AGENDA
CITY OF STURGEON BAY
CITY PLAN COMMISSION
Wednesday, October 17, 2018
6:00 p.m.
Council Chambers, City Hall
421 Michigan Street

1. Roll call.

2. Adoption of agenda.

3. Approval of minutes from September 19, 2018.

4. Request to rezone property located at 1816, 1824, 1832, and 1842 Shiloh Road from Agricultural (A) to Single-Family Residential (R-1).

   Presentation
   Public Hearing
   Consideration of *(Note: In accordance with Section 20.24(5)(c)1.b of the zoning code, a recommendation to Council regarding this item will not be made at this meeting, except by unanimous consent of the members present.)*

5. Consideration of: Zoning code amendments for accessory dwelling units.

6. Consideration of: Regulations for solar energy systems.

7. Public comment on non-agenda Plan Commission related items.

8. Adjourn.

NOTE: DEVIATION FROM THE AGENDA ORDER SHOWN MAY OCCUR.

Notice is hereby given that a majority of the Common Council may be present at this meeting to gather information about a subject over which they have decision-making responsibility. If a quorum of the Common Council does attend, this may constitute a meeting of the Common Council and is noticed as such, although the Common Council will not take any formal action at this meeting.

Plan Commission Members:
Dennis Statz
Steven Hurley
Jeff Norland
Laurel Hauser
Mike Gilson

10/12/18
3:00 p.m.
CN

CITY PLAN COMMISSION
Wednesday, September 19, 2018

A meeting of the City Plan Commission was called to order at 6:01 p.m. by Acting Chairperson Dennis Statz in the Council Chambers, City Hall, 421 Michigan Street.

Roll Call: Members Laurel Hauser, Mike Gilson, Steven Hurley, and Dennis Statz were present. Excused: Member Jeff Norland. Also present were Community Development Director Marty Olejniczak, Planner/Zoning Administrator Chris Sullivan-Robinson, and Community Development Secretary Cheryl Nault.

Adoption of the Agenda: Moved by Mr. Hurley, seconded by Mr. Gilson to adopt the following amended agenda:

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from July 18, 2018.
4. Presentation of: Request to rezone property located at 1816, 1824, 1832, and 1842 Shiloh Road from Agricultural (A) to Single-Family Residential (R-1).
5. Consideration of: Modification of Planned Unit Development for Walmart, 1536 Egg Harbor Road.
6. Consideration of: Requirements for Electronic Variable Message Signs.
7. Consideration of: Amendments to Section 20.25 of the Sturgeon Bay Zoning Code relating to conditional uses.
8. *Consideration of: Zoning code amendments for accessory dwelling units.*
9. Public comment on non-agenda Plan Commission related items.
10. Adjourn.

Carried.

Approval of minutes from July 18, 2018: Moved by Ms. Hauser, seconded by Mr. Gilson to approve the minutes from July 18, 2018, after correcting the spelling of Shanock to Schanock. All ayes. Carried.

Presentation of: Request to rezone property located at 1816, 1824, 1832, and 1842 Shiloh Road from Agricultural (A) to Single-Family Residential (R-1): Mr. Sullivan-Robinson stated that Michael Anderson, executor of Lois Anderson's estate, is petitioning to rezone a portion of the property on Shiloh Road totaling 1.61 acres (200' x 350') to the south, from Agricultural (A) to Single-Family Residential (R-1). Through a variance in 1976, four homes were placed on this portion of the property. The variance allowed the homes to have 75 feet of road frontage each rather than 150 feet each. The Comprehensive Plan indicates Agricultural use. Agricultural is meant for preserving good farmland and to control random development from occurring.

Attorney Jim Smith, representing Lois Anderson's estate, stated that their goal is to sell the property and close out the estate. He talked with the perspective buyer of the four homes and he wants to keep the homes all on one parcel. These are very small homes and would be used for rental properties. There are currently people living in them now. There would still be 13.3 acres of Agricultural land that one of the family members plans on purchasing and continue to farm. The buyer of the four homes intends to improve the property. Mr. Smith thought this was a reasonable request. The variance runs with the land, not the owner. The variance was granted and smaller lots were allowed.

Mr. Olejniczak added that in the Agricultural district, they could divide and sell the lots, but the lots would each have to be one acre in size. It would be difficult to divide. In the R-1 district, only 10,000 square feet is required per lot.

Andrew Morel, 354 N 17th Drive, is the perspective buyer of the four homes. He stated that in the next 2 – 3 years he would like to replace the windows, siding, etc. He has no intention of dividing the property into 4 lots. He owns three other homes in Sturgeon Bay that are used for employee housing.

Mr. Gilson mentioned that the homes did not appear to be in good shape. The Commission would expect reasonable looking homes if approved.

No action was required. A public hearing will be held at the next Plan Commission meeting in October.

Consideration of: Modification of Planned Unit Development for Walmart, 1536 Egg Harbor Road: Mr. Sullivan-Robinson stated that Walmart has implemented a new online grocery pickup program, which allows customers to order online and pick up their order without entering the store. Plans show the installation of a six-stall orange canopy over a portion of the eastern side of the parking lot. Ten stalls will be widened to 12' x 20', which will mean eliminating five existing parking stalls. The Plan Commission has the ability to make decisions on minor changes to the PUD as long as the changes wouldn't affect the character and standards of the PUD.

Without further discussion, it was moved by Mr. Gilson to approve the modification of the PUD for Walmart.

Sunday Bougher, representative for Walmart from Tulsa, OK, was available to answer any questions. Signage was discussed. Ms. Bougher agreed that the Pickup wall signage would be backlit and will have the document revised stating it to be a backlit sign. The grocery pickup service will be available 7 days a week, 8:00 a.m. to 8:00 p.m.

Mr. Gilson's motion was seconded by Ms. Hauser to approve the revised PUD and plans for Walmart. All ayes. Carried.

Consideration of: Requirements for Electronic Variable Message Signs: Mr. Sullivan-Robinson stated that he was asked at a previous meeting to gather additional information regarding EVMS regulations. He sent out letters to businesses that were grandfathered in with electronic message signs notifying them of a potential change to the ordinance. He received some replies, including Young Automotive who believed a hardship would be created since their sign doesn't have the same capabilities as the newer signs. Mc Donald's stated they weren't opposed to the timing restriction as long as it didn't restrict their ability to use the sign.

Mr. Sullivan-Robinson also contacted Creative Sign Company, located in Green Bay, and received information on lifespan of an EVMS. The lifespan is approximately 7-10 years, with customers usually replacing them around 7 years. Their representative could not speak as to whether removing grandfathering was necessary.

Mr. Sullivan-Robinson submitted three draft ordinances for the Commission to review. The six second static message rule became in effect August 18, 2009.

Mr. Olejniczak added that if an existing sign is replaced, it is no longer grandfathered in. It is fine if just regular maintenance is done, such as replacing bulbs.

Mr. Sullivan-Robinson stated that not all signs have the same capabilities. If we no longer allowed grandfathering of signs, Young Automotive may not be able to use the sign because of its size.

Mr. Hurley mentioned that Woldt's Corner has a flashing sign that get very confusing with emergency lights.

Commission members discussed the different options.

Mr. Gilson commented that he liked draft Ordinance #3 that would keep the regulations for static messages, but removes the grandfathered status. A sunset clause could be added to keep the grandfathered status for a limited time. Members agreed and added a provision that for an EVMS that has been in existence before August 18, 2009, subsections 1,3, and 4 of section 27.12 (4)(b) shall not be effective until May 1, 2020. Those subsections relate to different types of display/movement, the six second static message rule, and one second limit for changing the message. This would give the businesses time for changes.

