ORDINANCE 2005-02
ORDINANCE TO AMEND THE CALUMET COUNTY CODE OF ORDINANCES,
BY CREATING CHAPTER 11, WIND ENERGY FACILITIES

The Board of Supervisors of Calumet County Board of
Supervisors hereby amends the Calumet County Code of
Ordinances as follows:

1. By creating Chapter 11, WIND ENERGY
   FACILITIES, as attached hereto and incorporated herein.

2. This amending ordinance shall take effect upon
   passage and publication as provided by law.

Dated this 27th day of September 2005.

INTRODUCED BY THE PLANNING, ZONING
AND FARMLAND PRESERVATION COMMITTEE:

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Reviewed by: Pamela Captain Corp Counsel

COUNTERSIGNED BY:

William Barribeau, County Board Vice-Chair
Chapter 11

WIND ENERGY FACILITY

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ARTICLE I.

AUTHORIZATION, PURPOSE AND DEFINITIONS

Sec. 11-1. Statutory Authorization.

This Chapter is enacted pursuant to Wis. Stats. §66.0401.

Sec. 11-2. Purpose.

The purpose of this Chapter is to provide a regulatory scheme for the construction and operation of Wind Energy Facilities in Calumet County, whose primary purpose is to supply electricity to off-site customer(s), subject to reasonable restrictions that will preserve the public health and safety or that do not significantly increase the cost of the system or significantly decrease its efficiency, while allowing for renewable energy sources to be present within Calumet County.

Sec. 11-3. Rules of Construction and Definitions.

(a) The definitions and rules of construction of this Chapter shall be as set forth in Sec. 1-2, of the Calumet County Code and as set forth in this Chapter unless such definitions or rules of construction are inconsistent with the manifest intent of the County Board or as required by the statutes of the State of Wisconsin.

(b) Words used in the present tense include the future, the singular number includes the plural number and the plural number includes the singular number, the word "building" includes the word "structure", and any words not herein defined shall be presumed to be interpreted by their customary dictionary definitions.

Sec. 11-4. Specific Words and Phrases.

Benchmark. A point of reference for a measurement.

Calumet County Board of Adjustments. A five member Board, appointed by the County Board, to review the decisions of the Code Administrator and Calumet County Planning and Zoning Committee as set forth in Chapter 48, Calumet County Code of Ordinances.

Code Administrator. A member of the Calumet County Planning and Zoning Department staff authorized by the County Board by enactment of this Chapter to issue permits for Wind Energy Systems, monitor compliance, and enforce the provisions of this Chapter.

Committee. Shall mean the Calumet County Planning and Zoning Committee.

County. Shall mean Calumet County.

FAA. The Federal Aviation Administration.
**Hub Height.** When referring to a Wind Energy System, the distance measured from ground level to the center of the Tower hub.

**Karst Feature.** An area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include areas with soils less than 60 inches thick over bedrock, caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps, swallets, and depressional areas with no surface drainage.

**MET Tower.** A meteorological tower, including the tower, base plate, anchors, guy 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.

**Non-conforming Legal Structure.** A Wind Energy System that was erected prior to the enactment of this Chapter that is not in compliance with the provisions of this Chapter and that has not ceased the production of energy for a period of twelve (12) consecutive months or longer.

**Person.** An individual, corporation, limited liability company, partnership or association.

**Rotor Diameter.** The cross sectional dimension of the circle swept by the rotating blades.

**Sewer Service Planning Area.** An area identified by East Central Regional Planning Commission as having an anticipated need for wastewater treatment. A sewer service area plan identifies existing sewered areas as well as adjacent land most suitable for new development.

**Total Height.** When referring to a Wind Energy System, the distance measured from ground level to the blade extended at its highest point.

**Tower.** The monopole, freestanding, or guyed structure that supports a wind generator.

**Wind Energy Facility.** One or more Wind Energy Systems under common ownership or operating control, and includes substations, MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customer(s).

**Wind Energy Siting Permit.** A construction and operating permit granted by the Code Administrator in accordance with the provisions of this Chapter and Wis. Stats. §66.0401, or any successor statutes.
**Wind Energy System.** A wind energy conversion system that converts the energy in the wind into electricity through the use of a wind generator, and includes the tower, blade, foundation, controller or inverter, and utility interface equipment.

