

ordinances or other provisions of the General Code of Ordinance of the Village of Ellsworth which conflict with any of the provisions of this chapter are hereby repealed.

SEC. 46.16 EXTRATERRITORIAL ZONING ORDINANCE.

(1) Statement of policy, purpose and intent. The Village Board does hereby adopt the following as its statement of policy, purpose and intent in connection with and in support of adoption of this ordinance.

- (a) The Board specifically finds that the adoption of an Extraterritorial Zoning Ordinance is a particular benefit to the community because the community of the Village and its adjoining Towns has vision which the County Board and County Zoning Ordinance necessarily lack in that:
 - (1) County rules and regulations take no account of the proximity of districts to villages or cities, imposing the same rules and regulations with respect to specific districts whether or not those districts lie within the ETZ boundaries of a municipality.
 - (2) The County Zoning Ordinance does not provide setbacks, or suitable setbacks, with respect to uses in or near residential communities.
- (b) The Joint Extraterritorial Zoning Committee, through its representative members from Village and Town respectively, are in better position to control application, review and processing fees with respect to zoning applications and appeals in the Extraterritorial Zoning jurisdiction.
- (c) The Extraterritorial Zoning Ordinance provides for local review.
- (d) The Joint Extraterritorial Zoning Committee ensures local control of the Extraterritorial Zoning jurisdiction area by the Village and Town in collaboration empowering each by assuring a majority, which must always include at least one member of the other body, makes decision for the public good.

(2) Extraterritorial Zoning District Limits. The Extraterritorial Zoning District is that area lying outside the Village Of Ellsworth but within 1 ½ miles of the Village limits, as shown on the map titled “Extraterritorial Zoning. Village of Ellsworth.” The purpose of the Extraterritorial Zoning District is to provide for proper zoning and control over said area and allow for the orderly growth and expansion of the area surrounding the Village of Ellsworth:

(3) Districts. Within the Extraterritorial Zoning District there shall, in addition to the districts identified in Section 46.03(7), be the following districts:

- (a) Rural Residential (RR). This district shall provide for the continuation of agricultural practices in areas of the Extraterritorial Zoning District which

ZONING 46.16(3)(a)

have historically been devoted to farm/agricultural operations, while providing location for certain recreational and other nonresidential uses as well as single family rural housing opportunities not served by public sewer or community wastewater treatment facilities. The minimum lot size in the Rural-Residential district shall be 2 ½ acres; except, however, there shall not be more than 8 single family residential units constructed per forty acre parcel. As used herein the term “forty” refers to a recognized and established forty acre parcel as determined by the rectangular survey description determined from the Fourth Principal Meridian in the Towns affected by these regulations, to wit, the Towns of Ellsworth and Trimbelle, an example of such of such forty (or fractional forty) acre parcel being as follows: Northwest Quarter/Northwest Quarter, Section Sixteen (16), Township Twenty Six (26) North, Range Seventeen (17) West, Town of Ellsworth. Subject to any other limitations imposed under this Sec. 46.16, except lot size limitations, uses permitted in the R-1 District shall be permitted in this district.

- (b) Rural Flexible (RF). This district is intended to achieve the same objectives as the Rural- Residential district but to allow a greater density of residential development upon approval of the Joint Extraterritorial Zoning Committee. In this district the Committee may allow a density of more than 8 single family residential units per forty provided such planned development meets the approval of the Committee and is subject to any conditions imposed thereon by the Committee. Subject to any other limitations imposed under this Sec. 46.16, except lot size limitations, uses permitted in the R-1 District shall be permitted in this district.
- (c) Residential (R-1). The uses and definitions set forth in Section 46.03(7)(a) shall apply to the R-1 district in the Extraterritorial Zoning District. No lands within the Extraterritorial Zoning District shall be zoned or classified as R-1 unless served by public sewer, a sanitary sewer district or an approved community wastewater treatment facility.

(4) Use. In the Extraterritorial District, no building or premises shall be used and no building shall hereafter be erected or structurally altered unless permitted in this §46.16 or otherwise provided in this Chapter 46.

- (a) Existing agricultural uses shall be allowed to continue regardless of Extraterritorial Zoning. In other words, it shall be within the discretion of the owner of property used for agricultural purposes whether the agricultural use of the property terminates. This Extraterritorial Zoning Ordinance is not intended to work any change with respect to premises used for agricultural purposes so long as the owner desires to continue using the premises for an agricultural use.
- (b) In the R-1 Zoning District in the Extraterritorial District, farming with livestock will be allowed on 20 acres or more.
- (c) In the Rural Residential and Rural Flexible Zoning District in the

ZONING 46.16(4)(c)

Extraterritorial District, livestock and domestic animals are allowed on lots of the size of 2 ½ acres or more, with the total population of animals not to exceed one animal unit per full acre. As used herein the term “livestock” or “domestic animal” includes cows, horses, pigs, poultry, llamas, ostriches and the like, but excludes household pets such as cats and dogs. The term “animal unit” shall have the same meaning as set forth in Chp NR 243 Wis. Admin Code and Wisconsin DNR form 3400-25A.

