorporated herein.

(l) **Fees.**

(1) The applicant shall deposit an application fee of $15,000 with the Town at the time the application is filed. All costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, acousticians, and other consultants or experts, shall be billed against the deposit. The applicant shall maintain a minimum of $2,000 in the account until the review process and construction (if approved) is completed. If the balance in the account drops below $2,000, the applicant shall deposit additional money to bring the account balance to $5,000 within five business days. The Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed wind energy system. The Town reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.

(2) The Town's fee or reimbursement requirement under Subsection (1) is based on the actual and necessary cost of the review and processing of the wind energy system application and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts.

(m) **Administrative Code references.** All references to the Wis. Adm. Code Chapter PSC 128 are to the 2024 version. Any amendments to Chapter PSC 128 shall be incorporated herein."

Section 3. **Creating Code**. Section 13-1-131, Small Wind Energy Systems, is hereby created to read as follows:

"**Sec. 13-1-131 Small Wind Energy Systems.**

(a) **Applicability.** This section applies to small wind energy systems, as defined by Wis. Adm. Code § PSC 128.01(20), to be a wind energy system that has a total installed nameplate capacity of 300 kilowatts or less and that consists of individual wind turbines that have an installed nameplate capacity of not more than 100 kilowatts. This section applies to the construction of a wind energy system or the expansion of an existing or previously approved wind energy system.

(b) **Definitions.** The definitions set forth in Wis. Adm. Code Chapter PSC 128 are incorporated herein.

(c) **Permitted Uses.** Small wind energy systems are permitted uses in all zoning districts, provided all requirements of this section are met.

(d) **Owner Requirements.**

(1) The owner requirements specified in Wis. Adm. Code §§ PSC 128.13 to 128.19 related to the following are hereby incorporated in their entirety:

(a) Siting criteria, including setback and height requirements;

(b) Noise criteria;

(c) Shadow flicker;

(d) Signal interference;

(e) Stray voltage;

(f) Construction and operation, including physical characteristics; and

(g) Decommissioning.

(2) Small wind energy systems shall be subject to the exemptions and modifications required by Wis. Adm. Code §§ PSC 128.60 and 128.61.

(e) **Application and Notice Requirements.**

(1) At least 60 days before an owner files an application to construct a small wind energy system, the owner shall file a notice of the proposed construction to adjacent landowners and the Town Clerk.

(2) An owner shall file with the Town Clerk 12 copies of an application to construct a small wind energy system. Such application shall include the information specified in Wis. Adm. Code § PSC 128.30(2), except the emergency plan and decommissioning and site restoration plan, and shall include all worksheets, maps, and other attachments included in the

application. The owner shall ensure that all information contained in the application is correct. The owner shall also provide the following:

(a) Documentation showing that the real property owners consent to the installation of the proposed small wind energy system on their property;

(b) Copies of any wind energy system easements that have been executed and/or recorded in the Register of Deeds Office;

(c) Copies of all necessary state and federal permits and approvals.

(3) On the same day an owner files an application with the Town Clerk, the owner shall provide written notice of the filing to property owners and residents located within one mile of the proposed location of the wind energy system facility. Such notification shall meet the requirements of Wis. Adm. Code § PSC 128.30(5)(a). An application is considered "filed" the day the owner notifies the Town in writing that all application materials have been filed.

(4) Within 45 days of the filing of an application, the Plan Commission shall determine whether the application is complete and notify the applicant as to the determination. An application is complete if it meets the requirements of § 335-18E(2) above. If the Plan Commission determines that the application is incomplete, it shall provide notice to the owner stating the reason for the determination, and the owner shall provide the information necessary to complete and refile the application. There is no limit on the number of times an applicant may supplement and refile an application. If the Town fails to make a determination as to the completeness within 45 days after the application is filed, it shall be deemed complete. Each time an owner supplements an incomplete application, an additional forty-five-day completeness review period shall begin the day after the Town receives responses to the items identified in the notice.

(5) As soon as possible after receiving the application for approval of a small wind energy system, the Town Clerk shall publish a Class 1 Notice, under Wis. Stats. Chapter 985, stating that an application for a wind energy system has been filed with the Town. The notice shall include the following:

(a) Brief description of the proposed wind energy system and its proposed location;

(b) The locations where the application is available for public review;

(c) The method and time period for public comments; and

(d) The approximate schedule for review of the application by the Town.

