

CHAPTER 9
LAND USE REGULATIONS
Town of Decatur, Green County, Wisconsin

ORDINANCE

ORDINANCE The Town Board of the Town of Decatur, Green County, Wisconsin, hereby ordains as follows:

SECTION 1. That Ordinance Chapter 9, Land Use Regulations, Sections 1-5 is hereby repealed and recreated to read as follows:

CHAPTER 9, TOWN OF DECATUR, GREEN COUNTY, WISCONSIN BUILDING CODE

SECTION 1 – BUILDINGS AND CONSTRUCTION

- 1.1.010 Building Code Established
- 1.1.020 Uniform Dwelling Code Adopted
- 1.1.030 Commercial Building Code Adopted
- 1.1.040 Electrical Code Adopted
- 1.1.050 Plumbing Code Adopted
- 1.1.060 Camping Unit Code Adopted
- 1.1.070 Permits
- 1.1.080 Inspections
- 1.1.090 Residential Garage
- 1.1.100 Farm Buildings
- 1.1.110 Regulation and Permit for Razing Buildings
- 1.1.120 Basements and Excavations
- 1.1.130 Regulations for Moving Buildings
- 1.1.140 Fees
- 1.1.150 Severability
- 1.1.160 Report of Violations
- 1.1.170 Penalties
- 1.1.180 Effective Date

SEC. 1.1.010 BUILDING CODE ESTABLISHED

- A. **Authority.** These regulations are adopted under the authority granted by s. 101.65, Wisconsin Statutes

- B. **Title.** This Chapter shall be known as the “Building Code of the Town of Decatur, Green County, Wisconsin” and will be referred to in this Chapter as “this Code,” “this Chapter,” or “this Ordinance.”
- C. **Purpose.** This Code provides certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings or structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished, and regulates the equipment, maintenance, use and occupancy of all such buildings or structures. Its purpose is to protect and foster the health, safety and wellbeing of persons occupying such buildings or structures.
- D. **Scope.** New buildings or structures hereafter erected in, moved within, enlarged, altered or repaired within the town shall conform to all the requirements of this Code except as they are herein specifically exempted from part or all its provisions.

The provisions of this Code supplement the laws of the State of Wisconsin pertaining to construction and use and the Zoning Code of Green County and amendments thereto to the date this Code was adopted and in no way supersede or nullify such laws and the said Zoning Code. In all cases, the most restrictive rule shall apply.

E. **Definitions.**

1. **ADDITION.** An extension or increase in floor area or height of a building or structure.
2. **ALTERATION.** Any construction or renovation to an existing structure other than repair or addition.
3. **BUILDING.** Any structure used or intended for supporting or sheltering any use or occupancy.
4. **CODE OFFICIAL.** An individual employed by the town who shall administer and enforce this ordinance and shall be certified by the Department of Safety and Professional Services, as specified by Wisconsin Statutes, Section 101.66 (2), in the category of Uniform Dwelling Code Construction Inspector. Additionally, this or other assistant code officials shall possess the required to lawfully inspect all work within this Code.
5. **DEPARTMENT.** The Wisconsin Department of Safety and Professional Services (DSPS).
6. **DWELLING.** Any building which contains one or 2 dwelling units.
7. **DWELLING UNIT.** A structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.
8. **FARM BUILDING.** Buildings and structures that are on a farm premises and used exclusively for farming purposes, provided any use of the building or structure by the public consists only of consumers directly receiving farm commodities, substantially all of which have been planted or produced on the farm premises. In this application, “substantially all” means at least 90 percent of the commodities were planted or produced on the farm premises.
9. **MINOR REPAIR.** Any repair valued at less than Five Hundred Dollars (\$500.00), including the fair market value of labor and materials; or any other repair that is performed on any existing building which does not affect room arrangement, light and ventilation, access to or efficiency of any exits, fire protection or exterior aesthetic appearance and which does not increase a given occupancy and use. No permit is required for work to be performed, which is deemed minor repair.
10. **PERSON.** An individual, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

11. REPAIR. The act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs or maintenance, or the replacement of existing fixtures, systems or equipment with the equivalent fixture, system or equipment.
12. RESIDENTIAL GARAGE. A freestanding structure accessory to a dwelling used for storing motorized vehicles that has any more than 2 sides completely enclosed.
13. STRUCTURE. That which is built or constructed.

SEC. 1.1.020 UNIFORM DWELLING CODE ADPOTED.