Mr. Olejniczak summarized that the ordinance would be kept as is, but all grandfathered signs must comply by a certain date.

After further discussion, it was moved by Ms. Hauser, seconded by Mr. Gilson to recommend to Council draft Ordinance #3, removing the grandfathered status via sunset clause, effective as of May 1, 2020. All ayes. Carried.

Consideration of: Amendments to Section 20.25 of the Sturgeon Bay Zoning Code relating to conditional uses: Mr. Olejniczak stated that this item was discussed at a prior meeting regarding Wisconsin Act 67 and impacts of the changes the way conditional uses are regulated by municipalities, along with the need to amend the zoning code. Amendments were needed to be made to the section pertaining to the procedures and standards for conditional uses, and the list of various conditional uses by district also needed to be reviewed and amended as necessary. Members thought that this should be done at a separate Plan Commission meeting.

Mr. Olejniczak brought forward only suggested amendments to the procedures and standards for conditional uses (section 20.25).

After further review of the proposed changes, it was moved by Mr. Gilson, seconded by Mr. Hurley to recommend to Council to approve the proposed amendments to Section 20.25 Conditional Uses. All ayes. Carried.

Consideration of: Zoning code amendments for accessory dwelling units: Mr. Olejniczak stated that this item was discussed during several meetings in 2016 and 2017. A lot of research had been done. A recommendation had been approved by Council that would permit accessory dwelling units under various regulations. A public hearing was held, but an ordinance had never been adopted or rejected. The Council recently brought this issue up again and referred it back to Plan Commission for another recommendation.

There was a serious concern about allowing accessory dwelling units in the R-1 districts. An option would be to remove it from R-1 or leave it in with requiring larger lots and bigger setbacks. The intention is for new permanent housing for citizens. State Statutes were recently revised and restrict the community from regulating rental periods of 7 days or longer.

Mr. Hurley suggested to investigate the change to 7 days before going ahead.

Ms. Hauser had contacted Traverse City to find out how they regulate accessory dwelling units. They have issued 39 ADU's in their community. They started in the R-1 district and expanded from there. The only complaints they have had is if the owner wasn't living there. They used to have a minimum of 250 square feet, eliminated that and let the market determine.

Mr. Gilson thought that the requirement that the property owner must reside in either the main unit or the ADU could be loosened. He thought a family member residing in the unit ought to satisfy that requirement.

Mr. Olejniczak will take a look at how the state restriction impacts the proposed code and bring back to the next meeting.

Public comment on non-agenda Plan Commission related items: No one spoke during public comment.

Adjourn: Moved by Ms. Hauser, seconded by Mr. Hurley to adjourn. All ayes. Carried. Meeting adjourned at 7:10 p.m.

Respectfully Submitted,

Cheryl Nault

Cheryl Nault
Community Development/Building Inspection Secretary

Staff Report
Rezoning for Anderson Property from Agricultural to R-1
September 25, 2018

Background: Michael Anderson (executor for Lois Anderson) is petitioning the City of Sturgeon Bay to approve a zoning map amendment for a portion of his deceased mother's property. The property is located toward the south city boundary at parcel # 281-64-83000100 on Shiloh Road. If the zoning map amendment is approved a portion of the property containing 4 rental dwellings would change to single-family residential (R-1) designation. Currently, the property is zoned Agricultural (A) which is designed to preserve good farmland and to control sporadic development.

The overall property contains a farmstead to the north and four rental dwellings to the south. The portion proposed to be rezoned is a 200' x 350' section (1.6 acres) containing the rental dwellings. The rest of the property (13.33 acres) would remain Agricultural.

Mr. Anderson has the opportunity to sell the farmstead and farmland portion to one buyer and the four dwellings to another buyer. However, due to the one-acre minimum lot size requirement of the Agricultural district, at least 4 acres of property would need to be included with the dwellings, which would mean some of the farmland would have to be included with property containing the four dwellings.

Variances: The four homes were moved onto the parcel in 1976. At that time a variance was granted by the Zoning Board of Appeals to allow the four dwellings to be placed on the lot with 75 feet of street frontage for each dwelling rather than the usual 150 feet.

Surrounding Zoning/Uses: The surrounding zoning districts are agricultural and the surrounding uses are agricultural, residential, and vacant.

Comprehensive Plan: The surrounding area is zoned Agricultural, which is consistent with the Future Land Use Maps of the Comprehensive Plan. Due to the planned continued agricultural use of the region, a zoning map amendment to single-family residential use would typically be considered inconsistent with the Comprehensive Plan. But since these homes already exist and the rezoning would allow more active farmland to remain with the farmstead, it would meet the goal and objectives of the agricultural chapter of the Comp Plan. In addition, the rezoning would assist the continued provision of work-force rental housing, which is consistent with the housing component of the Comprehensive Plan. So it could be argued that the rezoning action would not be in conflict with the overall plan. Hence, the Plan Commission will need to determine how it feels about the proposed rezoning in relation to the consistency requirement.

Procedures: This second step of the process is to conduct a formal public hearing which is an opportunity to hear comments or concerns regarding this zoning map amendment. The Plan Commission shall forward its recommendation to the common

council at a subsequent meeting after the public hearing. However, the Plan Commission can modify this requirement by an affirmative through a ¾ vote of the members present after conducting the public hearing.

Recommendation: Staff is not opposed to a zoning map amendment for this property.

Options: The Plan Commission has the ability to recommend approval of the petition, denial of the petition.

Prepared By: _____ 10.12.18
Christopher Sullivan-Robinson — Date
Planner / Zoning Administrator

Reviewed By: _____ 10-12-18
Martin Olejniczak — Date
Community Development Director

Reviewed By: _____ 10/12/18
Josh VanLieshout — Date
City Administrator

Date Received: 8/31/18
Fee Paid: $ 400
Received By: CN

CITY OF STURGEON BAY
ZONING/REZONING APPLICATION

	APPLICANT/AGENT	LEGAL PROPERTY OWNER
Name	Atty. James R. Smith	Estate of Lois P. Anderson
~~**Company**~~	Pinkert Law Firm LLP	c/o Michael G. Anderson, P.R.
Street Address	454 Kentucky Street	910 W. Pierce St., #36
	PO Box 89	
City/State/Zip	Sturgeon Bay, WI 54235	Carlsbad, NM 88220
Daytime Telephone No.	920-743-6505	(575) 302-1800
~~**Fax No.**~~ E-mail	jsmith@pinkertlawfirm.com	manderson@cryptogroup.net

STREET ADDRESS OF SUBJECT PROPERTY: 1816, 1824, 1832 & 1842 Shiloh Road
Location if not assigned a common address:

TAX PARCEL NUMBER: A portion of 281-64-83000100 (see Exhibit A attached)

CURRENT ZONING CLASSIFICATION: Agriculture

CURRENT USE AND IMPROVEMENTS:
Four single-family homes located on the parcel described on Exhibit A.

ZONING DISTRICT REQUESTED: Single-Family Residential (R-1)

COMPREHENSIVE PLAN DESIGNATION OF SUBJECT PROPERTY: Agriculture

PROPOSED USE OF SURROUNDING PROPERTY UNDER COMPREHENSIVE PLAN:
North: Industrial/Agriculture
South: Agriculture
East: Agriculture
West: Agriculture

ZONING AND USES OF ADJACENT SURROUNDING PROPERTIES:

North: Residential, Agriculture, Undeveloped Tax Parcel 281-68-17001404

South: Residential - single-family home Tax Parcel 281-64-82000101

East: Residential & Agriculture Tax Parcel 281-64-83000101

West: Residential Tax Parcel 281-64-8000062

HAVE THERE BEEN ANY VARIANCES, CONDITIONAL USE PERMITS, ETC. GRANTED PREVIOUSLY FOR THIS PROPERTY? X **IF YES, EXPLAIN:**

A variance was granted in 1976 allowing the four homes to have only 75 fee of road frontage each.