**Wind Energy System - Small:** A wind energy system that has:
- (a) a nameplate capacity of 100 kilowatts or less; and/or
- (b) a total height of 170 feet or less;
- (c) a rotor diameter of 60 feet or less; and

**Wind Energy System - Large:** A wind energy system that has:
- (a) a nameplate capacity over 100 kilowatts; and/or
- (b) a total height over 170 feet;
- (c) a rotor diameter over 60 feet; and

**Sec. 11-5. Non-conforming Legal Structures.**

(a) Wind Energy Systems that were erected before the enactment of this Chapter and that are in continuous use shall be considered Non-Conforming Legal Structures and need not comply with the provisions contained herein.

(b) A Wind Energy System that does not provide energy for twelve (12) consecutive months shall lose its “Non-Conforming Legal” status and must comply with the provisions of the Chapter before it recommences production of energy.

(c) No person shall alter or modify a pre-existing Non-conforming Legal Structure without bringing the entire structure into compliance with this Chapter. This provision does not apply to routine maintenance and ordinary repairs that do not exceed 50% of the structure’s value at the time of the maintenance or repair.

**Sec. 11-6 – 14. Reserved.**

**ARTICLE II.**

**PROVISIONS APPLICABLE TO BOTH SMALL AND LARGE WIND ENERGY SYSTEMS**

**Sec. 11-15. Application Required.**

(a) Any person who wishes to erect, modify or alter a Wind Energy Facility as set forth above must submit an application for a Wind Energy Siting Permit with the Planning and Zoning Department.

(b) If the Code Administrator determines the applicant is not meeting all of the conditions of the Wind Energy Siting Permit, this Chapter, or the approved site plan, the Code Administrator shall issue a Letter of Non-compliance. The applicant shall have fourteen (14) days to respond to said non-compliance allegations. If non-compliance is
still determined to exist after review of the response by the Code Administrator, the applicant shall have thirty days (30) to correct the violation(s). Failure to comply within the 30 days may result in a revocation of the Wind Energy Siting Permit as set forth in Sec. 11-80 or a citation being issued as set forth in Chapter 1, Section 1-8.

(c) For Wind Energy Systems - Small, the Administrator shall issue a permit or deny the application within one month of the date on which the application is received. The Administrator shall issue a building permit for a Wind Energy System - Small if the application materials show that the proposed Wind Energy System - Small meets the requirements of this Chapter. 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 reapply if the deficiencies specified by the Administrator are resolved.

(d) For Wind Energy Systems - Large, the applicant must comply with the requirements of Sec.11-62 and 11-63, Neighborhood Review Process.

(e) All Wind Energy Facilities authorized by this Chapter shall be erected and completed according to the approved application and site plan within thirty six (36) months of permit issuance. If the Wind Energy Facility is to be erected in phases exceeding the allowable 36 months, the timeline must be stated in the application and approved by the Code Administrator. The Code Administrator shall then specify a deadline for completion on the permit.

Sec. 11-16. Information Required on Application.

(a) All permit applications shall be made on forms provided by Planning Department and be accompanied by a fee as set forth in Sec. 11-84.

(b) The application shall include:

(1) The name, address, legal corporate status and telephone number of the applicant responsible for the accuracy of the application and site plan.

(2) The name, address, legal corporate status and telephone number of the owner of the Wind Energy Facility.

(3) A signed statement indicating that the applicant has legal authority to construct, operate, and develop the Wind Energy System(s) under state, federal and local laws and regulations, including Federal Aviation Administration (FAA), state and local building codes.

(4) The applicant shall also provide copies of the Proof of a Certificate of Authority from the Public Service Commission of Wisconsin and the Public Service Commission of Wisconsin Environmental Assessment, if applicable.
(5) A description of the number and kind of Wind Energy System(s) to be installed.

(6) A description of the Wind Energy System(s)’ height and design, including a cross section, elevation, and diagram of how the Wind Energy System will be anchored to the ground.

(7) A diagram, drawn to scale, showing the parcel boundaries and a legal description, support facilities, access, proposed landscaping and fencing.

(8) A statement from the applicant that all Wind Energy System(s) will be installed in compliance with manufacturer’s specifications, and a copy of those manufacturer’s specifications.

(9) A copy of the lease with the landowner if the applicant does not own the land for the proposed Wind Energy Facility(s). A statement from the landowner of the leased site that he/she will abide by all applicable terms and conditions of the Wind Energy Siting Permit.

