

ORDINANCE NO. _____

AN ORDINANCE TO CREATE SECTION 8.14-5 OF THE VILLAGE OF NORTH
BAY VILLAGE CODE CONCERNING SOLAR ENERGY AND WIND ENERGY
SYSTEMS

WHEREAS, the Village Board of the Village of North Bay has considered the adoption of regulations of solar energy and wind energy systems, to ensure such systems are properly installed and are sited in a manner that minimizes adverse impacts without significantly increasing the cost or efficiency of any such system, or permits an alternate system of comparable cost or efficiency; and

WHEREAS, the Village Board of the Village of North Bay duly referred the matter to the Village of North Bay Plan Commission, per Section 8.15 of the Village of North Bay Village Code and Wisconsin Statutes Sections 61.35 and 62.23(7)(d)2.; and

WHEREAS, a public hearing was conducted by the Village Board of the Village of North Bay on _____[date] as required by Section 8.15 of the Village of North Bay Zoning Code, upon all due notice as required by Section 8.15 of the Village of North Bay Village Code and Wisconsin Statutes Sections 61.35 and 62.23(7)(d)2; and

WHEREAS, the Village Board finds that this change to the Village of North Bay Zoning Code is not a down zoning ordinance because it does not decrease the development density of land and it does not reduce the permitted uses of land, and therefore the super majority requirement of Section 66.10015, Wisconsin Statutes, does not apply to this ordinance; and

WHEREAS, the Village Board of the Village of North Bay having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of zoning amendment on the health, safety and welfare of the community, and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the surrounding properties as to noise, dust, smoke and odor, and others, hereby determine that the zoning amendment will not violate the spirit or intent of the Zoning Code for the Village of North Bay, will not be contrary to the public health, safety or general welfare of the Village of North Bay, will not be hazardous, harmful, noxious, offensive and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the conditions of the ordinance and in strict compliance with the same, and the zoning amendment is consistent with the Village of North Bay Comprehensive Plan.

NOW, THEREFORE, the Village Board of Village of North Bay, Racine County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Chapter 8 of the Municipal Code of the Village of North Bay, entitled "Planning and Zoning," Section 8.14-5 entitled Solar Energy Systems is hereby created as follows (to be located in the Code after Section 8.14 and before Section 8.15):

8.14-5. SOLAR ENERGY SYSTEMS

1. Purpose. The purpose of this Ordinance is to provide a regulatory scheme for the construction and operation of Solar Energy Systems, other than those excluded in Section

3 below, in the Village of North Bay, Racine County, Wisconsin. All regulations contained herein are adopted pursuant to the authority granted by Wis. Stats. § 66.0401. This ordinance is enacted to provide for Village review of proposed Solar Energy Systems and to ensure such systems are properly installed and are sited in a manner that will minimize any adverse impacts without significantly increasing the cost or efficiency of the proposed system or which permits an alternate system of comparable cost or efficiency.

2. Definitions.

- (a) Solar Energy System. Equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy. "Solar Energy System" excludes solar powered light fixtures that are ground or wall mounted and solar powered electric fences.
 - (b) Solar energy system, free-standing. An accessory use that is the installation of equipment mounted on the ground that uses sunlight to produce electricity or provide heat or hot water to a building.
 - (c) Solar energy system, building-mounted. An accessory use that is the installation of equipment mounted on a building or incorporated into the exterior building materials that uses sunlight to produce electricity or provide heat or water to a building.
3. Permit Required. No Solar Energy System may be installed or maintained in the Village without a Solar Energy System Permit granted pursuant to this ordinance, except that no permit is required for a free-standing solar energy system or a building-mounted solar energy system if it meets the following criteria:
- (a) Building-Mounted Solar Energy Systems are allowed without obtaining a permit as an accessory use on the following conditions:
 - i. No portion of a panel used to collect solar energy may extend beyond the roof surface or the wall surface to which it is attached.
 - ii. The solar energy system shall comply with the maximum height requirements of the zoning district in which the building is located.
 - iii. The panels of the solar energy system that are mounted on a pitched roof may be either fixed or movable and may be placed at an angle to optimize efficiency of the system.
 - iv. The solar energy system may be mounted on the façade of a commercial building provided the installation does not project more than four feet from the face of the wall.
 - v. All solar panels shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the Village Board.
 - vi. If the Village determines that more than fifty percent of the panels (measured by total area) have not been operational for a continuous period of twelve months, the solar panels shall be removed.