(6) The Town Clerk shall make an application for a wind energy system available for public inspection at the Town Hall and at the Kewaskum Public Library, 1225 Fond du Lac Avenue, Kewaskum, Wisconsin 53040.

(7) The Plan Commission shall review and make a recommendation as to the approval of the application. At the Town Board's option, the public meeting may be held by the Town Plan Commission.

(8) The Town Board shall hold at least one public meeting prior to making a decision on the application to inform the public about the proposed small wind energy system and to obtain public comments thereon. At least one business day prior to the public meeting, the public may submit written comments to the Town Clerk during the Clerk's regular office hours, by mail, or at the drop box at the Town Hall.

(9) The Town Board or Plan Commission may request additional information necessary to understand the small wind energy system after the Plan Commission has determined the application is complete. An owner shall provide additional information in response to all reasonable requests in a timely, complete and accurate manner.

(10) The Town Board shall approve or disapprove an application no later than 90 days after the day on which the Plan Commission notifies the applicant that the application is complete. If the Town Board falls to act within the 90 days, or within the extended review period, the application is considered approved. The review period may be extended if within the initial ninety-day review period, the Town Board authorizes in writing any combination of the following extensions, except that the total amount of time for all extensions granted hereunder may not exceed 90 days:

(a) Up to 45 days if the Town Board needs additional information to determine whether to approve or deny the application;

(b) Up to 90 days if the owner makes a material change to the application for approval;

(c) Up to 90 days for other good cause specified in writing by the Town Board.

(11) If the wind energy system is proposed to be located in more than one political subdivision, the Town may conduct a joint application review process in accordance with Wis. Adm. Code § PSC 128.30(7).

(f) **Written Decision.**

(1) The Town Board shall issue a written decision to grant or deny an application for a small wind energy system. The decision shall include findings of fact supported by evidence in the record. Any denial shall specify the reason for denial.

(2) The Town Clerk shall provide a copy of the written decision to the owner and to the Public Service Commission. If approved, the Town shall provide the owner with a duplicate original of the decision, and the owner shall record such original with the Washington County Register of Deeds Office.

(3) Change in ownership does not affect the approval of a small wind energy

system. The owner shall provide not less than 90 days' prior written notice to the Town Clerk advising of the transfer of ownership.

(g) **Modifications.** An owner may not make a material change in the approved design, location or construction of a wind energy system without the prior written approval of the Town. The owner shall submit an application for the material change, along with the appropriate fee, to the Town Clerk. The application and notice requirements, except the preapplication notice, and written decision requirements of this chapter shall apply to any application for a material change.

(h) **Complaint process.** The complaint process and notice requirements set forth in Wis. Adm. Code § PSC 128.40 are incorporated herein, except as exempted under Wis. Adm. Code § PSC 128.60.

(i) **Fees.**

(1) The applicant shall deposit an application fee of $5,000 with the Town at the time the application is filed. All costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, acousticians, and other consultants or experts, shall be billed against the deposit. The applicant shall maintain a minimum of $1,000 in the account until the review process and construction (if approved) is completed. If the balance in the account drops below $1,000, the applicant shall deposit additional money to bring the account balance to $2,000 within five business days. The Town will refund any remaining balance in the account within 60 days after the final inspection of the constructed wind energy system. The Town reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.

(2) The Town's fee or reimbursement requirement under Subsection (1) is based on the actual and necessary cost of the review and processing of the wind energy system application and may include the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts.

(j) **Administrative Code references.** All references to the Wis. Adm. Code Chapter PSC 128 are to the 2024 version. Any amendments to Chapter PSC 128 shall be incorporated herein."

Section 4. **Creating Code**. Section 13-1-132, Solar Energy Systems, is hereby created to read as follows:

"**Sec. 13-1-132 Solar Energy Systems.**

(a) **Purpose.** The purpose of this Section is to incorporate the requirements of Sections 66.0401 and 66.0403, Wis. Stats., and any applicable amendments, to establish local regulations on the installation and use of solar energy systems ("SES") in the Town of Farmington for the production of electricity and/or conversion of energy for uses on site as well as those systems which produce

electricity for off-site use and distribution.