Attach a full legal description (preferably on disk), 8-1/2" X 11" location map, and Agreement for Reimbursement of expenses.

Property Owner (Print Name)	Signature	Date

Applicant/Agent (Print Name)	Signature	Date
James R. Smith		August 30, 2018

I, _____, have attended a review meeting with at least one member of staff and understand that I am responsible for sign placement and following all stages listed on the check list in regard to the applicant.

Date of review meeting	Applicant Signature	Staff Signature

Attachments:
Procedure & Check List
Agreement For Reimbursement of Expenses

STAFF USE ONLY

Application conditions of approval or denial:

Date	Community Development Director

EXHIBIT A

Description - Parcel to be Re-zoned:

A parcel of land located in Subdivision 83, also known as the NE 1/4 of the NW 1/4 of Section 20, Township 27 North, Range 26 East, City of Sturgeon Bay, Door County, Wisconsin. Bounded and described as follows:

Commencing at the North 1/4 Corner of said Section 20-27-26, said corner also known as the NE corner of Subdivision 83; thence S. 00°05'16" E., 1321.74 feet along the east line of said Subdivision 83 (NE 1/4 of the NW 1/4 of Section 20-27-26) to the SE corner of said Subdivision 83 (NE 1/4 of the NW 1/4 of Section 20-27-26); thence N. 89°47'36" W., 1113.23 feet along the south line of said Subdivision 83 (NE 1/4 of the NW 1/4 of Section 20-27-26) to the point of beginning of lands to be described; thence continue N. 89°47'36" W., 200.00 feet along said south line to the SW corner of said Subdivision 83 (NE 1/4 of the NW 1/4 of Section 20-27-26), said corner being on the centerline of Shiloh Road; thence N. 00°05'33" W., 350.00 feet along the west line of said Subdivision 83 (NE 1/4 of the NW 1/4 of Section 20-27-26) (centerline of Shiloh Road); thence N. 89°54'27" E., 200.00 feet; thence S. 00°05'33" E., 351.04 feet to the point of beginning.

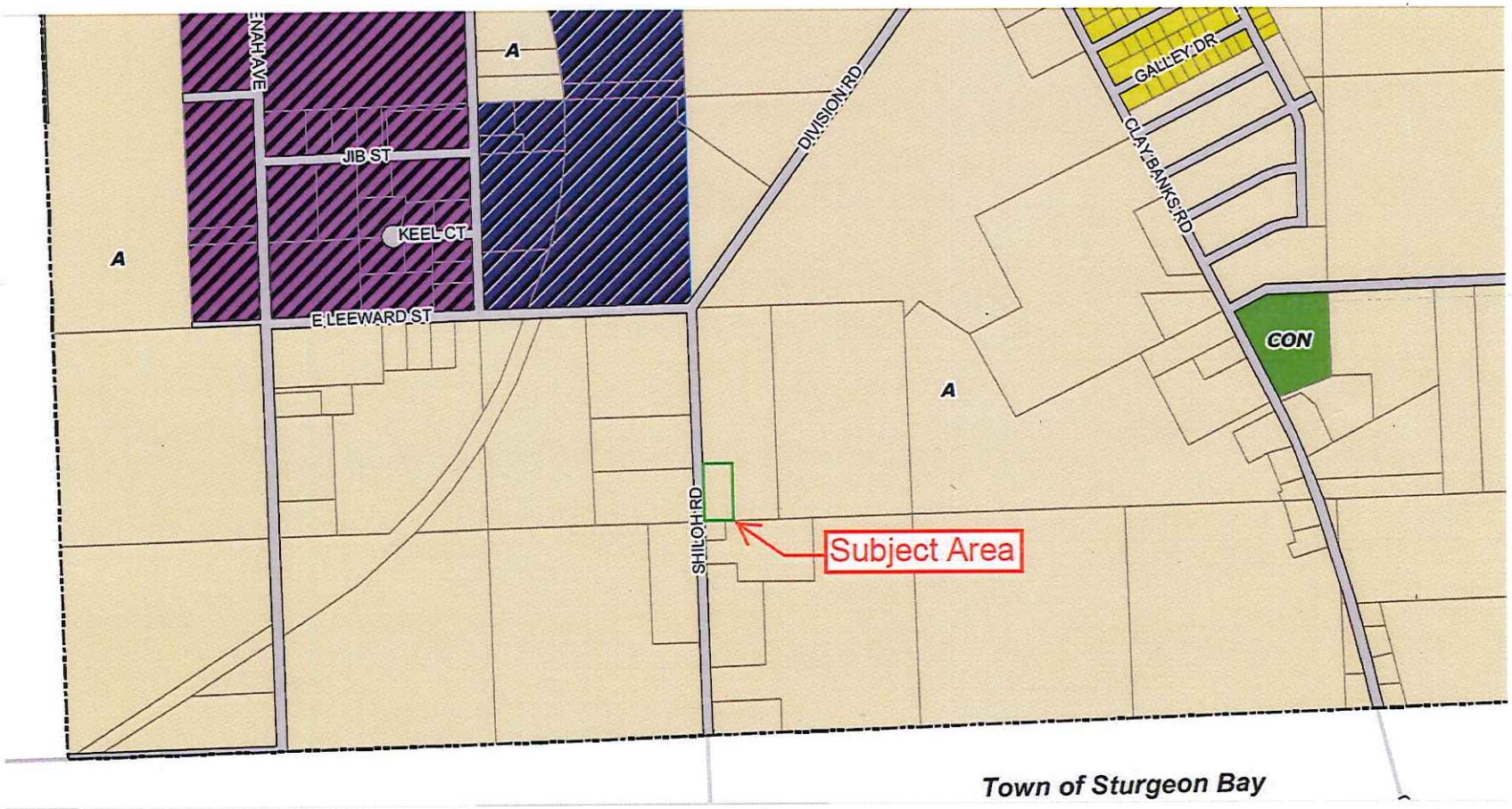
Said parcel contains 70,104 square feet (1.61 acres) and is subject to the rights of the public over the westerly 33 feet of said parcel for the right of way of Shiloh Road. Said parcel is subject to and benefited by a perpetual, non-exclusive easement for ingress, egress and utilities over the southerly 20 feet of said parcel, per Document No. 808133, Door County Records.

NOTICE OF PUBLIC HEARING

The City of Sturgeon Bay Plan Commission will hold a public hearing in the Council Chambers, 421 Michigan Street, Sturgeon Bay, Wisconsin on Wednesday, October 17, 2018, at 6:00 p.m. or shortly thereafter, for the purpose of considering a zoning map amendment under Chapter 20 of the Sturgeon Bay Municipal Code (Zoning Code). The proposed amendment is to rezone a portion of parcel #281-64-83000100, owned by the Estate of Lois Anderson, from Agricultural (A) to Single-Family Residential (R-1). The subject property is a 200' x 350' tract in the Southwest corner of the parcel, which encompasses four dwellings, located at 1816, 1824, 1832, and 1842 Shiloh Road. The zoning map amendment application is on file with the Community Development Department and can be viewed at City Hall, 421 Michigan Street, weekdays between 8:00 a.m. and 4:30 p.m. The public is invited to attend the hearing and give testimony in favor or against the proposed rezoning either in person at the hearing or in writing.