(10) A statement indicating what hazardous materials will be used and stored on the site, and, how those materials will be stored.

(11) A statement indicating how the Wind Energy Facility will be lit, if applicable.

(12) The landowner where a Wind Energy System will be located shall provide a performance bond, completion bond, or other financial assurance that guarantees the performance of the restoration and removal, provided; however, said bond for Wind Energy System - Large shall be no less than $20,000 per tower. Said bond shall be provided at the rate equivalent to one tower per year.

(c) No action will be taken on an application until the completed application and all supporting documentation is received by the Planning and Zoning Department.

**Sec. 11-17. Site Plan.**

(a) All applicants shall also submit a Site Plan containing the following:

(1) A map, drawn to scale, with said scale no smaller than one inch equaling 100 feet, identifying the proposed site.

(2) The scale and a north arrow on the map.

(3) Said map should include the location of:
a. All public roads; Existing buildings and structures within a one half mile radius, including residences, schools, hospitals, churches and public libraries; All sewer service planning areas and incorporated municipal boundaries within a one half mile radius; Karst features, including sink holes and visible cracks, in the ground or rock surface on the proposed site (said Karst information must be provided by a professional geologist, licensed professional engineer, Calumet County Land and Water Conservation Department Staff, or the Department’s designee); All property lines; All communication and electrical lines; All Proposed Wind Energy Facilities.

(4) Descriptions of a benchmark on the proposed site, including elevations expressed in feet and tenths of feet.

(5) Ground contour (2-foot maximum intervals) on the proposed site with spot elevations, including land slope around the proposed site for a minimum of one hundred (100) feet.

Sec. 11-18. Visual Appearance.

(a) Wind Energy Facility shall be a non-reflective, non-obtrusive color.

(b) At Wind Energy Facility site, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the Wind Energy System(s) to the natural setting and the existing environment.

(c) Wind Energy Facility shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.

(d) Wind Energy Facility shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy System(s) and appropriate warning signs.

(e) Electrical controls and control wiring and power-lines shall be wireless or not above ground except where Wind Energy Facility collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network.

Sec. 11-19. Noise.

(a) Audible noise due to Wind Energy Facility operations shall not exceed fifty (50) dBA for any period of time, when measured at any residence, school, hospital, church or public library existing on the date of approval of any Wind Energy Siting Permit.
(b) In the event audible noise due to Wind Energy Facility operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph (a) of this subsection shall be reduced by five (5) dBA. A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred and sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred and twenty-five (125) Hz.

(c) In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is succeeded for more than five (5) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind-generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow Wind Energy Facility operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.

(d) Any noise level falling between two whole decibels shall be the lower of the two.

(e) In the event the noise levels resulting from the Wind Energy Facility exceed the criteria listed above, a waiver to said levels may be granted by the Code Administrator provided that the following has been accomplished:

1. Written consent from the affected property owners has been obtained stating that they are aware of the Wind Energy Facility and the noise limitations imposed by this Chapter, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and

2. If the applicant wishes the waiver to apply to succeeding owners of the property, a permanent noise impact easement has been recorded in the office of the Calumet County Register of Deeds which describes the benefited and burdened properties and which advises all subsequent owners of the burdened property that noise levels in excess of those permitted by this Chapter may exist on or at the burdened property.

(f) The burden of proof that a Wind Energy Facility is exceeding the allowed decibel levels shall be the responsibility of the party making such allegations.

(g) It is understood Wind Energy Systems - Small occasionally exceed these limits during power outages. The above regulations shall not apply to Wind Energy Systems - Small during power outages or storm occurrences.
Sec. 11-20. Signal Interference.

The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any Wind Energy System. If the applicant is a public utility, s. PSC 113.0707 also applies.

Sec. 11-21. Safety.

(a) All wiring between Wind Energy System(s) and the Wind Energy System substation shall be underground.

(b) All Wind Energy System(s) shall be reasonably protected from unauthorized access up to eight (8) feet above ground level.

(c) All access doors to Wind Energy System(s) and electrical equipment shall be secured to prevent unauthorized access.

(d) Appropriate warning signage shall be placed on Wind Energy System(s), electrical equipment, and Wind Energy System entrances.

Sec. 11-22 to 39. Reserved.

ARTICLE III.

WIND ENERGY SYSTEMS - SMALL

Sec. 11-40. Setbacks.