(b) **Restrictions limited.** Pursuant to § 66.0401(1m) the Town may not place any restriction, either directly or in effect, on the installation or use of a solar energy system, unless the restriction satisfies one of the following conditions:

(1) Serves to preserve or protect the public health or safety.

(2) Does not significantly increase the cost of the system or significantly decrease its efficiency.

(3) Allows for an alternative system of comparable cost and efficiency.

(c) **Definitions.**

(1) **Battery energy storage system (BESS).** A device that enables stored energy to be released when users need it most.

(2) **Accessory use solar energy system.** A solar energy system, on-grid or off-grid, that generates electricity for the individual property owner with either building-mounted or ground-mounted solar collectors that are an accessory use for consumption to the principal use of the property not exceeding 100 kilowatts in rated capacity total for the property.

(3) **Off-grid solar energy system.** A solar energy system that is not connected to an existing substation or electric transmission infrastructure.

(4) **On-grid solar energy system.** A solar energy system that is connected to an existing substation or electric transmission infrastructure.

(5) **Reflector or Reflector System.** Used in SES to concentrate sunlight onto the solar structure.

(6) **Solar collector.** A device, structure or part of a structure whose substantial purpose is to transform solar energy into thermal, mechanical, chemical or electrical energy.

(7) **Solar energy systems (SES).** Equipment that directly converts and then transfers solar energy into usable forms of thermal or electrical energy. A solar energy system includes solar collectors, frames, supports and any mounting hardware, battery storage equipment, converters or invertors.

(d) **Performance Standards.**

(1) **Permits required.** Subject to the following exemption, no SES with a generation capability less than 100 megawatts (MW) shall be established, altered, or enlarged without a zoning permit and a conditional use permit issued in accordance with the procedures and standards established in Article D of this Chapter. Accessory use solar energy systems are permitted accessory uses in all zoning districts and are exempt from the requirement to obtain a conditional use permit.

(2) **Code compliance.** All SES shall comply with all applicable local, state and federal regulatory codes, including the State of Wisconsin electrical codes and the National Electrical Code.

(3) **Glare.** All SES shall be positioned so that glare does not create unsafe conditions or nuisances for neighboring property owners.

(4) **Installer.** All SES shall be installed by a North American Board of Certified Energy Practitioners (NABCEP) certified solar installer or other person or entity qualified to perform such work.

(5) **Foundation.** A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.

(6) **Power and communication lines.** Power and communication lines running between banks of ground-mounted solar panels, to nearby electrical substations, or interconnections with or between structures, shall be buried underground.

(7) **Decommissioning financial assurance.** When decommissioning of an SES is required, all equipment shall be totally removed and properly recycled or disposed for all components that are above ground and below the ground surface. Financial assurance must be provided prior to the commencement of construction activities in the form of a bond, letter of credit, or an escrow account is required for all SES with a name plate rating of 1 MW (100 kilowatts) or greater to ensure proper decommissioning. Accessory use solar energy systems are exempt from the financial assurance requirement under this subsection.

(e) **Accessory Use Solar Energy System Standards.**

(1) **Height.** Accessory use solar energy systems must meet the following requirements:

(a) Building- or roof-mounted SES shall not exceed the maximum allowed height for the zoning district in which it is located.

(b) Ground-mounted SES shall not exceed 15 feet in height when oriented at maximum tilt. Height may be increased by one foot for every two feet of additional setback beyond what is required.

(2) **Setbacks.** Accessory use solar energy systems shall meet the required setback for the zoning district in which the SES is located and the highway setback requirements under Section 13-1-24. Setback distance shall be measured from the edge of the SES array.

(a) Building- or roof-mounted solar energy systems shall meet the principal structure setback when attached to the principal structure and the accessory structure setback when attached to an accessory structure.

(b) Ground-mounted SES shall meet the detached accessory building setbacks under Section 13-1-140(b)(3) when oriented at minimum design tilt.

(f) **Zoning Permit Procedures.**

(1) A person may submit a zoning permit application to the Zoning Administrator and Town Clerk, accompanied by the fee set by the Town Board. The application shall be on a form approved or provided by the Town and shall include the name, address, and telephone number of the person designated by the owner as the contact for operational issues and the investigation of any complaints.