Location Map
Notice of Public Hearing
Zoning Map Amendment for Anderson's
Agricultural (A) to Single-Family Residential (R-1)

Portion of Current Sturgeon Bay Zoning Map Showing Area Proposed to be Rezoned to R-1



Oblique View looking east - 2015

04/25/2015

Oblique View looking west - 2015

04/25/2015

Google Street View Looking SE – Aug 2013

Google Street View Looking NE – Aug 2013

ORDINANCE NO. _____

THE COMMON COUNCIL OF THE CITY OF STURGEON BAY, WISCONSIN DO ORDAIN AS FOLLOWS:

SECTION 1: Section 20.03 Definitions. of the Municipal Code (Zoning Code) of the City of Sturgeon Bay, Wisconsin is hereby repealed and recreated as follows:

Accessory dwelling unit: A smaller, secondary dwelling unit on the same lot as a principal dwelling. Accessory dwelling units are independently habitable and provide the basic requirements of shelter, heating, cooking and sanitation.

SECTION 2: Section 20.09(2)(h) of the Municipal Code (Zoning Code) of the City of Sturgeon Bay, Wisconsin is hereby created as follows:

(h) Accessory Dwelling Units, subject to the following:

1. Not more than one accessory dwelling unit shall be permitted on a lot.

2. Accessory dwelling units shall be allowed only on a lot having at least 7,000 square feet.

3. Accessory dwelling units shall not exceed 800 square feet in floor area and shall have a minimum floor area of 250 square feet.

4. The property owner of record, or an immediate family member, must reside in either the primary dwelling unit or the accessory dwelling unit as their permanent and legal address. A restrictive agreement shall be recorded to this effect.

5. In addition to off-street parking spaces required for the primary dwelling unit, a minimum of one off-street parking space for an efficiency or one-bedroom accessory dwelling unit, or a minimum of two off-street parking spaces for a two or more bedroom accessory dwelling unit, shall be provided.

6. The accessory dwelling unit shall not be leased for periods of less than one calendar month or 30 days. A restrictive agreement shall be recorded to this effect. If the property owner of record resides in the accessory dwelling unit, then this minimum rental period shall apply to the primary dwelling unit.

7. The accessory dwelling unit shall not be conveyed or separated in ownership from the primary dwelling unit.

8. The accessory dwelling unit shall comply with the Sturgeon Bay Housing Code (chapter 22 of the municipal code) and with all pertinent building codes.

9. Accessory dwelling units may be attached to or detached from the single-family residence.

10. Attached accessory dwelling units shall comply with the following:

    a. The accessory dwelling unit shall be clearly incidental to the principal dwelling unit and the building's exterior shall appear to be single-family.

    b. If the accessory dwelling unit is created from a portion of the principal dwelling unit, the floor area of the principal dwelling unit shall not be reduced below the minimum floor area required for the zoning district in which it is located.

    c. Location of entrances. Only 1 entrance may be located on the facade of the dwelling facing the street, unless the dwelling contained additional entrances before the accessory dwelling unit was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks.

    d. Exterior stairs. Fire escapes or exterior stairs for access to an upper level accessory dwelling shall not be located on the front of the primary dwelling unit.

11. Detached accessory dwelling units shall comply with the following:

    a. The accessory dwelling unit shall be subject to the requirements of section 20.29 *Accessory building height and area regulations.*

    b. The accessory dwelling unit shall comply with all building code regulation relating to dwellings.

    c. Floor Area. The floor area of accessory dwelling unit shall be exempted from the maximum floor area for accessory buildings on the lot.

SECTION 3: Section 20.175(2)(p) of the Municipal Code (Zoning Code) of the City of Sturgeon Bay, Wisconsin is hereby created as follows:

(p) Accessory Dwelling Units, subject to the requirements set forth in section 20.09(2)(h).

SECTION 4: Section 20.22(2)(m) of the Municipal Code (Zoning Code) of the City of Sturgeon Bay, Wisconsin is hereby created as follows:

(m) Accessory Dwelling Units, subject to the requirements set forth in section 20.09(2)(h).

This ordinance shall take effect on the day after its publication.

Approved:

_____

Thad Birmingham
Mayor

Attest:

_____

Stephanie L. Reinhardt
City Clerk

6.

Christopher Sullivan-Robinson
Planner/Zoning Administrator
421 Michigan Street
Sturgeon Bay, WI 54235

Phone: 920-746-2907
Fax: 920-746-2905
E-mail: csullivan-robinson@sturgeonbaywi.org
Website: www.sturgeonbaywi.org

MEMO

To: Plan Commission
From: Christopher Sullivan-Robinson
Date: October 11, 2018
Subject: Solar Panel State and Local Code

Background: At a prior Aesthetic Design and Site Plan Review Board, a local business was seeking approval for the installation of two solar panels. The City doesn't have any solar energy system related regulations so there isn't much to be reviewed from zoning regulation. The applicants also presented information that showed that the state code restricts how communities can authorities from regulate solar panels. The Board requested that I bring some information to Plan Commission for review with the ultimate goal of creating an ordinance.

I reviewed State Statute 66.0401 that regulates solar and wind energy systems. Listed below were the items found to be pertinent.

- *No political subdivision may 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:*
  - *Serves to preserve or protect the public health or safety.*
  - *Does not significantly increase cost of the system or significantly decrease its efficiency.*
  - *Allows for an alternative system of comparable cost and efficiency.*
- *A political subdivision may enact an ordinance related to the trimming of vegetation that blocks solar energy from a collector surface unless the vegetation existed prior to the installation of the solar energy system.*

Based on this information, this could be complicated to manage and at minimum will require more knowledge on solar systems and communication. If the Commission wishes to move forward with a solar energy system code, staff will need to communicate with a professional solar system contractor and with Jim Stawicki from Sturgeon Bay Utilities.

From the ADSPRB meeting, the biggest issue was the location of the solar system next to a residential neighborhood. State statute allows us to regulate the landscaping around the solar system and screening as long as the efficiency isn't decreased.

Staff is looking for direction to either come back with more information and a potential ordinance creation, or to drop the subject.

3. A municipality that is not adjacent to at least 2 other municipalities located in the same cooperation region as the municipality may enter into a cooperation compact with any adjacent municipality or with the county in which the municipality is located to perform the number of governmental services as specified under subd. 1.

(b) An area cooperation compact shall provide a plan for any municipalities or counties that enter into the compact to collaborate to provide governmental services. The compact shall provide benchmarks to measure the plan's progress and provide outcome−based performance measures to evaluate the plan's success. Municipalities and counties that enter into the compact shall structure the compact in a way that results in significant tax savings to taxpayers within those municipalities and counties.

History: 2001 a. 16, 106; 2005 a. 164.

SUBCHAPTER IV

REGULATION

66.0401 Regulation relating to solar and wind energy systems. (1e) DEFINITIONS. In this section:

(a) "Application for approval" means an application for approval of a wind energy system under rules promulgated by the commission under s. 196.378 (4g) (c) 1.

(b) "Commission" means the public service commission.

(c) "Political subdivision" means a city, village, town, or county.

(d) "Wind energy system" has the meaning given in s. 66.0403 (1) (m).

(1m) AUTHORITY TO RESTRICT SYSTEMS LIMITED. No political subdivision may place any restriction, either directly or in effect, on the installation or use of a wind energy system that is more restrictive than the rules promulgated by the commission under s. 196.378 (4g) (b). No political subdivision may place any restriction, either directly or in effect, on the installation or use of a solar energy system, as defined in s. 13.48 (2) (h) 1. g., or a wind energy system, unless the restriction 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.