- (b) Free-Standing Solar Energy Systems are allowed without obtaining a permit if the system is an accessory use on a residential-zoned property and meets the following conditions:
 - i. The surface area of the solar energy system shall not exceed 150 square feet.
 - ii. There shall be no more than one Free-Standing Solar Energy system when located in any residential district. There is no maximum number in all other districts.
 - iii. The solar energy system shall meet the maximum height restriction for an accessory structure for the zoning district in which it is located.
 - iv. The solar energy system shall meet all setback requirements for an accessory structure for the district in which it is located.
 - v. All solar panels shall be certified by one of the following: Underwriters Laboratories, Inc.; National Renewable Energy Laboratory; Solar Rating and Certification Corporation; or other recognized body as approved by the Village Board.
 - vi. If the Village determines that more than fifty percent of the panels (measured by total area) have not been operational for a continuous period of twelve months, the solar panels shall be removed.
- 4. Application. Every application for a Solar Energy System Permit shall be made in writing and shall include the following information:
 - (a) Name and address of the applicant.
 - (b) Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.
 - (c) Scaled drawing of the Solar Energy System and its dimensions, its location, its height above ground level, orientation, and slope from the horizontal.
 - (d) Site plan showing lot lines and dimensions of the Solar Energy System user's lot and neighboring lots that will be affected by the Solar Energy System.
 - (e) Documentation showing that no reasonable alternative location exists for the Solar Energy System that would result in less impact on neighboring lots.
 - (f) Documentation showing that removing or trimming vegetation on the applicant's lot will not permit an alternative location for the Solar Energy System that would result in less impact on neighboring lots.
 - (g) Such additional information as may be reasonably requested.
 - (h) Any of the information required by this section may be waived by the Village at its discretion.

- (i) An applicant for a solar energy system exceeding 5 MW shall deposit an application fee in accordance with the Village fee schedule with the Village at the time the application is filed. All costs incurred by the Village 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 \$_____ in the account until the review process and construction (if approved) is completed. If the balance in the account drops below \$_____, the applicant shall deposit additional money to bring the account balance to \$_____ within five (5) business days. The Village will refund any remaining balance in the account within 60 days after the final inspection of the constructed solar energy system or after denial of the application, as applicable. The Village reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.
 - (j) An applicant for a solar energy system between 1 and 5 MW shall deposit an application fee in accordance with the Village fee schedule with the Village at the time the application is filed. All costs incurred by the Village 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 \$_____ in the account until the review process and construction (if approved) is completed. If the balance in the account drops below \$_____, the applicant shall deposit additional money to bring the account balance to \$_____ within five (5) business days. The Village will refund any remaining balance in the account within 60 days after the final inspection of the constructed solar energy system or after denial of the application, as applicable. The Village reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.
 - (k) An applicant for a solar energy system less than 1 MW shall pay an application fee in the amount established by resolution of the Village Board.
5. Review of Solar Energy System Permit Application. The Village will consider each Solar Energy System on a case-by-case basis. All applications for solar energy systems greater than 1 MW shall be referred to the Village's Plan Commission for a recommendation prior to Village Board action. The Village may deny a permit for a Solar Energy System or may impose restrictions on a Solar Energy System if the Village finds that the denial or restrictions satisfy one of the following conditions:
- (a) The denial or restriction serves to preserve or protect the public health or safety.
 - (b) The denial or restriction does not significantly increase the cost of the system or significantly decrease its efficiency.
 - (c) The denial or restriction allows for an alternative system of comparable cost efficiency.
6. Solar Energy System Restrictions. The Village may impose restrictions on a Solar Energy System relating to any of the following:
- (a) Location of the Solar Energy System.