A. General.

1. The provisions of Chs. SPS 320 through 325, Wisconsin Administrative Code is adopted and incorporated by reference into this Chapter.

B. Existing Dwellings.

1. The Wisconsin Uniform Dwelling Code shall also apply to additions and alterations to one and two-family dwellings constructed prior to June 1, 1980. Because such projects are not under state jurisdiction, petitions for variance and final appeals under ss. SPS 320.19 and 320.21, respectively, shall be decided by the municipal board of appeals. Petitions for variance shall be decided per s. SPS 320.19 (intro.) so that equivalency is maintained to the intent of the rule being petitioned. As the board of appeals approves petitions for variance, the code official is granted the power to apply the results to similar circumstances by precedent.
2. Roof Coverings. Whenever more than twenty-five percent (25%) of the roof covering of a one or two-family dwelling is replaced in any twelve (12) month period, all roof covering shall be in conformity with Section 1.1.020 A. 1.

C. Decks.

1. The Wisconsin Uniform Dwelling Code shall also apply to detached decks serving a dwelling, and attached or detached decks serving a garage or private swimming pool.

SEC. 1.1.030 COMMERCIAL BUILDING CODE ADPOTED.

A. Commercial Building Code.

1. The provisions of Chs. SPS 360 through 366, Wisconsin Administrative Code is adopted and incorporated by reference into this Chapter.

SEC. 1.1.040 ELECTRICAL CODE ADPOTED.

A. Electrical Code.

1. The provisions of Ch. SPS 316 of the Wisconsin Administrative Code and all amendments thereto, is adopted and incorporated by reference into this Chapter.

SEC. 1.1.050 PLUMBING CODE ADPOTED.

A. Plumbing Code.

1. The provisions of Ch. 145, Wis. Stats., and Chs. SPS 325, and SPS 381 through SPS 391 of the Wisconsin Administrative Code and all amendments thereto, is adopted and incorporated by reference into this Chapter.

SEC. 1.1.060 CAMPING UNIT CODE ADOPTED.

1. The provisions of Ch. SPS 327 of the Wisconsin Administrative Code related to Camping Units, and all amendments thereto, is adopted and incorporated by reference into this ordinance.

SEC. 1.1.070 PERMITS

A. Permit Required.

1. Building Permit. No building or structure of any kind shall be hereafter constructed, erected or moved within or into the town, and no existing building or structure shall be enlarged, altered, repaired, moved, demolished, razed or occupied within the town except as herein provided until a permit therefore shall first have been obtained from the code official by the owner or his or her authorized agent.
2. Electrical Permit. No electrical work as defined herein shall be installed, altered or repaired without first securing a permit therefore from the Code Official, or his or her designee, except that minor repairs or replacements of broken or defective electrical outlets such as luminaires, switches, or receptacles may be made without a permit.
3. Plumbing Permit. No plumbing work as defined herein shall be installed or altered or repaired without first securing a permit therefore from the Code Official, except that minor repairs or replacement of standard plumbing fixtures such as faucets, hose bibs, or water closets may be made without a permit.
4. HVAC Permit. No HVAC work as defined herein shall be installed or altered or repaired without first securing a permit therefore from the Code Official, except that minor repairs or replacement of standard HVAC fixtures such as grilles, louvers, or thermostatic controls may be made without a permit.
5. Fire Protection Permit. No fire sprinkler or fire alarm work as defined herein shall be installed or altered or repaired without first securing a permit therefore from the Code Official, except that minor repairs or replacement of standard items such as individual sprinkler heads, smoke or heat devices, or pull stations may be made without a permit.

B. Prerequisites.

1. Site Plan Approval. All applications for building permits for any construction, reconstruction, expansion or conversion covered by the scope of this Code shall require site plan approval by the Green County Zoning and Land Use Department prior to a permit being issued, unless Zoning approval is not required for such project. A copy of approved site plan shall be produced to obtain a permit.
2. Driveway Permit. Prior to the issuance of a building permit for any new construction, reconstruction, expansion or conversion requiring a new driveway access or alteration to an existing driveway access covered by the scope of this chapter, a driveway permit shall be issued by the town. A copy of the driveway permit shall be produced to obtain a Building Permit.

