

AMENDING CHAPTER 10 OF THE DANE COUNTY CODE
OF ORDINANCES, DEFINING SMALL SCALE ELECTRIC GENERATING STATIONS
AND REQUIRING A CONDITIONAL USE PERMIT FOR SUCH USES IN THE A-1
EXCLUSIVE AGRICULTURE DISTRICT

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Subsection 10.01(66a) is created to read as follows:

10.01 DEFINITIONS.

(66a) *Small scale electric generating station.* The equipment and structures necessary for the production of electricity by converting fossil fuels, bio-fuels, wind, water, sunlight, or radioactive fission into electricity, not requiring approval under section 196.491 Wis. Stats. Personal wood furnaces, wind turbines, solar collectors, and watermills, for the purposes of creating electricity to be used on the property are not considered small scale electric generating stations.

ARTICLE 3. Subsection 10.123(2)(f) is amended to read as follows:

10.123 A-1 EXCLUSIVE AGRICULTURE DISTRICT.

(2) *Permitted Uses.*

(f) Utility services as defined in section 10.01(81), ~~and small scale electric generating stations not requiring approval under section 196.941 of the Wis. Stats.~~

ARTICLE 4. Subsection 10.123(3)(n) is created to read as follows:

10.123 A-1 EXCLUSIVE AGRICULTURE DISTRICT.

(3) *Conditional uses in the A-1 Exclusive Agriculture District.*

(n) *Small scale electric generating stations not requiring approval under section 196.491, Wis. Stats.*

ARTICLE 5. Subsection 10.255(2)(c)3. is amended to read as follows:

10.255 ZONING COMMITTEE.

(2) *Conditional Uses.*

(c) *Town/zoning committee action.*

3. Town board and zoning committee actions shall be supported by written findings of fact. Failure of a town board or the zoning committee to make written findings of fact shall constitute approval of the application. Except for conditional use permit applications for a small scale electric generating station, using wind or solar energy, under s. 10.123(3)(n), ~~Written~~ findings of fact shall, at a minimum, address the standards enumerated in sub. (2)(h) and, where applicable, s. 10.123(3). Written findings of fact for conditional use permit applications for a small scale electric generating station under s. 10.123(3)(n), using wind or solar energy, shall exclusively address the standards enumerated in sub. (2)(o). All findings shall be based solely upon the evidence within the public record.

ARTICLE 6. Subsection 10.255(2)(i) is amended to read as follows:

(i) *Conditions and guarantees.* Prior to the granting of any conditional use, the town board and zoning committee may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as

deemed necessary to promote the public health, safety and general welfare of the community and to secure compliance with the standards and requirements specified in subsection (h) above, or subsection (o) in the case of small scale electric generating stations under 10.123(3)(n), using wind or solar energy. In all cases in which conditional uses are granted, the town board and zoning committee shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

ARTICLE 7. Subsection 10.255(2)(j) is amended to read as follows:

(j) Appeal. Any person aggrieved by the grant or denial of a conditional use permit, or the county board supervisor of the district in which the affected parcel is located, may appeal the decision of the town board or zoning committee to the county board. Such appeal must specify the grounds thereof in respect to the findings of the zoning committee, town board or both, the reason why the appellant is aggrieved and must be filed with the office of the zoning administrator within 20 days of the final action. The zoning administrator shall transmit such appeal to the county clerk who shall file such appeal with the county board. The county board shall fix a reasonable time for the hearing of the appeal and give public notice thereof as well as due notice to the applicant and the appellant(s) and decide the same within a reasonable time. The action of the zoning committee, town board or both, shall be deemed just and equitable unless the county board by a three-fourths vote of supervisors present and voting reverses or modifies the action appealed from. An appeal from a decision of the zoning committee, town board or both, shall be taken to the county board. No other entity of county government has jurisdiction to hear any such appeal and the avenue of appeal provided for herein is exclusive, notwithstanding any appeal procedure as may be authorized by state law for specific conditional uses.

ARTICLE 8. Subsection 10.255(2)(o) is created to read as follows:

(o) Standards for the review of small scale electric generating stations using wind or solar energy.

1. An application for a conditional use permit for a small scale electric generating station under s. 10.123(3)(n) using wind or solar energy shall be considered by the town and the committee in conformance with Wis. Stats. s. 66.0401(4).

2. No condition or restriction may be placed upon a wind energy system or solar energy system unless such restriction or condition:

a. serves to preserve or protect the public health or safety;

b. does not significantly increase the cost of the system or significantly decrease its efficiency; or

c. allows for an alternative system of comparable cost and efficiency.

[EXPLANATION: This amendment provides a definition for “small scale electric generating stations”, and requires a conditional use permit for such uses in the A-1 Exclusive Agriculture District. As noted in the definition, electric generating equipment strictly for personal, on-property use, such as solar panels, small wind turbines, etc., are exempt from the requirement of a conditional use permit. The amendment conforms to limitations as specified in state statutes under s. 66.0401.]

Submitted by Supervisors Downing and Jensen, February 17, 2011.

Referred to ZONING & LAND REGULATION.