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

(2) AUTHORITY TO REQUIRE TRIMMING OF BLOCKING VEGETATION. Subject to sub. (6) (a), a political subdivision may enact an ordinance relating to the trimming of vegetation that blocks solar energy, as defined in s. 66.0403 (1) (k), from a collector surface, as defined under s. 700.41 (2) (b), or that blocks wind from a wind energy system. The ordinance may include a designation of responsibility for the costs of the trimming. The ordinance may not require the trimming of vegetation that was planted by the owner or occupant of the property on which the vegetation is located before the installation of the solar or wind energy system.

(3) TESTING ACTIVITIES. A political subdivision may not prohibit or restrict any person from conducting testing activities to determine the suitability of a site for the placement of a wind energy system. A political subdivision objecting to such testing may petition the commission to impose reasonable restrictions on the testing activity.

(4) LOCAL PROCEDURE. (a) 1. Subject to subd. 2., a political subdivision that receives an application for approval shall determine whether it is complete and, no later than 45 days after the application is filed, notify the applicant about the determination. As soon as possible after receiving the application for approval, the political subdivision shall publish a class 1 notice, under ch. 985, stating that an application for approval has been filed with the political subdivision. If the political subdivision determines that the application is incomplete, the notice shall state the reason for the determination. An applicant may supplement and refile an application that the political subdivision has determined to be incomplete. There is no limit on the number of times that an applicant may refile an application for approval. If the political subdivision fails to determine whether an application for approval is complete within 45 days after the application is filed, the application shall be considered to be complete.

2. If a political subdivision that receives an application for approval under subd. 1. does not have in effect an ordinance described under par. (g), the 45−day time period for determining whether an application is complete, as described in subd. 1., does not begin until the first day of the 4th month beginning after the political subdivision receives the application. A political subdivision may notify an applicant at any time, after receipt of the application and before the first day of the 4th month after its receipt, that it does not intend to enact an ordinance described under par. (g).

3. On the same day that an applicant makes an application for approval under subd. 1. for a wind energy system, the applicant shall mail or deliver written notice of the application to the owners of land adjoining the site of the wind energy system.

4. A political subdivision may not consider an applicant's minor modification to the application to constitute a new application for the purposes of this subsection.

(b) A political subdivision shall make a record of its decision making on an application for approval, including a recording of any public hearing, copies of documents submitted at any public hearing, and copies of any other documents provided to the political subdivision in connection with the application for approval. The political subdivision's record shall conform to the commission's rules promulgated under s. 196.378 (4g) (c) 2.

(c) A political subdivision shall base its decision on an application for approval on written findings of fact that are supported by the evidence in the record under par. (b). A political subdivision's procedure for reviewing the application for approval shall conform to the commission's rules promulgated under s. 196.378 (4g) (c) 3.

(d) Except as provided in par. (e), a political subdivision shall approve or disapprove an application for approval no later than 90 days after the day on which it notifies the applicant that the application for approval is complete. If a political subdivision fails to act within the 90 days, or within any extended time period established under par. (e), the application is considered approved.

(e) A political subdivision may extend the time period in par. (d) if, within that 90−day period, the political subdivision authorizes the extension in writing. Any combination of the following extensions may be granted, except that the total amount of time for all extensions granted under this paragraph may not exceed 90 days:

1. An extension of up to 45 days if the political subdivision needs additional information to determine whether to approve or deny the application for approval.

2. An extension of up to 90 days if the applicant makes a material modification to the application for approval.

3. An extension of up to 90 days for other good cause specified in writing by the political subdivision.

(f) 1. Except as provided in subd. 2., a political subdivision may not deny or impose a restriction on an application for approval unless the political subdivision enacts an ordinance that is no more restrictive than the rules the commission promulgates under s. 196.378 (4g) (b).

2. A political subdivision may deny an application for approval if the proposed site of the wind energy system is in an area primarily designated for future residential or commercial development, as shown in a map that is adopted, as part of a comprehensive plan, under s. 66.1001 (2) (b) and (f), before June 2, 2009, or as shown in such maps after December 31, 2015, as part of a comprehensive plan that is updated as required under s.

66.1001 (2) (i). This subdivision applies to a wind energy system that has a nominal capacity of at least one megawatt.

(g) A political subdivision that chooses to regulate wind energy systems shall enact an ordinance, subject to sub. (6) (b), that is no more restrictive than the applicable standards established by the commission in rules promulgated under s. 196.378 (4g).

(5) PUBLIC SERVICE COMMISSION REVIEW. (a) A decision of a political subdivision to determine that an application is incomplete under sub. (4) (a) 1., or to approve, disapprove, or impose a restriction upon a wind energy system, or an action of a political subdivision to enforce a restriction on a wind energy system, may be appealed only as provided in this subsection.

(b) 1. Any aggrieved person seeking to appeal a decision or enforcement action specified in par. (a) may begin the political subdivision's administrative review process. If the person is still aggrieved after the administrative review is completed, the person may file an appeal with the commission. No appeal to the commission under this subdivision may be filed later than 30 days after the political subdivision has completed its administrative review process. For purposes of this subdivision, if a political subdivision fails to complete its administrative review process within 90 days after an aggrieved person begins the review process, the political subdivision is considered to have completed the process on the 90th day after the person began the process.

2. Rather than beginning an administrative review under subd. 1., an aggrieved person seeking to appeal a decision or enforcement action of a political subdivision specified in par. (a) may file an appeal directly with the commission. No appeal to the commission under this subdivision may be filed later than 30 days after the decision or initiation of the enforcement action.

3. An applicant whose application for approval is denied under sub. (4) (f) 2. may appeal the denial to the commission. The commission may grant the appeal notwithstanding the inconsistency of the application for approval with the political subdivision's planned residential or commercial development if the commission determines that granting the appeal is consistent with the public interest.

(c) Upon receiving an appeal under par. (b), the commission shall notify the political subdivision. The political subdivision shall provide a certified copy of the record upon which it based its decision or enforcement action within 30 days after receiving notice. The commission may request of the political subdivision any other relevant governmental records and, if requested, the political subdivision shall provide such records within 30 days after receiving the request.

(d) The commission may confine its review to the records it receives from the political subdivision or, if it finds that additional information would be relevant to its decision, expand the records it reviews. The commission shall issue a decision within 90 days after the date on which it receives all of the records it requests under par. (c), unless for good cause the commission extends this time period in writing. If the commission determines that the political subdivision's decision or enforcement action does not comply with the rules it promulgates under s. 196.378 (4g) or is otherwise unreasonable, the political subdivision's decision shall be superseded by the commission's decision and the commission may order an appropriate remedy.

(e) In conducting a review under par. (d), the commission may treat a political subdivision's determination that an application under sub. (4) (a) 1. is incomplete as a decision to disapprove the application if the commission determines that a political subdivision has unreasonably withheld its determination that an application is complete.

(f) Judicial review is not available until the commission issues its decision or order under par. (d). Judicial review shall be of the commission's decision or order, not of the political subdivision's decision or enforcement action. The commission's decision or order is subject to judicial review under ch. 227. Injunctive relief is available only as provided in s. 196.43.

(6) APPLICABILITY OF A POLITICAL SUBDIVISION OR COUNTY ORDINANCE. (a) 1. A county ordinance enacted under sub. (2) applies only to the towns in the county that have not enacted an ordinance under sub. (2).

2. If a town enacts an ordinance under sub. (2) after a county has enacted an ordinance under sub. (2), the county ordinance does not apply, and may not be enforced, in the town, except that if the town later repeals its ordinance, the county ordinance applies in that town.

(b) 1. Subject to subd. 2., a county ordinance enacted under sub. (4) applies only in the unincorporated parts of the county.

2. If a town enacts an ordinance under sub. (4), either before or after a county enacts an ordinance under sub. (4), the more restrictive terms of the 2 ordinances apply to the town, except that if the town later repeals its ordinance, the county ordinance applies in that town.