C. Plans.

1. General. Applications shall be submitted with plans and specifications as required by the applicable statute, administrative code, or any other provisions within this Code as it pertains to the proposed project. The code official reserves the right to request additional plans and specifications as necessary to assure compliance. All plans and specifications shall be drawn to a minimum scale of one-quarter inch to one foot. One set of building plans shall be returned after approval, as provided in the chapter. The second set shall be filed in the office of the code official.
2. Public Buildings and Places of Employment.
 - a. State Approval Required. Except when authority to approve plans has been delegated to the code official, all plans for public buildings or places of employment as defined in Section 101.12, Wisconsin Statutes, shall be approved by the Wisconsin Department of Safety and Professional Services and copies thereof submitted to the code official.

D. Waiver of Plans.

1. If the code official finds that the character of the work is sufficiently described in the application, he or she may waive the filing of plans for alterations or repairs.

E. Application.

1. Application for a permit shall be made in writing upon a form furnished by the code official, and shall state the name and address of the owner of the land and also the owner of the building if different, the legal description of the land upon which the building is to be located, the name and address of the designer, the use to which said building is to be put and such other information as the Code Official, or his or her designee, may require.

F. Issuance of Permits.

1. If the code official determines that the project will comply with this Code and with other applicable ordinances and orders of the town, he or she shall issue a permit which shall state the scope of the approved project of which shall be kept and displayed at the site of the project. After being approved, the plans and specifications shall not be altered in any respect of this Code, or which involves the safety of the building or the occupants, except with the written consent of the code official.
2. In case adequate plans are presented for only part of the project, the code official at his or her discretion, may issue a permit for that part of the project before receiving the plans and specifications for the entire building.
3. Payment of Fees. Except as otherwise specifically provided, all permit and inspection fees required under this Code shall be collected by the Code Official prior to the issuance of the permit. No permit or license shall be issued or reissued, or inspection performed, until the required fees are paid.
4. Monthly Reports. The code official shall make a monthly report of permits issued, fees collected and inspections made and submit the report and all fees collected to the town.

G. Display of Permit.

1. Permits shall be displayed in a conspicuous place on the premises where the authorized work is in progress at all times during construction or work thereon.

H. Permit Lapses.

1. General. Permits issued under this chapter, except permits for one- and two-family dwelling units shall lapse and be void unless construction or work thereunder has commenced within six months, or if the project has not been completed within one year from the date of issuance. Construction has commenced if the footing or foundation has been excavated to a point where footings or foundation work can begin.
2. One- and Two-Family Dwellings. Permits for one- and two-family dwelling unit construction, remodeling and additions shall be valid for a period of twenty-four (24) months from date of issuance.
3. Reissuance of Permits. In the event any work for which a permit was issued is not completed within the time allowed specified herein, then such permit shall lapse and be void and no construction or work shall begin or resume until a new permit is obtained and the fee prescribed under this chapter is paid. No permit shall be reissued until all approvals required by this chapter at the time of reapplication have been given. The fee for reissuance of a permit shall be one-half of the required fee at the time of reapplication unless work has proceeded without a permit or under a lapsed permit, in which event full fees shall be paid.

I. Revocation of Permits.

1. The code official may revoke any building, plumbing, electrical, HVAC or Fire Protection permit, Certificate of Occupancy, or any other approval issued under the regulations of

this Code and may stop construction or use of approved new materials, equipment, methods of construction, devices or appliances for any of the following reasons:

- a. Whenever the code official shall find at any time that applicable ordinances, laws, orders, plans and specifications are not being complied with and that the holder of the permit refused to conform after written warning or construction has been issued to him or her.
 - b. Whenever the continuance of any construction becomes dangerous to life or property.
 - c. Whenever there is any violation of any condition or provisions of the application for permit or of the permit.
 - d. Whenever, in the opinion of the code official there is inadequate supervision provided on the job site.
 - e. Whenever any false statement or misrepresentation has been made in the application for permit, plans, drawings, data specifications or certified lot or plot plan on which the issuance of the permit or approval was based.
 - f. Whenever there is a violation of any of the conditions of an approval or occupancy given by the code official for the use of all new materials, equipment, methods or construction devices or appliances.
2. The notice revoking a building, plumbing, electrical, HVAC or Fire Protection Permit, Certificate of Occupancy, or other approval shall be in writing and may be served upon the applicant of the permit, owner of the premises and his or her agent, if any, and on the person having charge of construction.
 3. The code official shall also post a revocation placard upon the building, structure, equipment or premises in question.
 4. After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises, and the permit which has been so revoked shall be null and void, and before any construction or operation is again resumed, a new permit, as required by this Code, shall be procured and fees paid therefore, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this Code. However, such work as the code official may order as a condition precedent to the reissuance of the building permit may be performed, or such work as he or she may require for the preservation of life and safety.
 5. Appeals of such revocations or suspensions may be taken within the time prescribed by such code to the town board.

