

**TOWN OF FARMINGTON
POLK COUNTY, WISCONSIN**

ORDINANCE NO. 2026-007

**AN ORDINANCE TO REGULATE SOLAR ENERGY SYSTEMS WITHIN THE TOWN
OF FARMINGTON**

The Town of Farmington Board does ordain as follows:

SECTION 1. PURPOSE AND INTENT.

This Ordinance regulates solar energy systems within the Town of Farmington, Polk County, Wisconsin (the "Town"), in order to promote the safe, effective, and efficient use of solar energy while protecting the public health, safety, and welfare of the community.

The Town recognizes that under Wis. Stat. § 66.0401(1m), no restriction may be placed, directly or effectively, on the installation or use of a solar energy system unless the restriction satisfies at least one of the following three criteria: (1) it serves to preserve or protect public health or safety; (2) it does not significantly increase the cost of the system or significantly decrease its efficiency; or (3) it allows for an alternative system of comparable cost and efficiency. Any restriction imposed under this Ordinance must be applied on a case-by-case, system-specific basis.

SECTION 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, including but not limited to a device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight. This includes transmission facilities dedicated to the solar energy system.

(b) Accessory and Small Solar Energy System ("Small SES"). A solar energy system that is accessory to a lawful principal use located on the same parcel, such as a residential rooftop installation or a system serving an on-site farm operation, that primarily serves the on-site electrical or thermal load of that principal use. An Accessory/Small Solar Energy System generally has a generating capacity under 2 MW and is not intended, as its primary purpose, for the sale or distribution of electricity to the grid. Incidental net-metering export to the grid does not disqualify a system from this classification.

(c) Medium Scale Solar Energy System ("Medium SES"). A solar energy system with a generating capacity of 2 MW up to and including 20 MW, whose principal purpose is the generation of electricity for off-site sale or distribution, or for larger-scale on-site commercial use, such that it exceeds the accessory-use tier described in subsection (b) but remains below the large-scale tier described in subsection (d). The 2 MW and 20 MW thresholds establishing this tier are a Town policy choice adopted for local administrative purposes and are not thresholds fixed by Wis. Stat. § 66.0401 or any other state statute.

(d) Large Solar Energy System ("Large SES"). A solar energy system with a generating capacity greater than 20 MW but less than 100 MW AC. Generally, such systems are smaller than 700 acres.

(e) Utility-Scale/PSC-Jurisdictional Solar Energy System. A solar energy system with a generating capacity of 100 MW or greater. Such systems are subject to review and certification by the PSC under Wis. Stat. § 196.491 and are not subject to the Conditional Use Permit requirements of this Ordinance except as provided in Section 3(d). Generally, such systems are approximately 700 acres or larger.

(f) Battery Storage Facility. An electrochemical or other energy storage device or array of devices that charges or collects electricity from the grid or from a generation facility, stores that electricity, and discharges it at a later time. Battery Storage Facilities are classified according to the same capacity tiers established in this Section for solar energy systems: (i) an Accessory Battery Storage Facility is a facility with a capacity under 2 MW that is accessory to, and located on the same parcel as, an Accessory/Small Solar Energy System or other principal use; (ii) a Medium Battery Storage Facility is a facility with a capacity of 2 MW up to and including 20 MW associated with a Medium SES; and (iii) a Large Battery Storage Facility is a facility with a capacity greater than 20 MW but less than 100 MW associated with a Large SES. Battery Storage Facilities of 100 MW or greater are treated as utility-scale facilities under subsection (e).

SECTION 3. PERMITTING BY TIER.

(a) Small SES. Accessory and Small Solar Energy Systems are permitted by right in agricultural districts and are permitted by a "Solar Permit" in all other districts, subject to compliance with applicable building code and zoning code standards. No Conditional Use Permit is required for a Small SES. A Polk County shoreland/floodplain zoning permit, if applicable, may also be required.