(c) If a political subdivision enacts an ordinance under sub. (4) (g) after the commission's rules promulgated under s. 196.378 (4g) take effect, the political subdivision may not apply that ordinance to, or require approvals under that ordinance for, a wind energy system approved by the political subdivision under a previous ordinance or under a development agreement.

History: 1981 c. 354; 1981 c. 391 s. 210; 1993 a. 414; 1999 a. 150 ss. 78, 79, 84; Stats. 1999 s. 66.0401; 2001 a. 30; 2009 a. 40.

This section is a legislative restriction on the ability of municipalities to regulate solar and wind energy systems. The statute is not superseded by s. 66.0403 or municipal zoning or conditional use powers. A municipality's consideration of an application for a conditional use permit for a system under this section must be in light of the restrictions placed on local regulation by this section. State ex rel. Numrich v. City of Mequon Board of Zoning Appeals, 2001 WI App 88, 242 Wis. 2d 677, 626 N.W.2d 366, 00−1643.

Sub. (1) [now sub. (1m)] requires a case−by−case approach, such as a conditional use permit procedure, and does not allow political subdivisions to find legislative facts or make policy. The local governing arm must hear the specifics of the particular system and then decide whether a restriction is warranted. It may not promulgate an ordinance in which it arbitrarily sets a "one size fits all" scheme of requirements for any system. The conditions listed in sub. (1) (a) to (c) are the standards circumscribing the power of political subdivisions, not openings for them to make policy that is contrary to the state's expressed policy. Ecker Brothers v. Calumet County, 2009 WI App 112, 321 Wis. 2d 51, 772 N.W.2d 240, 07−2109.

66.0403 Solar and wind access permits.

(1) DEFINITIONS. In this section:

(a) "Agency" means the governing body of a municipality which has provided for granting a permit or the agency which the governing body of a municipality creates or designates under sub. (2). "Agency" includes an officer or employee of the municipality.

(b) "Applicant" means an owner applying for a permit under this section.

(c) "Application" means an application for a permit under this section.

(d) "Collector surface" means any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. "Collector surface" does not include frames, supports and mounting hardware.

(e) "Collector use period" means 9 a.m. to 3 p.m. standard time daily.

(f) "Impermissible interference" means the blockage of wind from a wind energy system or solar energy from a collector surface or proposed collector surface for which a permit has been granted under this section during a collector use period if such blockage is by any structure or vegetation on property, an owner of which was notified under sub. (3) (b). "Impermissible interference" does not include:

1. Blockage by a narrow protrusion, including but not limited to a pole or wire, which does not substantially interfere with absorption of solar energy by a solar collector or does not substantially block wind from a wind energy system.

2. Blockage by any structure constructed, under construction or for which a building permit has been applied for before the date the last notice is mailed or delivered under sub. (3) (b).

3. Blockage by any vegetation planted before the date the last notice is mailed or delivered under sub. (3) (b) unless a municipality by ordinance under sub. (2) defines impermissible interference to include such vegetation.

(g) "Municipality" means any county with a zoning ordinance under s. 59.69, any town with a zoning ordinance under s. 60.61, any city with a zoning ordinance under s. 62.23 (7), any 1st class city or any village with a zoning ordinance under s. 61.35.

(h) "Owner" means at least one owner, as defined under s. 66.0217 (1) (d), of a property or the personal representative of at least one owner.

(i) "Permit" means a solar access permit or a wind access permit issued under this section.

(j) "Solar collector" means a device, structure or a part of a device or structure a substantial purpose of which is to transform solar energy into thermal, mechanical, chemical or electrical energy.

(k) "Solar energy" means direct radiant energy received from the sun.

(L) "Standard time" means the solar time of the ninetieth meridian west of Greenwich.

(m) "Wind energy system" means equipment and associated facilities that convert and then store or transfer energy from the wind into usable forms of energy.

(2) PERMIT PROCEDURE. The governing body of every municipality may provide for granting a permit. A permit may not affect any land except land which, at the time the permit is granted, is within the territorial limits of the municipality or is subject to an extraterritorial zoning ordinance adopted under s. 62.23 (7a), except that a permit issued by a city or village may not affect extraterritorial land subject to a zoning ordinance adopted by a county or a town. The governing body may appoint itself as the agency to process applications or may create or designate another agency to grant permits. The governing body may provide by ordinance that a fee be charged to cover the costs of processing applications. The governing body may adopt an ordinance with any provision it deems necessary for granting a permit under this section, including but not limited to:

(a) Specifying standards for agency determinations under sub. (5) (a).

(b) Defining an impermissible interference to include vegetation planted before the date the last notice is mailed or delivered under sub. (3) (b), provided that the permit holder shall be responsible for the cost of trimming such vegetation.

(3) PERMIT APPLICATIONS. (a) In a municipality which provides for granting a permit under this section, an owner who has installed or intends to install a solar collector or wind energy system may apply to an agency for a permit.

(b) An agency shall determine if an application is satisfactorily completed and shall notify the applicant of its determination. If an applicant receives notice that an application has been satisfactorily completed, the applicant shall deliver by certified mail or by hand a notice to the owner of any property which the applicant proposes to be restricted by the permit under sub. (7). The applicant shall submit to the agency a copy of a signed receipt for every notice delivered under this paragraph. The agency shall supply the notice form. The information on the form may include, without limitation because of enumeration:

1. The name and address of the applicant, and the address of the land upon which the solar collector or wind energy system is or will be located.

2. That an application has been filed by the applicant.

3. That the permit, if granted, may affect the rights of the notified owner to develop his or her property and to plant vegetation.

4. The telephone number, address and office hours of the agency.

5. That any person may request a hearing under sub. (4) within 30 days after receipt of the notice, and the address and procedure for filing the request.

(4) HEARING. Within 30 days after receipt of the notice under sub. (3) (b), any person who has received a notice may file a request for a hearing on the granting of a permit or the agency may determine that a hearing is necessary even if no such request is filed. If a request is filed or if the agency determines that a hearing is necessary, the agency shall conduct a hearing on the application within 90 days after the last notice is delivered. At least 30 days prior to the hearing date, the agency shall notify the applicant, all owners notified under sub. (3) (b) and any other person filing a request of the time and place of the hearing.

(5) PERMIT GRANT. (a) The agency shall grant a permit if the agency determines that:

1. The granting of a permit will not unreasonably interfere with the orderly land use and development plans of the municipality;

2. No person has demonstrated that she or he has present plans to build a structure that would create an impermissible interference by showing that she or he has applied for a building permit prior to receipt of a notice under sub. (3) (b), has expended at least $500 on planning or designing such a structure or by submitting any other credible evidence that she or he has made substantial progress toward planning or constructing a structure that would create an impermissible interference; and

3. The benefits to the applicant and the public will exceed any burdens.

(b) An agency may grant a permit subject to any condition or exemption the agency deems necessary to minimize the possibility that the future development of nearby property will create an impermissible interference or to minimize any other burden on any person affected by granting the permit. Such conditions or exemptions may include but are not limited to restrictions on the location of the solar collector or wind energy system and requirements for the compensation of persons affected by the granting of the permit.

(6) RECORD OF PERMIT. If an agency grants a permit:

(a) The agency shall specify the property restricted by the permit under sub. (7) and shall prepare notice of the granting of the permit. The notice shall include the identification required under s. 706.05 (2) (c) for the owner and the property upon which the solar collector or wind energy system is or will be located and for any owner and property restricted by the permit under sub. (7), and shall indicate that the property may not be developed and vegetation may not be planted on the property so as to create an impermissible interference with the solar collector or wind energy system which is the subject of the permit unless the permit affecting the property is terminated under sub. (9) or unless an agreement affecting the property is filed under sub. (10).