- (b) Setbacks from inhabited structures, property lines, public roads, communication and electrical lines, and other sensitive structures and locations.
 - (c) Wiring and electrical controls of the Solar Energy System.
 - (d) Reimbursement for emergency services required as a result of the Solar Energy System.
 - (e) Solar Energy System ground clearance.
 - (f) Solar Energy System height.
 - (g) Decommissioning and reclamation.
 - (h) Any other matters that the Village finds appropriate.
7. Revocation. Any permit granted for the installation or maintenance of a Solar Energy System may be revoked by the Village if the permit holder, its heirs, or assigns, violates the provisions of this ordinance or the provisions of a permit granted pursuant to this ordinance.

SECTION 2: Chapter 8 of the Municipal Code of the Village of North Bay, entitled “Planning and Zoning,” Section 8.14-6 entitled Wind Energy Systems is hereby created as follows (to be located in the Code after Section 8.14 and before Section 8.15):

8.14-6. WIND ENERGY SYSTEMS

1. Purpose. The purpose of this Ordinance is to provide a regulatory scheme for the construction and operation of Wind Energy Systems in the Village of North Bay, Racine County, Wisconsin. All regulations contained herein are adopted pursuant to the authority granted by Wis. Stats. § 66.0401 and PSC Chapter 128 of the Wisconsin Administrative Code. This ordinance is enacted to provide for Village review of proposed Wind Energy Systems and to ensure such systems are properly installed and are sited in a manner that will minimize any adverse impacts without significantly increasing the cost or efficiency of the proposed system or which permits an alternate system of comparable cost or efficiency.
2. Definitions. Terms used herein shall have the meaning described in Section PSC 128.01 of the Wisconsin Administrative Code.
3. Permit Required. No Wind Energy System may be installed or maintained in the Village without a Wind Energy System Permit granted pursuant to this ordinance, except for Wind Energy Systems as defined in s. PSC 128.02(b).
4. Application. Every application for a Wind Energy System Permit shall be made in writing and shall include the following information:
 - a. Name and address of the applicant.
 - b. Evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application.

- c. Wind energy system description and maps showing the locations of all proposed wind energy facilities.
- d. Technical description of wind turbines and wind turbine sites.
- e. Timeline and process for constructing the wind energy system.
- f. Information regarding anticipated impact of the wind energy system on local infrastructure.
- g. Information regarding noise anticipated to be attributable to the wind energy system.
- h. Information regarding shadow flicker anticipated to be attributable to the wind energy system.
- i. Information regarding the anticipated effects of the wind energy system on existing land uses within 0.5 mile of the wind energy system.
- j. Information regarding the anticipated effects of the wind energy system on airports and airspace.
- k. Information regarding the anticipated effects of the wind energy system on line-of-sight communications.
- l. A list of all state and federal permits required to construct and operate the wind energy system.
- m. Information regarding the planned use and modification of roads within the political subdivision during the construction, operation, and decommissioning of the wind energy system, including a process for assessing road damage caused by wind energy system activities and for conducting road repairs at the owner's expense.
- n. A copy of all emergency plans developed in collaboration with appropriate first responders under s. PSC 128.18(4)(b). An owner may file plans using confidential filing procedures, as necessary.
- o. A decommissioning and site restoration plan providing reasonable assurances that the owner will be able to comply with s. PSC 128.19.
- p. A representative copy of all notices issued in compliance with ss. PSC 128.30(5), 128.105(1)(a) and 128.42(1).
- q. Any other information necessary to understand the construction, operation or decommissioning of the proposed wind energy system.
- r. Any other information as required pursuant to s. PSC 128.30(2).
- s. An applicant shall deposit an application fee in accordance with the Village fee schedule with the Village at the time the application is filed. All costs incurred by the Village 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 \$_____ in

the account until the review process and construction (if approved) is completed. If the balance in the account drops below \$_____, the applicant shall deposit additional money to bring the account balance to \$_____ within five (5) business days. The Village will refund any remaining balance in the account within 60 days after the final inspection of the constructed wind energy system or after denial of the application, as applicable. The Village reserves the right to refuse review of an application in the event an applicant fails to comply with this subsection.