(a) The following setbacks and separation requirements shall apply to all Wind Energy Systems - Small; provided, however, that the Code Administrator may reduce the standard setbacks and separation requirements if the intent of this Chapter would be better served thereby.

(1) Inhabited Structures: Each Wind Energy System shall be set back from the nearest residence, school, hospital, church or public library, a distance no less than 1.1 times its Total Height.

(2) Municipal Boundaries: Each Wind Energy System shall be sited at least 1.1 times its Total Height from the nearest boundary of all sewer service planning areas or sewer service boundary, or, 1.1 times its Total Height from an incorporated municipal boundary, whichever is greater. The setback shall be determined by utilizing the area or boundary existing at the time of the permit application.
(3) **Property Lines:** Each Wind Energy System shall be set back from the nearest property line a distance of no less than 1.1 times its Total Height.

(4) **Public Roads:** Each Wind Energy System shall be set back from the nearest public road a distance of no less than 1.1 times its Total Height, determined at the nearest boundary of the underlying right-of-way for such public road.

(5) **Park and Wildlife Area:** Each Wind Energy System shall be set back a distance of no less than 1.1 times its Total Height from a “Park and Wildlife Area” as designated in the Calumet County Outdoor Recreation Plan as adopted at the time of the permit application.

**Sec. 11-41. Minimum Ground Clearance.**

The blade tip on any Wind Energy System-Small shall, at its lowest point, have a ground clearance of no less than thirty (30) feet.

**Sec. 11-42 to 59. Reserved.**

**ARTICLE IV.**

**WIND ENERGY SYSTEMS - LARGE**

**Sec. 11-60. Setbacks.**

(a) The following setbacks and separation requirements shall apply to all Wind Energy Systems - Large; provided, however, that the Code Administrator may reduce the standard setbacks and separation requirements if the intent of this Chapter would be better served thereby.

(1) **Inhabited Structures:** Each Wind Energy System shall be set back from the nearest residence, school, hospital, church or public library, a distance no less than one thousand (1000) feet.

(2) **Municipal Boundaries:** Each Wind Energy System shall be sited at least 1000 feet from the nearest boundary of all sewer service planning areas or sewer service boundary, or, 1,000 feet from an incorporated municipal boundary, whichever is greater. The setback shall be determined by utilizing the area or boundary existing at the time of the permit application.

(3) **Property Lines:** Each Wind Energy System shall be set back from the nearest property line a distance of no less than 1.1 times its Total Height.
(4) **Public Roads:** Each Wind Energy System shall be set back from the nearest public road a distance of no less than 1.1 times its Total Height, determined at the nearest boundary of the underlying right-of-way for such public road.

(5) **Park and Wildlife Area:** Each Wind Energy System shall be set back a distance of no less than 1,000 feet from a “Park and Wildlife Area” as designated in the Calumet County Outdoor Recreation Plan as adopted at the time of the permit application.

Sec. 11-61. Minimum Ground Clearance.

The blade tip on any Wind Energy System-Large shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.

Sec. 11-62. Road Repair.

(a) **Road Analysis.** The permit applicant shall reimburse the County or Township for any and all repairs and reconstruction to County or Township roads resulting directly from the construction of the Wind Energy Facility. A qualified independent third party or other qualified person, agreed to by the County or Township and permit applicant, and paid for by the permit applicant, shall be hired to pre-inspect the roadways to be used during construction. This third party shall be hired to evaluate, document, and rate the roads condition prior to construction of the Wind Energy Facility, and again 30 days after the Wind Energy Facility is completed. Any road damage done by the permit applicant or one or more of its contractors or subcontractors shall be repaired or reconstructed at the permit applicant's expense.

(b) **Construction Completion Notification.** The permit applicant shall provide the County or Township with written notice of completion of construction within 30 days after the Wind Energy Facility construction is complete. Determination as to how the roads should be repaired or reconstructed, within Wisconsin Department of Transportation standards for counties and townships, or township standards if they exist, must be completed before the Wind Energy Facility is commissioned.

(c) **Payment for Damages.** At the end of the Wind Energy Facility construction, the County or Township Board of Supervisors will negotiate the percentage of road repair or reconstruction costs that will be paid by the permit applicant based on the independent third party's evaluations. The repair or reconstruction costs will be based on the cost of the repair at the time the work is actually done. Actual work on the road repair or reconstruction will occur at the earliest possible time.