(a) Applications for accessory use solar energy systems shall also include a site plan and elevation drawing for review unless deemed unnecessary by the Zoning Administrator.

i. The site plan shall include both existing and proposed conditions, showing locations of all solar arrays, other structures, property lines, rights-of-way, entrances, service roads, storage systems, floodplains, wetlands and other protected natural resources, topography, electrical equipment/infrastructure, and all other characteristics requested by the Zoning Administrator.

ii. Elevation drawings must be scaled and show the location of the SES on the building or on the property for a ground-mounted system, including the property lines, and all other characteristics requested by the Zoning Administrator.

(2) The Zoning Administrator shall issue a permit or deny the application within 30 days on which the application is complete.

(3) The Zoning Administrator shall issue a zoning permit for a SES if the application materials show that the proposed system location meets the requirements of this Section and of any SES conditional use permit issued by the Town Board.

(4) If the application is denied, the Zoning Administrator shall notify the applicant in writing and provide a written statement of the reason why the application was denied. The owner may appeal the Zoning Administrator's decision to the Board of Appeals.

(5) The zoning permit shall be conspicuously posted on the premises and visible to the public until construction or installation of the system is complete.

(6) A zoning permit shall expire if the SES is not installed and functioning within two years from the date the permit is issued.

(g) **Conditional Use Permit Procedures.**

(1) **Application.** Any person may apply to the Zoning Administrator and Town

Clerk for a conditional use permit for a SES. The procedures for issuing a conditional use permit shall be in accordance with Article D of this Chapter. The Zoning Administrator shall review the application materials for completeness and may request the applicant to provide additional information. When the Zoning Administrator determines that the application is complete, the Zoning Administrator will forward it to the Town Board for a public hearing.

(2) **Fee.** The applicant shall submit an application fee of $5,000 with the Town at the time the application is filed. All costs incurred by the Town relating to the review and processing of the application, including the cost of services necessary to review an application that are provided by outside engineers, attorneys, planners, environmental specialists, and other consultants or experts, shall be billed against the deposit. The applicant shall maintain a minimum of $1,000 in the account until the review process and construction (if approved) is completed. If the balance in the account drops below $1,000, the applicant shall deposit additional money to bring the account balance to $2,000 within five business days. The Town will refund any remaining balance in the account within 60 days after the final inspection of the SES.

(3) **Application Requirements.** In addition to the application submittal requirements of Sec. 13-1-63, the application for an SES conditional use permit shall include the following:

(a) A project narrative describing the proposed project, including a description of the subject property and the acreage contracted by the developer/owner through lease agreements.

(b) Site plan(s), which shall include, but is not limited to, the following:

i. A scalable drawing showing the location of all drives, accessways, entrances, easement labels and locations, trails, and signs; panels, inverters, storage systems, and any other planned infrastructure;
ii. Existing and proposed improvements;
iii. Existing and proposed structures;
iv. Existing and proposed topography;
v. Existing and proposed fencing;
vi. Existing and proposed utilities;
vii. All above ground and underground components;
viii. The total extent of system movements and interconnection points with the electrical grid.
ix. Wetlands, waterways, ditches, and underground drainage system(s) if already mapped;
x. Any floodplain(s);
xi. Public roads, access roads, and internal roadways;
xii. Setbacks;
xiii. Surrounding property uses; and
xiv. Any other information reasonably required by the Town that is relevant to the proposal.

(c) Scaled elevation drawings showing the location of the SES on the property for a ground-mounted system, including the property lines, and all other characteristics requested by the Zoning Administrator.

(d) A plan showing an overhead view of all existing and proposed landscaping/vegetation on the site; including the anticipated location and species for all new plantings.

(e) A grading and drainage plan, showing existing and proposed surface elevations, and proposed erosion control and stormwater management provisions, which shall be focused on increasing infiltration, reducing runoff, minimizing soil compaction, and minimizing or eliminating soil grading during construction.