5. Accuracy of Information. The owner shall certify that the information contained in an application is accurate. The Village may reject or deny the application if it contains false, misleading, or inaccurate information.
6. Review of Wind Energy System Permit Application.
 - a. The Village shall determine the completeness of an application and shall notify the owner in writing of the completeness determination, no later than 45 days after the day the application is filed. An application is considered filed the day the owner notifies the Village in writing that all the application materials have been filed. If a Village determines that the application is incomplete, the notice provided to the owner shall state the reasons for the determination.
 - b. An owner may file a supplement to an application that the political subdivision has determined to be incomplete. There is no limit to the number of times that an owner may re-file an application. For incomplete applications, the owner shall provide additional information as specified in the notice under par. (a).
 - c. An additional 45-day completeness review period shall begin the day after the political subdivision receives responses to all items identified in the notice under par. (a).
 - d. If the Village does not make a completeness determination within the applicable review period, the application is considered to be complete.
7. Requests for Additional Information. The Village may request additional information necessary to understand the wind energy system after determining that an application is complete. An owner shall provide additional information in response to all reasonable requests. An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete, and accurate manner.
8. Written Decision.
 - a. The Village shall issue a written decision to grant or deny an application. The written decision shall include findings of fact, supported by evidence in the record. If an application is denied, the decision shall specify the reason for the denial. The Village shall provide its written decision to the applicant and to the Public Service Commission of Wisconsin. If the Village approves an application for a Wind Energy System, the Village shall provide the owner with a duplicate original of the decision.
 - b. The owner shall record the duplicate original of a decision approving an application with the Register of Deeds for Racine County, Wisconsin.

9. Record Keeping.

- a. The Village shall keep a complete written record of its decision-making relating to an application for a Wind Energy System. The record of a decision shall include all of the following:
 - i. The approved application and all additions or amendments to the application.
 - ii. A representative copy of all notices issued under ss. PSC 128.105(1)(a) 128.30(5) and 128.42(1).
 - iii. A copy of any notice or correspondence that the Village issues related to the application.
 - iv. A record of any public meeting under s. PSC 128.30(6)(c) and any hearing related to the application. The record shall include any documents or evidence submitted by meeting or hearing participants.
 - v. Copies of any correspondence or evidentiary material that the Village considered in relation to the application, including copies of all written public comments filed under s. PSC 128.32(3)(a).
 - vi. Other materials that the Village prepared to document its decision-making process.
 - vii. A copy of any Village ordinance cited in or applicable to the decision.
 - viii. Any additional information as required by s. PSC 128.34.
- b. If the Village denies an application, the Village shall keep the record for at least seven (7) years following the year in which it issues the decision.
- c. If the Village approves an application, the Village shall keep the record for at least seven (7) years after the year in which the Wind Energy System is decommissioned.

10. Post-Construction Filing Requirement. Within 90 days of the date a Wind Energy System commences operation, the owner shall file with the Village and the Public Service Commission pursuant to s. PSC 128.34(3) an as-built description of the Wind Energy System, an accurate map of the Wind Energy System showing the location of all Wind Energy System facilities, geographic information system information showing the location of all Wind Energy System facilities and current information identifying the owner of the Wind Energy System. An owner shall in the filings under this subsection label each wind turbine location with a unique identifier consistent with the information posted at the wind turbine location under s. PSC 128.18 (1) (g).

11. Effect of Ownership Change on Approval. Approval of a Wind Energy System remains in effect if there is a change in ownership of the Wind Energy System. However, a Wind Energy System owner must provide timely notice to the Village of any change of ownership of the Wind Energy System.

12. Additional Requirements. The Village requires the following as conditions for approval of an application to construct a Wind Energy System:

- a. Information. The owner shall inform the Village in writing whether the owner has consulted with and received any non-binding recommendations for constructing, operating or decommissioning the wind energy system from a state or federal agency, and whether the owner has incorporated such non-binding recommendations into the design of the wind energy system.
- b. Studies. The owner shall cooperate with any study of the effects of wind energy systems coordinated by a state agency.
- c. Monetary Compensation. The owner of a Wind Energy System shall offer an agreement that includes annual monetary compensation to the owner of a nonparticipating residence, if the residence is located within 0.5 mile of a constructed wind turbine. For one turbine located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation may not exceed \$600. For two turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation may not exceed \$800. For three or more turbines located within 0.5 mile of a nonparticipating residence, the initial annual monetary compensation may not exceed \$1,000. The initial annual amounts shall increase each year by the greater of two percent or the increase in the Consumer Price Index, as described in s. 196.374 (5) (bm) 2. b., Stats., from the previous year. This section is intended to establish the maximum annual monetary compensation allowed by law, and if the foregoing is at any time inconsistent with State law, the amounts shall be automatically adjusted to match State law. An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under PSC 128 and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under this PSC 128.
- d. Permits. The owner shall submit to the Village copies of all necessary county, state, and federal permits and approvals.
- e. Annual Reports. The owner shall file an annual report with the Village documenting the operation and maintenance of the Wind Energy System during the previous calendar year.