(b) Medium SES. A Medium SES (2 MW up to and including 20 MW) shall require a Conditional Use Permit ("CUP") prior to construction. The Town Plan Commission and/or Town Board shall review each Medium SES application on a case-by-case, system-specific basis. Any condition imposed on, or denial of, a Medium SES CUP application must be supported by written findings identifying which of the following three criteria under Wis. Stat. § 66.0401(1m) the condition or denial satisfies: (1) protection of public health or safety; (2) no significant increase in the cost of the system or significant decrease in its efficiency; or (3) the availability of a comparable-cost, comparable-efficiency alternative system. No blanket or categorical denial of an entire class of Medium SES applications is permitted; each application shall be evaluated on its own facts. A Polk County shoreland/floodplain zoning permit, if applicable, may also be required.

(c) Large SES. A Large SES (greater than 20 MW but less than 100 MW) shall require a CUP, reviewed under the same case-by-case, written-findings standard described in subsection (b), together with a heightened review and public notice process reflecting the increased scale of the facility, including expanded notice to adjacent property owners and additional public hearing procedures as the Town may establish by resolution. A Polk County shoreland/floodplain zoning permit, if applicable, may also be required.

(d) Utility-Scale Systems under PSC Jurisdiction. Solar energy systems with a generating capacity of 100 MW or greater are subject to review by the PSC and must obtain a certificate of public convenience and necessity ("CPCN") under Wis. Stat. § 196.491. A valid CPCN overrides any conflicting provision of this Ordinance to the extent, and only to the extent, provided in Wis. Stat. § 196.491(3)(i). Utility – Scale Systems shall be required to provide a decommissioning plan and road repair agreement with the Town.

(e) Battery Storage Facilities. A Battery Storage Facility associated with a Medium or Small SES shall require a conditional use permit. An Accessory Battery Storage Facility that is purely accessory to an Accessory/Small SES is permitted by right, subject to applicable fire code and safety code requirements.

SECTION 4. APPLICATION REQUIREMENTS.

(a) An application for a Solar Permit shall not be rejected unless that rejection is supported by one of the three statutory criteria under Wis. Stat. § 66.0401(1m) and listed in Section 6. An application shall include the parcel number and address where the use will take place, what type of system will be installed, and where on the property the system will be installed.

(b) An application for a Medium SES or Large SES Conditional Use Permit shall not be rejected unless that rejection is supported by one of the three statutory criteria under Wis. Stat. § 66.0401(1m) and listed in Section 6. An application shall include the following information:

1. The parcel number and address of the site;
2. Name and contact information of the applicant, owner, and installer.
3. A site plan showing the location and specifications of all proposed solar arrays, equipment, access roads, and associated structures;
4. Listing of affected tax parcel ID numbers and evidence that the applicant is the owner of the property involved or has the written permission of the owner to make such an application;
5. A setback plan showing compliance with the requirement of Section 7.;
6. A decommissioning plan meeting the requirements of Section 8 of this Ordinance;
7. A description of the proposed grid interconnection, including the point of interconnection and the affected utility; and
8. Any evidence the applicant or the Town deems relevant to the three statutory criteria under Wis. Stat. § 66.0401(1m).
9. A Plan for the protection and repair of Town roads relating to damage caused by construction, maintenance and decommissioning of the project.

(c) An application for a Large SES shall include the following additional requirements:

1. Percentage of land coverage by the SES.
2. Structures on adjacent properties and distance from boundary of SES project.

SECTION 5. PERMIT TERM.

A Medium SES or Large SES CUP approved under this Ordinance shall be granted for an initial term of a maximum of ten (10) years. A permit renewal(s) shall be granted for additional terms of a maximum of ten (10) years unless the permit holders is found to be in violation of the permit conditions.. The operator shall submit a written request to the Town Clerk for renewal of the permit no later than one hundred twenty (120) days before expiration of the permit. Any condition imposed by the Town at renewal is subject to the same three-part statutory findings requirement described in Section 3(b) that applies to the initial approval; renewal shall not be used as an occasion to impose a condition that would not independently satisfy one of the three criteria under Wis. Stat. § 66.0401(1m).