(f) A vegetative management plan prepared by a qualified professional or reviewed and approved by a natural resource agency or authority, such as the Wisconsin Department of Natural Resources. The plan shall identify:

i. The professional consulted or responsible for the plan;
ii. The conservation, habitat, eco-system or agricultural goals, which may include: providing habitat for pollinators; providing habitat for wildlife; establishing vegetation for livestock grazing; reducing on-site soil erosion; and improving or protecting surface or ground-water quality;
iii. The intended mix of vegetation upon establishment; and
iv. The management methods and schedules for how vegetation will be managed on an annual basis, with particular attention given to the establishment period of approximately three years.

(g) Solar system specifications, including the manufacturer and model, generating capacity, total height, collector square footage, wiring plan, means of interconnecting with the electrical grid, and any agreements with public utilities with regard to connecting to their systems.

(h) Installers' qualifications and signatures certifying that the SES will be installed in compliance with all Town ordinances and all other applicable codes.

(i) Percentage of land coverage by the SES when panels are in the position that has the greatest horizontal area.

(j) A decommissioning plan, which shall outline the anticipated means and cost of removing the SES at the end of its useful life. Decommissioning of an SES must occur in the event the SES is not in use for 12 consecutive months. Decommissioning shall consist of removal of the SES structures and subsurface foundations and equipment, disposal of all solid and hazardous waste in accordance with all applicable waste disposal regulations, and stabilization of soils and/or revegetation of the site as necessary to minimize erosion. The decommissioning methods shall be established and costs

estimates shall be made by a competent party, such as a professional engineer experienced in such matters, a contractor capable of decommissioning, or a party found by the Town of Farmington to have suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the SES. The Town Board shall review the decommissioning plan and request changes that may be needed to comply with the conditional use permit or to protect the safety and welfare of the community and Town properties. The plan shall provide that decommissioning will begin within 180 days from the end of the SES useful life or in the event the SES is not in use for 12 consecutive months. Decommissioning shall be completed within nine months from the start of decommissioning actions.

(k) For an SES of 50 MW or greater, Shared Revenue Utility Aid projections and estimated property tax reductions to the County, Town, and school/special district(s).

(l) Anticipated water and soil impacts from construction activities, plans to mitigate the impacts and a baseline testing and monitoring protocol to be implemented to assess such impacts.

(m) A plan outlining procedures to resolve noise complaints.

(n) Identification of three contacts responsible for the site who are available to: (1) respond to questions regarding site management, (2) be contacted in emergencies, or (3) provide updates to the Town.

(o) Any other documentation identified by the Town Zoning Administrator or Town Board.

(4) **Standard Conditions.** In addition to the standard conditional use permit conditions set forth in Sec. 13-1-68 and the Performance Standards listed in Sec. 13-1-132(d), the following standard conditions shall apply to an SES conditional use permit unless less restrictive requirements are specifically granted by the Town Board on a case-by-case basis:

(a) **Height.** Ground-mounted components of the SES shall not exceed 15 feet in height as measured at the apex when any tracker is at its maximum tilt in early morning or late evening.

(b) **Setbacks.** Setback distances under this section shall be measured from the edge of the SES array, excluding security fencing, screening, or berm.

i. **Arrays.** Arrays shall be set back 20 feet of any property line, nonnavigable waterway ordinary high-water mark, or road right-of-way. The project design shall be such that aboveground project components (excluding fences and access roads) shall be set back 200 feet to any nonparticipating landowner residential structure.

ii. **BESS.** Any BESS shall be set back 100 feet from any exterior property lines, 1,500 feet from existing residential, business, municipal, school or Town structures, and 1,000 feet from a drinking water system.

(c) **Sound.** The SES project's inverters, substations, motors and other noise-emitting equipment collectively shall not exceed the Public Service Commission-mandated maximum nighttime sound level that is applicable to a 100 MW system or larger at the walls of the noise-sensitive receptor, which shall include as a minimum the residence on any nonparticipating property. To ensure noise level estimates associated with facility design are conservative, a 5 dBA tonal penalty shall be included in the preconstruction or any post-construction sound analysis.

(d) **Screening.** An SES shall be appropriately buffered and screened from public view.

(e) **Town roads.** The construction, operation, and decommissioning of an SES shall not adversely impact Town roads. Prior to the issuance of any permits for an SES project, and following project completion, a Pavement Surface Evaluation and Rating (PASER) survey of roadways likely to be affected by the project, as identified by the Town of Farmington, shall be conducted by an independent, qualified entity, at the expense of the applicant. The Town of Farmington and any other affected municipalities shall be compensated for any damages resulting from activities related to the project, with the compensation determined by the Washington County Highway Department.