(d) **Road Damage.** Any road damage caused by the permit holder or their agents during the repair, replacement, or decommissioning of any Wind Energy System(s) during the life of the project shall be paid for by the permit holder per the above language.
Sec. 11-63. Neighborhood Review.

(a) Notice provisions: The Code Administrator shall notify, by mail, all of the following individuals that an application has been submitted. The notice shall be mailed within ten (10) days of receiving a completed application and site plan:

1. The Land and Water Conservation Department;
2. The Town Clerk of the town in which the site of the application is located;
3. All property owners who reside within one half mile of the exterior property lines of the site of the proposed Wind Energy Facility.

(b) Identification of the property owners to receive a notice shall be based upon parcels and property owners recorded in the Calumet County Real Property Lister Office. The failure of such notice to reach any of the property owners identified shall not invalidate any site plan review meeting.

(c) The notice shall include the following information:

1. Name of the applicant, property owner, and corporation (if applicable).
2. Location of the subject project.
4. Information apprising the notice recipients of the date, time, and place of the neighborhood review meeting.
5. A statement noting that written correspondence shall be accepted by the Planning Department until 4:00 p.m. of the day prior to the meeting. The notice shall state the concerns expressed in such correspondence will be summarized at the meeting by the Code Administrator, but that the applicant will not be required to address said concerns unless similar concerns are expressed by persons in attendance at the meeting.

Sec. 11-64. Neighborhood Review Meeting.

(a) Purpose. The purpose of the meeting is to try to negate any potential conflicts between the applicant and surrounding property owners by providing an opportunity for the neighboring property owners and the applicant to reach an understanding on a site’s planned use. Wind Energy Facilities are permitted in Calumet County provided the operation is in compliance with this Article. The ability of the applicant to create, enlarge or modify a Wind Energy Facility is not debatable at this meeting. Wis. Stat. §66.0401 makes it clear that counties are limited in what conditions they may impose
upon an applicant for Wind Energy Facilities. The Neighborhood Review meeting is designed to give information to the surrounding property owners of the proposed operational plan and to allow them an opportunity to make suggestions so that conflicts can be minimized. It is expected that the parties will attempt to find solutions so that new or expanded Wind Energy Facilities are compatible with the existing neighboring properties.

(b) Neighborhood Review Meeting. The Code Administrator shall schedule a meeting within fifteen (15) days of notifying individuals a completed application has been submitted to the Planning and Zoning Department. The Code Administrator shall preside over the meeting. The meeting is to be conducted in an atmosphere of informality. Direct dialogue between the parties shall be allowed, provided fairness to all parties and orderliness do not suffer. The Code Administrator shall:

1. Ensure that all parties have adequate opportunity to participate in the proceedings.
2. Summarize any written correspondence.
3. Facilitate orderly conduct to ensure fulfillment of the purpose of the meeting.
4. Raise concerns held by the Planning and Zoning Department that are not otherwise addressed at the meeting.
5. Assist the parties in arriving at a consensus on the proposed site plan by offering solution suggestions.

(c) Procedure.

1. The applicant shall first present to the assemblage details of the proposed project.

2. Following the presentation, the neighboring property owners and their agents, and residents who live within the half-mile area may question the applicant about details, which remain unclear.

3. After the questioning period, the presider will summarize any written correspondence, and the neighboring property owners, and their agents, may suggest changes to the proposed site plan.

4. Only neighboring property owners, or their agents, within the notification distance specified in Sec. 11-61 shall be eligible to suggest site plan changes and be party to any subsequent dialogue with the applicant regarding those suggested changes.
(5) The surrounding neighbors may suggest changes to the site plan in the following areas only:

a. Methods to be implemented to minimize potential negative impacts on water quality.
b. Traffic access and road maintenance.
c. Lighting.
d. Vegetative screening.
e. Fencing.
f. Electromagnetic Communications
g. Noise

(d) If the neighboring property owners present no suggestions, the applicant shall assume there are no objections the site plan, and the Code Administrator, upon finding compliance with this Chapter, shall issue a Wind Energy Siting Permit within thirty (30) days.

(e) If suggestions are offered, the applicant may agree to amend the site plan to reflect those suggestions and submit the site plan to the Planning and Zoning Department.

(f) If the application and site plan are in compliance with the provisions of this Chapter, the Code Administrator shall issue a permit within thirty 30 days.