SECTION 6. LIMITS ON RESTRICTIONS.

No restriction shall be placed on the installation or use of a SES unless the restriction, applied on a case-by-case basis to the specific system under review, satisfies one of the following conditions:

- (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.

SECTION 7. STANDARDS. The standards for reviewing a permit application for a SES shall include the following requirements, as consistent with Wis. Stat. § 66.0401(1m):

- (a) **Setbacks.** Any portion of an SES shall not encroach within 1400 feet of any property line and within 1400 feet of any road right-of-way. Any portion of a SES shall not encroach within 1400 feet of any residential home.
- (b) **Code Compliance.** A SES shall comply with all applicable State of Wisconsin electrical codes and the National Electric Code.
- (c) **Height Restrictions.** A SES shall not exceed 35 feet in height. A building mounted SES may extend six feet above the allowable height limit.
- (d) **Glare.** The SES shall be positioned so that glare does not create any unsafe conditions.
- (e) **Structural Integrity.** The structure upon which the proposed SES is to be mounted shall have the structural integrity to carry the weight and wind loads of the SES as certified by a licensed engineer.

SECTION 8. DECOMMISSIONING PLAN REQUIRED.

A decommissioning plan is required for every Medium SES and Large SES to ensure that facilities are properly removed at the end of their useful life.

- (a) Decommissioning of the system may be triggered in the event the system is not in use for twelve (12) consecutive months. In the event decommissioning is triggered, the permit holder

shall have eighteen (18) months to fully decommission the system after which a third party inspector will determine whether the system was decommissioned.

(b) The decommissioning plan shall include the physical removal of all above- and below-grade structures, equipment, foundations, and associated electrical infrastructure, and the restoration of the site's soil and vegetation to a condition consistent with its pre-construction agricultural or natural state, or another condition approved by the Town. The Town's goal in requiring decommissioning is to restore farmland and limit contamination as a remediation objective following the end of a system's useful life; this remediation objective does not itself serve as a basis for restricting the installation of a Medium SES or Large SES, which remains governed exclusively by the criteria under Wis. Stat. § 66.0401(1m).

(c) The Town may require the posting of a bond, letter of credit, or the establishment of an escrow account, in an amount tied to approximately 110% of the estimated decommissioning cost of the specific system, to ensure proper decommissioning. The amount of the bond, letter of credit, or the establishment of an escrow account shall be reviewed every five (5) years to account for inflation and changes in removal costs.

(d) Any change in ownership of the SES shall require the assumption of the CUP and the decommissioning requirement by the new owner.

(e) The Town Plan Commission shall review the decommissioning plan and request changes needed to protect the safety and health of the community.

SECTION 8. INSPECTION. As part of granting a CUP, the Town may require regular inspection of SES to ensure safe operation of the facility to protect the health and safety of the Town.

SECTION 9. REVOCATION. Any permit granted for the installation or maintenance of a SES may be revoked by the Town if the permit holder violates the provisions of this ordinance or the provisions of a permit granted pursuant to this ordinance.

SECTION 10. STATUTORY AUTHORITY.

This Ordinance is adopted pursuant to the Town's village powers granted under Wis. Stat. §§ 60.10(2)(c) and 60.22(3), the Town's zoning power under Wis. Stat. § 60.62 and Wis. Stat. § 61.35, and the Town's general authority to protect public health, safety, welfare, and orderly development, together with, and subject to, the limitations on the regulation of solar energy systems imposed by Wis. Stat. § 66.0401.

SECTION 11. EFFECTIVE DATE.

This Ordinance takes effect upon passage and posting, per Wis. Stat. § 60.80.

ADOPTED this 8TH day of SEPTEMBER 2026.

Town Chairperson:

Dennis Uotter

Date:

9-8-26

Town Clerk:

Steven Swanson

Date:

9/8/26