(b) The applicant shall record with the register of deeds of the county in which the property is located the notice under par. (a) for each property specified under par. (a) and for the property upon which the solar collector or wind energy system is or will be located.

(7) REMEDIES FOR IMPERMISSIBLE INTERFERENCE. (a) Any person who uses property which he or she owns or permits any other person to use the property in a way which creates an impermissible interference under a permit which has been granted or which is the subject of an application shall be liable to the permit holder or applicant for damages, except as provided under par. (b), for any loss due to the impermissible interference, court costs and reasonable attorney fees unless:

1. The building permit was applied for prior to receipt of a notice under sub. (3) (b) or the agency determines not to grant a permit after a hearing under sub. (4).

2. A permit affecting the property is terminated under sub. (9).

3. An agreement affecting the property is filed under sub. (10).

(b) A permit holder is entitled to an injunction to require the trimming of any vegetation which creates or would create an impermissible interference as defined under sub. (1) (f). If the court finds on behalf of the permit holder, the permit holder shall be entitled to a permanent injunction, damages, court costs and reasonable attorney fees.

(8) APPEALS. Any person aggrieved by a determination by a municipality under this section may appeal the determination to the circuit court for a review.

(9) TERMINATION OF SOLAR OR WIND ACCESS RIGHTS. (a) Any right protected by a permit under this section shall terminate if the agency determines that the solar collector or wind energy system which is the subject of the permit is:

1. Permanently removed or is not used for 2 consecutive years, excluding time spent on repairs or improvements.

2. Not installed and functioning within 2 years after the date of issuance of the permit.

(b) The agency shall give the permit holder written notice and an opportunity for a hearing on a proposed termination under par. (a).

(c) If the agency terminates a permit, the agency may charge the permit holder for the cost of recording and record a notice of termination with the register of deeds, who shall record the notice with the notice recorded under sub. (6) (b) or indicate on any notice recorded under sub. (6) (b) that the permit has been terminated.

(10) WAIVER. A permit holder by written agreement may waive all or part of any right protected by a permit. A copy of such agreement shall be recorded with the register of deeds, who shall record such copy with the notice recorded under sub. (6) (b).

(11) PRESERVATION OF RIGHTS. The transfer of title to any property shall not change the rights and duties under this section or under an ordinance adopted under sub. (2).

(12) CONSTRUCTION. (a) This section may not be construed to require that an owner obtain a permit prior to installing a solar collector or wind energy system.

(b) This section may not be construed to mean that acquisition of a renewable energy resource easement under s. 700.35 is in any way contingent upon the granting of a permit under this section.

History: 1981 c. 354; 1983 a. 189 s. 329 (14); 1983 a. 532 s. 36; 1993 a. 414; 1995 a. 201; 1999 a. 150 s. 82; Stats. 1999 s. 66.0403; 2007 a. 97; 2009 a. 40.

The common law right to solar access is discussed. Prah v. Maretti, 108 Wis. 2d 223, 321 N.W.2d 182 (1982).

The owner of an energy system does not need a permit under this section. Barring enforceable municipal restrictions, an owner may construct a system without prior municipal approval. This section benefits and protects the owner of the system by restricting the use of nearby property to prevent an interference with the system. State ex rel. Numrich v. City of Mequon Board of Zoning Appeals, 2001 WI App 88, 242 Wis. 2d 677, 626 N.W.2d 366, 00–1643.

Wisconsin recognizes the power of the sun: Prah v. Maretti and the solar access act. 1983 WLR 1263.

66.0404 Mobile tower siting regulations.

(1) DEFINITIONS. In this section:

(a) "Antenna" means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of mobile services.

(b) "Application" means an application for a permit under this section to engage in an activity specified in sub. (2) (a) or a class 2 collocation.

(c) "Building permit" means a permit issued by a political subdivision that authorizes an applicant to conduct construction activity that is consistent with the political subdivision's building code.

(d) "Class 1 collocation" means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.

(e) "Class 2 collocation" means the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.

(f) "Collocation" means class 1 or class 2 collocation or both.

(g) "Distributed antenna system" means a network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides mobile service within a geographic area or structure.

(h) "Equipment compound" means an area surrounding or adjacent to the base of an existing support structure within which is located mobile service facilities.

(i) "Existing structure" means a support structure that exists at the time a request for permission to place mobile service facilities on a support structure is filed with a political subdivision.

(j) "Fall zone" means the area over which a mobile support structure is designed to collapse.

(k) "Mobile service" has the meaning given in 47 USC 153 (33).

(L) "Mobile service facility" means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide mobile service to a discrete geographic area, but does not include the underlying support structure.

(m) "Mobile service provider" means a person who provides mobile service.

(n) "Mobile service support structure" means a freestanding structure that is designed to support a mobile service facility.

(o) "Permit" means a permit, other than a building permit, or approval issued by a political subdivision which authorizes any of the following activities by an applicant:

1. A class 1 collocation.

2. A class 2 collocation.

3. The construction of a mobile service support structure.

(p) "Political subdivision" means a city, village, town, or county.

(q) "Public utility" has the meaning given in s. 196.01 (5).

(r) "Search ring" means a shape drawn on a map to indicate the general area within which a mobile service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.

(s) "Substantial modification" means the modification of a mobile service support structure, including the mounting of an antenna on such a structure, that does any of the following:

1. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.

2. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.

3. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.

4. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

(t) "Support structure" means an existing or new structure that supports or can support a mobile service facility, including a mobile service support structure, utility pole, water tower, building, or other structure.

(u) "Utility pole" means a structure owned or operated by an alternative telecommunications utility, as defined in s. 196.01 (1d); public utility, as defined in s. 196.01 (5); telecommunications utility, as defined in s. 196.01 (10); political subdivision; or cooperative association organized under ch. 185; and that is

CITY OF GREEN BAY

Sec. 13.1611. - Development standards—Solar energy systems.

(a) *Height and setback requirements.*

(1) Multiple ground-mounted and/or roof mounted solar energy systems may be permitted per parcel compliant with the standards of the zoning district they are allowed in.

(2) Height limitations.

a. Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district.

b. Ground or pole-mounted solar energy systems shall not exceed 16 feet in height when oriented at maximum tilt.

(3) No solar energy system, at full tilt parallel to the ground, shall encroach into a required setback and shall not cause the property's total area of ground covered to exceed the maximum impervious coverage for the district in which the system is located. Ground-mounted systems impervious coverage shall be calculated by using the total square footage of the panel face.

(4) Ground-mounted and or pole-mounted solar energy systems shall not be allowed in residential districts between the front of the building and the public right-of-way without a conditional-use permit.

(b) *Ground-mounted solar energy system.*

(1) All electrical wires associated with a solar energy system, other than wires necessary to connect the system, grounding wires, etc. shall be located underground.

(2) A ground-mounted solar energy system must comply with the accessory structure restrictions contained in the zoning district where the solar energy system is installed.

(3) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

(c) *Roof-mounted solar energy system.*

(1) The collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building roof and shall not exceed the highest point of the roof line on which the system is mounted or built. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building roof on a side yard exposure.

(d) *Code compliance.*

(1) A solar energy system shall comply with all applicable state and local construction, electrical and plumbing codes, where applicable.

(2) Solar energy systems that connect to the electric utility shall comply with the public service commission of Wisconsin's Rule 119, "Rules for Interconnecting Distributed Generation Facilities."

(3) The design of the solar energy system shall conform to applicable industry standards.