(f) **Orderly development.** Upon issuance of a conditional use permit, the permit holder shall notify the Wisconsin Public Service Commission.

(g) **Location.** No SES shall be located in the 100-year floodplain or in a designated wetland.

(h) **BESS.** If BESS are included in the project, then the following conditions shall apply:

i. The BESS shall be UL 9540 and NFPA 855 compliant to prevent fires and chemical leaks;
ii. Separate containment enclosures with a size capacity containment of 150% of the BESS and sufficient fireproofing for connecting electrical wires, preventing the spread of fire from one structure to the next and from the BESS to the substation;
iii. Labeling of BESS containers with a date of first usage via a stamped metal nameplate with serial number;
iv. Removal of BESS from the site at the end of its serviceable life and recycled at the owner/operator's expense; and
v. The owner/operator shall give an annual report to the Town Board documenting which batteries are near the end of their lifecycle, including the physical location of the battery and serial number.

(5) **Additional Conditions.** In evaluating the conditional use permit application, the Town Board may impose additional conditions as may be necessary to grant approval. Such additional conditions may relate to the establishment, location, construction, maintenance, operation of the use, off-site impacts and any other aspect of the use that impacts the public health, safety, or general welfare and must be based on substantial evidence. Examples of such conditions include:

(a) **Construction.** Limit hours of construction to be more compatible with surrounding uses; require construction phasing to limit area of disturbance; require dust mitigation.

(b) **Number and/or location of entrances.** Design the site so that entrances and drives are located in areas away from adjoining nonparticipating properties.

(c) **Screening.** Set specific requirements for buffering and screening, which may include landscaping, walls or fences, berms, or other features to physically screen the SES from public view and physically separate nonparticipating neighboring properties.

(d) **Lighting.** Restrict location and type of lighting to reduce offsite impacts.

(e) **Soil drainage.** Require a mitigation plan to correct any damage to existing soil drainage infrastructure.

(f) **Vegetative cover.** Require soil planting and maintenance in perennial vegetation for the operational life of the project, to prevent erosion, manage run off and build soil. Require vegetative cover appropriate to achieve the vegetative management plan goals, including a mix of perennial grasses and wildflowers, grasses and forbs.

(g) **BESS fire hazard mitigation.** Require mitigation plans developed in consultation with local Fire and EMS departments and documenting

i. Battery-related fire suppression design and chemical release containment design.
ii. Clean-up and monitoring activities of any fire-related chemical releases.
iii. Additional funding to affected fire districts directly impacted, including, but not limited to, equipment supplies and training for local firefighting/EMS departments.

(h) **Emergency management plan.** Require an emergency management plan developed in consultation with local Fire and EMS departments documenting points of contact, site access, fire response procedures, locations of electrical disconnects, and BESS specific emergency response procedures.

(h) **SES of 100 MW or more.**

(1) **General.** Any SES of 100 MW or more requires a certificate of public convenience and necessity (CPCN) from the Public Service Commission ("PSC") of Wisconsin and is subject to review and regulation by the PSC.

(2) **Notice of Intent.** All SES subject to the primary jurisdiction of the PSC shall file a Notice of Intent to Construct with the Town Clerk and Zoning Administrator no later than five (5) business days after filing a CPCN application with the state.

(3) **Local Coordination.** The Notice of Intent shall be accompanied by a Local Coordination Packet identical to the application filed with the PSC. The purpose of this local filing is to facilitate coordination regarding local road use agreements and other agreements, along with emergency services training.

Section 5. **Severability**. Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

Section 6. **Effective Date**. This Ordinance shall take effect upon publication or posting by the town clerk as required, pursuant to Wis. Stat. § 60.80.

Adopted by the Town of Farmington Town Board of Supervisors this 10 day of November, 2026.

Ayes 3 Noes 0 Absent 0

TOWN OF FARMINGTON

By _____
DOUG NEUMANN, Town Chairperson

Date Approved: 11-10-2026

Date Published/Posted: 11-11-2026

Attest:

_____
PATRICIA HOERIG, Town Clerk