(d) Shelters for animals; barns, corrals, feedlots, etc., shall be located more than 100 feet from any existing non-farm residence and greater than 50 feet from any lot line. This does not include licensed kennel and houses for domestic pets.

(5) Lot Sizes. Lots not served by municipal sanitary sewer or a DNR approved wastewater treatment plant in a single family residence district shall be at least 2 ½ acres in area inclusive of road right of way.

(6) Setbacks.

(a) Building setback distances from roads or streets in any district in the Extraterritorial District shall be as follows:

(1) Class D Highway (town road). Buildings shall have a setback of 75 feet from the center line of the highway and no closer than 42 feet to highway right-of-way.

(2) Class C Highway (Pierce County). Buildings shall have a setback of 100 feet from the center line of the highway and no closer than 67 feet to the highway right-of-way.

(3) Class B Highway (State of Wisconsin). Buildings shall have a setback of 110 feet from the center of the highway and no closer than 77 feet to the highway right-of-way.

(4) All other streets and roads (Village streets or private drives). The setback distance shall be at least 75 feet from the center line of the road and no closer than 42 feet to the road right-of-way.

(b) The required side yards in the Rural Residential and Rural Flexible Districts shall be not less than 25 feet and no single side yard shall be less than 10 feet in width.

(7) Building Permits. Building permits in the Extraterritorial District will be issued by the Town but the Village Zoning Administrator shall approve such permits as to proper zoning prior to their issuance.

(8) Enforcement. Enforcement of this Extraterritorial Zoning Ordinance shall be by the Village Zoning Administrator, identical to that provided for zoning enforcement within the

Village, with penalties for violations also being the same, as provided under subdivisions (7)(e) (f), (8) and (9) of §62.23, Stats.

(9) Conditional Use Permits. Conditional uses provided for in this chapter shall also apply to the Extraterritorial District. Said conditional uses shall be referred to the Joint Extraterritorial Zoning Committee for recommendation. Prior to referral of the Conditional Use Permit to the Joint Extraterritorial Zoning Committee the permit application shall be submitted to the Town Clerk of the Town in which the premises lie for purpose of obtaining recommendation of the Town Board. The recommendation of the Town Board shall not be binding upon the Joint Extraterritorial Zoning Committee but shall be considered in their deliberation. Any recommendation made by the Town shall be made within 45 days of the date the Town Clerk is furnished a copy of the application.

(10) Amendments to Districts. The Village Board may amend the districts and regulations after first submitting the proposed amendment to the Joint Extraterritorial Zoning Committee for its recommendation and report.

(11) Nonconforming uses. The nonconforming uses provisions in this chapter shall apply to the Extraterritorial District. Any changes in nonconforming uses shall be subject to the nonconforming uses provisions in §46.08, which shall apply to the Extraterritorial District; provided, however, that said matter is referred to the Joint Extraterritorial Zoning Committee instead of the Village Plan Commission.

(12) Board of Appeals. The provisions relating to the Board of Appeals in this chapter shall also apply to the Extraterritorial District.

(13) Notice of Meetings. The Chair or Clerk of the Extraterritorial Zoning Committee shall give notice to all members of all meetings not less than seven (7) days prior to the meeting date. In addition, any meetings scheduled for the purpose of addressing a use proposed to take place in one Town only shall nonetheless be given to the Town Clerk of all other Towns subject to this Ordinance not less than seven (7) days prior to the scheduled meeting date; and, further, the Town Clerks of all Town members of the Committee shall be given a copy of the decision made regarding any proposed use brought before the Committee.

(14) Fees. Fees for applications made to amend the zoning district classification in the Extraterritorial Zoning District, or to obtain a Conditional Use Permit, shall be established from time to time by the Joint Committee. An applicant seeking a zoning change or Conditional Use Permit shall complete an application form and file it with the Village Clerk of the Village Of Ellsworth together with the fee established from time to time by the Joint Committee. The fee so established shall be intended to cover the cost of publication, ministerial duties of the Clerk and per diem expenses of the Committee members.

(15) Quorum. The quorum necessary for a meeting of the Joint Committee shall be all six (6) members. Alternates may attend in place of members unable to attend. An affirmative vote of four (4) or more votes shall be necessary to make any recommendation or take any measure. [Ord. 561 10/2006]

(16) Small Wind Energy System

(a) Purpose. The purpose of this Ordinance is to:

- (1) Oversee the permitting of small wind energy systems
- (2) Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system (per Wis. Stat. §66.0401).