(4) No grid-intertie photovoltaic system shall be installed until evidence has been given to the city building inspection department that the owner has submitted the required PSC6027 or PSC6028 to Wisconsin Public Service. Off-grid systems are exempt from this requirement.

(e) *Site plan review and building plan and permit requirements.*

(1) All applications for permits shall comply with the requirements of subchapter 13.1800, Site plan review, building plans and a building permit shall be required for the installation of a solar energy system.

(2) The site plan application shall include but not be limited to 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 solar energy system(s) and any overhead utility lines.

d. The right-of-way of any public road that is contiguous with the property.

e. Solar energy system mounting plan and details of any support or structural components.

f. A written description of solar panel tracking mechanism and a detailed layout of orientation limits.

(f) *Abandonment.*

(1) A solar energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The zoning administrator may issue a notice of abandonment to the owner of a solar 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 zoning 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 solar energy system has not been abandoned.

(2) If the solar energy system is determined to be abandoned, the owner of the solar energy system shall remove the facility at the owner's sole expense within three months of receipt of notice of abandonment. If the owner fails to remove the solar energy system, the administrator may pursue a legal action to have the system removed at the owner's expense.

(Ord. No. 9-12; Ord. No. 13.14)

Sec. 13.814. - Permitted nonresidential accessory uses.

Permitted accessory uses are as shown in table 8-3.

Table 8-3. Permitted Accessory Uses in the Commercial Districts

Use	C1	C2	C3	Dev. Stds.
Uses Accessory to Dwellings				
Antennas, satellite dishes, and similar equipment as regulated by subchapter 13.1600	P	P	P	
Boarding or renting of rooms to not more than two persons	P	P	P	
Fences	P	P	P	X
Gardening and other horticultural uses	-	-	-	
Home-based occupations	P	P	P	X
Private garages, carports, and parking spaces	P	P	P	
Private swimming pools, tennis courts, indoor exercise facilities, community meeting rooms, and other recreational facilities that are operated for the sole use and convenience of the residents of the principal use and their guests	P	P	C	
Solar energy systems	P	P	P	X

Tool houses, sheds, and similar buildings	P	P	P	
Outdoor kennel or exercise run	-	-	-	
Uses Accessory to Nonresidential Uses				
Antennas, satellite dishes, and similar equipment	P	P	P	X
Carwash (automatic) when accessory to a service station in compliance with subchapter 13.1600		C	C	X
Music (outdoor live or amplified music)	C	C	C	
Off-street loading docks	C	P	P	X
Outdoor display of vehicles		P	C	X
Outdoor commercial recreation	C	C	C	X
Outdoor sales, display, and storage	*	**	*	X
Parking (surface)	P	P	P	
Parking (structured)		C	P	X
Parking and storage of vehicles licensed to a business	P	P	P	X
Self-service storage units	C	—	—	X

Signs, as regulated by subchapter 13.2000	P	P	P	
Small wind energy system	C	C	C	X
Solar energy systems	P	P	P	X
Telecommunication facilities	C	C	C	X
Warehousing, incidental repair, or processing necessary to conduct a permitted principal use, conducted within the principal building, not exceeding 40 percent of total floor area		P	P	X
Waste and recycling storage	P	P	P	X

* See Section 13.805, Outdoor Storage and Display, C1 and C3 Districts

** See Section 13.806, Outdoor Storage and Display, C2 District

(Ord. No. 26-02; Ord. No. 1-11; Ord. No. 9-12; Ord. No. 2-15)

Tool houses, sheds, and similar buildings	P	P	P	-
Parking, structured			P	X
Outdoor kennel or exercise run for household pets	P	P	-	X
Retail, office, or service uses designed for residents of a multifamily building or complex of limited size and wholly contained within the principal structure			P	X
On parcels of ten acres or more, keeping of domestic animals, such as horses or ponies, sheep, goats, or domestic fowl, provided that no more than one horse, pony, sheep, goat, or similar large farm animal may be kept per acre of property. Animal feedlot operations and pig farms are not permitted. Barns and pens for domestic animals are permitted	P	-	-	X
Uses Accessory to Nonresidential Uses				
Antennas, satellite dishes, and similar equipment	P	P	P	X
Parking (surface)	P	P	P	
Parking (structured)		C	P	X
Signs, as regulated by subchapter 13.2000, Signs	P	P	P	
Small wind energy system	C	C	C	X

Solar energy system flush roof mount	P	P	P	
Solar energy system other than flush roof mount	P	C	P	X
Telecommunication facilities	C	C	C	X
Waste and recycling storage	P	P	P	X

Note: P = Permitted Use; C = Conditional Use

(Ord. No. 36-09; Ord. No. 1-11; Ord. No. 9-12; Ord. No. 13.14)

Sec. 13.615. - Residential accessory buildings.

(a) *In general.* In all residential districts, the design and construction of any garage, carport, or storage building shall be similar to or compatible with the design and construction of the main building. The exterior building materials, roof style, and colors shall be similar to the main building or shall be commonly associated with residential construction.

(b) *Attached structures.* An accessory structure shall be considered attached and an integral part of the principal structure when it is connected by an enclosed passageway. Such structures shall be subject to the following requirements:

(1) The structure shall meet the required yard setbacks for a principal structure, as established for the zoning district in which it is located.

(2) In no case shall the total floor area of an attached garage, carport, or other accessory structure exceed the ground floor area of the principal building located on the same lot.

(3) Attached garages may not exceed the height of the principal structure.

(c) *Detached structures.* Detached accessory structures shall be permitted in residential districts in accordance with the requirements shown in table 6-4 and as follows:

(1) Detached accessory structures shall be located to the side or rear of the principal building and are not permitted within the required front yard or within a side yard abutting a street.

(2) The maximum size may be increased upon approval of a conditional use permit, provided that lot coverage requirements are satisfied.

(3) Structures with a metal exterior finish exceeding 120 square feet shall be permitted only by conditional use permit.

(4) No more than 30 percent of the required rear yard area may be covered by accessory structures.

(5) Distance between structures shall be measured from wall to wall.

Table 6-4. Requirements for detached accessory structures, residential districts

Use	One- or Two-Family Residential Use	Townhouse or Multifamily Residential Use	RR District, Ten Acres or More

Number of structures allowed	2	1 per unit	2
Maximum size - 1st structure	1,000 sq. ft./dwelling unit	10 percent of lot area *	2,000 sq. ft.
Maximum size - 2nd structure	150 sq. ft.	150 sq. ft.	1,000 sq. ft.
Maximum height [c]	16 feet [d]	16 feet [d]	20 feet [d]
Maximum side wall height [c]	10 feet	10 feet	10 feet
Required setbacks			
Front yard [e]	55 feet	55 feet	55 feet
Side yard [a, e]	4 feet	10 feet	15 feet
Rear yard [b, e]	4 feet	10 feet	15 feet
Between structures	3 feet	3 feet	3 feet

Notes to Table 6-4:

a. One- and two-family lots less than 60 feet in width only require a 2½-foot side yard for detached accessory structures.

b. One- and two-family lots less than 90 feet in depth only require a 2½-foot rear yard for detached accessory structures.

c. Maximum height and maximum side wall height may be increased to a height no greater than that of the principal structure located on the same lot provided the accessory structure is used as a carriage-house dwelling.

d. Heights of structures may be increased with a conditional use permit as permitted in section 13.205.

e. A corner yard setback may be reduced where at least 50 percent of the front footage of any block is built up with principal structures, the corner yard setback for new structures shall be equal to the average of the existing structures, except that any structure which is setback 20 percent more or less than the average may be discounted from the formula. In no case shall the setback be less than 15 feet and shall only apply to corner lots of two intersection rights-of-way.

(Ord. No. 25-09)