13. Modifications to an approved Wind Energy System.

- a. Material Change.
 - i. 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 Village that authorized the Wind Energy System, unless the political subdivision automatically approves the material change by taking either of the steps specified in s. PSC 128.32 (2) (b) 1. or 2.
 - ii. An owner shall submit an application for a material change to an approved Wind Energy System to the political subdivision that authorized the wind energy system.
- b. Review
 - i. The Village shall consider only those issues relevant to the proposed change.
 - ii. An application for a material change shall contain information necessary to understand the material change.
 - iii. The Village may hold at least one public meeting to obtain comments on and

to inform the public about a proposed material change to an approved wind energy system.

- iv. The application for material change is subject to s. PSC 128.35(2)(b) and all associated Village provisions concurrent with s. PSC 128.35(2)(b).

c. Monitoring Compliance.

- i. Monitoring Procedure. The Village may establish a procedure to monitor compliance by the owner with any condition on an approved wind energy system or to assess when Wind Energy System facilities are not maintained in good repair and operating condition. The procedure may include timelines, provide for payment of reasonable fees for conducting an assessment, and provide for notification to the public.
- ii. Third-Party Inspector During Construction. The Village may require an owner to pay a reasonable fee for a third-party inspector to monitor and report to the Village regarding the owner's compliance with permit requirements during construction. An inspector monitoring compliance under this subsection shall also report to a state permitting authority upon the state permitting authority's request.

14. Small Wind Energy Systems.

- a. All of the provisions within PSC Chapter 128 apply to a small wind energy system except ss. PSC 128.14 (4) (d), 128.15 (1) (c), (3) (b) to (e), and (5), 128.16 (2) to (4), 128.18 (1) (g), (2) (b) and (c), (3) (am), (b) and (c), and (4) (b) to (f), 128.19 (1) (c) to (e), (3), and (4), 128.30 (2) (L) and (m), 128.33 (1) to (3m) and (5), 128.34 (3), 128.36, 128.40 (2) (b) to (e), 128.41, and 128.42.
- b. The standards in this Ordinance applicable to Wind Energy Systems are modified for small Wind Energy Systems as follows:
 - i. The pre-application notice shall be filed at least sixty (60) days before an Owner files an application to construct a Small Wind Energy System and the notice shall be provided only to adjacent landowners and the Village.
 - ii. Setback distances for Small Wind Energy Systems are as set forth in PSC 128.61(3).
 - iii. An Owner shall provide notice of the requirements of PSC 128.14 only to each adjacent nonparticipating residence or occupied community building before the initial operation of the Small Wind Energy System.
 - iv. For purposes of PSC 128.19(1) a Small Wind Energy System is presumed to be at the end of its useful life if it generates no electricity for a continuous 540-day period.
 - v. For purposes of PSC 128.30(2)(g), the information regarding the anticipated effects of the Small Wind Energy System on existing land uses shall be only for parcels adjacent to the Wind Energy System.

- vi. Written notice of the filing of an application shall be provided only to property owners and residents located adjacent to the Small Wind Energy System.
- vii. Under PSC 128.30(6)(c) the Village may hold at least one public meeting to obtain comments on and to inform the public about a proposed Small Wind Energy System.

15. Revocation. Any permit granted for the installation or maintenance of a Wind Energy System may be revoked by the Village if the permit holder, its heirs, or assigns, violates the provisions of this ordinance or the provisions of a permit granted pursuant to this ordinance.

SECTION 3. SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this _____ day of _____, 2025.

VILLAGE OF NORTH BAY

Roger Mellem, Village President

ATTEST:

Dori A. Panthofer, Village Clerk