(b) Definitions. In this Ordinance:

- (1) “Administrator” means the Village of Ellsworth Land Use Administrator or Planning and Zoning Administrator.
- (2) “Board” means the Village Board of the Village Of Ellsworth.
- (3) “Meteorological tower” (met tower) is defined to include the tower, base plate, anchors, gut cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- (4) “Owner” shall mean the individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance.
- (5) “Rotor diameter” means the cross sectional dimension of the circle swept by the rotating blades.
- (6) “Small wind energy system” means a wind energy system that
 - (a) is used to generate electricity;
 - (b) has a nameable capacity of 100 kilowatts or less; and
 - (c) has a total height of 170 feet or less.
- (7) “Total height” means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
- (8) “Tower” means the monopole, freestanding, or guyed structure that supports a wind generator.

- (9) “Wind energy system” means equipment that converts and then
- (10) stores or transfers energy from the wind into usable forms of energy (as defined by Wis. Stat. § 66.0403(1)(m). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.
- (11) “Wind generator” means blades and associated mechanical and electrical conversion components mounted on top of the tower.

(c) Standards.

- (1) Setbacks. A wind tower for a small wind system shall be set back a distance equal to its total height plus 50 feet from:
 - (a) any public road right of way, unless written permission is granted by the governmental entity with jurisdiction over the road;
 - (b) any overhead utility lines, unless written permission is granted by the affected utility;
 - (c) all property lines, unless written permission is granted from the affected land owner or neighboring property owners whose boundaries are located within a distance of the tower height plus fifty (50) feet.
- (2) Access.
 - (a) All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
 - (b) The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.
- (3) Electrical Wires. All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- (4) Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

- (5) Appearance, Color & Finish. The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, as approved in the building permit.
 - (6) Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.
 - (7) Code Compliance. A small wind energy system including tower shall comply with all applicable state construction and applicable codes, and the National Electrical Code.
 - (8) Utility notification and interconnection. Small wind energy systems that connect to the electric utility shall comply with the Public Service Commission of Wisconsin's Rule 119, "Rules for Interconnection Distributed Generation Facilities" and in compliance with the respective Utility Policy.
 - (9) Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.
 - (10) Noise. The noise level of the small wind system shall not exceed 3(d) BA above ambient sound when measured at the nearest property line.
- (d) Permit Requirements.
- (1) Building Permit. A building permit shall be required for the installation of a small wind energy system.
 - (2) Documents: The building permit application shall be accompanied by a plot plan which includes the following:
 - (a) Property lines and physical dimensions of the property
 - (b) Location, dimensions, and types of existing major structures on the property
 - (c) Location of the proposed wind system tower
 - (d) The right-of-way of any public road that is contiguous with the property;

- (e) Any overhead utility lines;
 - (f) Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed)
 - (g) Tower foundation blueprints or drawings
 - (h) Tower blueprint or drawing
- (3) Fees. The application for a building permit for a small wind energy system must be accompanied by the fee required for a building permit for a Permitted Accessory Use.
- (4) Expiration. A permit issued pursuant to this ordinance shall expire if:
- (a) The small wind energy system is not installed and functioning within 24-months from date the permit is issued; or,
 - (b) The small wind energy system is out of service or otherwise unused for a continuous 12-month period.
- (e) Abandonment.
- (1) A small wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Administrator may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The Owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. The Administrator shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.
 - (2) If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator and the generator tower at the Owner's sole expense within 3 months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Administrator may pursue a legal action to have the wind generator removed at the Owner's expense.
- (f) Building Permit Procedure.

ZONING 46.16 (F) (1)

- (1) An Owner shall submit an application to the Administrator for a building permit for a small wind energy system. The application must be on a form approved by the Administrator and must be accompanied by two copies of the plot plan identified in 00.06(2) above.
 - (2) The Administrator shall issue a permit or deny the application within one month of the date on which the application is received.
 - (3) The Administrator shall issue a building permit for a small wind energy system if the application materials show that the proposed small wind energy system meets the requirements of this ordinance.
 - (4) If the application is approved, the Administrator will return one signed copy of the application with the permit and retain the other copy with the application.
 - (5) If the application is rejected, the Administrator will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may appeal the Administrator's decision pursuant to Chapter 68 Wis. Statutes. The applicant may reapply if the deficiencies specified by the Administrator are resolved.
 - (6) The Owner shall conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the small wind energy system is complete.
- (g) **Violations.** It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt
- (h) **Severability.** The provisions of this ordinance are severable, and in the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness or the remainder of the ordinance. [Ord. 581 01/2008, Ord 599 12/2009]