Sec. 11-65 to 79. Reserved.

ARTICLE V.

REVOCATION, APPEAL, NOTICE OF CONSTRUCTION, MODIFICATION, FEES AND ABANDONMENT

Sec. 11-80. Revocation of Permit.

(a) A Wind Energy Siting Permit may be revoked if, after the notice and correction provisions of Sec. 11-15 have been met:

(1) The applicant fails to comply with conditions of the Wind Energy Siting Permit, this Chapter and Approved Site Plan.

(2) The Code Administrator deems the Wind Energy Facility has not been properly maintained and poses a threat to health or safety.

(3) If substantial progress has not been made towards the completion of a Wind Energy Facility within twenty-four (24) months after issuance of the Permit, or in accordance with the timeline approved by the Code Administrator. Upon request of an applicant, for good cause, the Code Administrator may grant an extension of time.
(4) If the Wind Energy Facility authorized by permit is not completed within thirty-six (36) months of permit issuance, or in accordance with the timeline approved by the Code Administrator. Upon request of an applicant, for good cause, the Code Administrator may grant an extension of time.

(5) The Wind Energy Site has been abandoned.

(b) Revocation Process:

(1) The Planning and Zoning Committee shall hold a hearing to determine whether the Permit should be revoked. The applicant shall be given notice of the time and date of the hearing. The Committee shall receive testimony; the applicant will be permitted to provide evidence as well. The Committee shall issue a written decision based on substantial evidence.

(2) Any person aggrieved by this determination may seek a review of the determination by the Board of Adjustments as set forth in Sec. 11-81.

Sec. 11-81. Appeal of the Determinations of the Code Administrator/Committee.

(a) Any person aggrieved by the decision of the Code Administrator or Committee may appeal the decision to the Calumet County Board of Adjustments.

(b) “Any person aggrieved” shall include the applicant, developer or any person who resides or owns land within one half mile of the proposed Wind Energy Facility.

(c) All appeals must be filed within 30 days of issuance, denial or revocation of the Wind Energy Siting Permit. The Code Administrator shall file a certified copy of the record with the Board of Adjustments within 30 days of the receipt of the Notice of Appeal. The Record shall include all documents and information relied upon by the Code Administrator or Committee in making his/her/its decision to either grant, deny or revoke the Wind Energy Siting Permit.

(d) The review by the Board of Adjustments shall be limited to a review of the record of the Code Administrator/Committee. The basis of the appeal shall be limited to whether the Code Administrator/Committee correctly applied Wis. Stats. §§ 66.0401 and the provisions of this Chapter.

(e) The Board of Adjustments may affirm, reverse or remand back to the Code Administrator/Committee.

(f) Nothing in this section shall be construed as limiting an aggrieved person’s right to a Certiorari Review in Circuit Court as permitted by Wisconsin Law.
Sec. 11-82. Notice of Construction.

(a) The applicant shall notify the Planning Department at least five (5) working days before construction begins.

(b) Within five (5) working days of completion of the Wind Energy Facility the applicant shall certify in writing that the Facility was built and installed according to the approved application and final site plan.

Sec. 11-83. Modification of Approved Site Plan.

The applicant shall not modify the approved application final site plan without written permission from the Code Administrator.

Sec. 11-84. Fees.

The application fee shall be $275 per small tower and $500 per large tower. Said fee shall be non-refundable.

Sec. 11-85. Abandonment.

(a) The landowner of a Wind Energy Facility under this Chapter shall notify the Calumet County Planning and Zoning Department when the facility is no longer in operation. All obsolete, damaged, unused, or abandoned Wind Energy System(s) and accessory facilities shall be removed within twelve (12) months of cessation of operations unless the Code Administrator approves a time extension if the owner provides good cause. Said removal shall be the responsibility of the landowner where the Wind Energy Facility is located.

(b) After the Wind Energy Facility has been removed, the site shall be restored to its original or an improved condition, and anchoring elements shall be removed from the ground.

(c) If removal and/or restoration are not completed, the Code Administrator may order removal utilizing the performance bond required under Sec. 11-16.

Sec. 11-86. Severability.

The sections, paragraphs, sentences, clauses, Articles and phrases of this chapter are severable; if any provision is found to be unconstitutional, invalid or unenforceable, such finding shall not affect the remaining portions of this Chapter.

(History: Ordinance 2005-02, September 27, 2005.)