SEC. 1.1.080 INSPECTIONS

A. Inspection Powers.

The code official may at all reasonable hours enter upon any public or private premises for inspection purposes and may require the production of the permit for any building, electrical, plumbing, HVAC, or fire protection work. No person shall interfere with or refuse to permit access to any such premises to the code official while in performance of his or her duties. If authorized code officials are denied access to property for inspection purposes, they are empowered to seek an inspection warrant pursuant to Section 66.122, Wis. Stats.

B. Inspection Disclaimer.

1. The purpose of inspections under this Code is to improve the quality of housing in the town. The inspections and the reports and findings issued after the inspections are not intended as, nor are they to be construed, as a guarantee. In order to so advise owners and other interested persons the following disclaimer shall be applicable to all inspections: "These findings of inspection contained herein are intended to report conditions of noncompliance with code standards that are readily apparent at the time of inspections. The inspection does not involve a detailed examination of the mechanical systems or the closed structural and nonstructural elements of the building and premises. No warranty of the operation,

use or durability of equipment and materials not specifically cited herein is expressed or implied”.

2. This Code shall not be construed to relieve from or lessen the responsibility or liability of any person supplying to, or selling, renting, leasing, owning, using, operating, controlling, installing, altering, repairing, removing, replacing, disturbing, connecting, disconnecting, or maintaining any work covered by the scope of this Code, or any device or equipment or for damages to persons or property caused by any defect therein in therefrom; nor shall the Town, the code official, or his or her designee be held as assuming any such responsibility or liability by reason of the issuance or revocation of any license, permit or certificate, or the inspection or re-inspection authorized by the Code, or be reason of the approval or disapproval of and equipment, sales, rentals, drawings, plans, specifications, materials, samples, test reports, literature, information or schedules authorized in this Code. Nor shall the Town, code official, or his or her designee be held liable for any damages resulting from the enforcement of this Code.

C. Inspection of Work.

1. Unless otherwise specified within this Code, the owner or owner's agent shall notify the code official in a format acceptable to the code official when inspection points as prescribed herein occur.
2. Unless otherwise specified within this Code, the code official shall conduct all inspections within two business days of the date the inspection was to be ready.
3. Unless otherwise specified within this Code, the following points of construction shall be inspected:
Footing and foundation. This shall include any grade beams, floating slabs, piers, or electrical grounding taking place within the footing or foundation;
 - a. Exterior and interior foundation drain tile;
 - b. Under floor electrical, plumbing, HVAC and fire protection;
 - c. Rough framing, electrical, plumbing, HVAC and fire protection;
 - d. Insulation;
 - e. Shower safin; and
 - f. Final framing, insulation, electrical, plumbing, HVAC and fire protection.
4. Upon completion of inspection, the code official shall notify the owner or owner's agent of the findings of the inspection. Such notification shall include the date and result of each inspection performed. The notification may be sent via electronic means such as electronic mail or text message, or left on site in report form. A copy of the results shall be kept on file in the office of the code official.

D. Certificate of Occupancy.

1. When Required. It is unlawful for any person to use or permit the use of any building or premises, or part thereof, hereafter erected, changed, converted or enlarged, wholly or partially, in use or structure until a certificate of occupancy shall have been issued by the Code Official. Such certificate of occupancy shall not be issued until all final inspections under this chapter have been satisfactorily completed.
2. Inspections.
 - a. The code official shall make a final inspection of all new buildings, additions, alterations and repairs. If no violations of this chapter or any other ordinance be found, the Code Official shall issue a certificate of occupancy, stating the purpose for which the building is to be used. Action to approve or deny any application for a permit or certificate of occupancy under this chapter shall be taken promptly and in no case longer than fourteen (14) days from the date the application is filed with the code official.
 - b. No building, nor part thereof, shall be occupied until a certificate of occupancy has been issued, nor shall any building be occupied in any manner which conflicts with the conditions set forth in the certificate of occupancy.
 - c. If the code official determines after final inspection that the building, structure or work has substantially complied in every respect with this Code, he or she shall

- officially approve the work and shall issue the certificate of occupancy to the owner or owner's agent.
- d. No person shall alter any plans or specifications in any respect after a permit or certificate of occupancy has been issued therefore, except with the written consent of the code official or other authority.
3. Use Discontinued.
 - a. Whenever any building or portion thereof is being used or occupied contrary to the provisions of this chapter, the code official shall order such use or occupancy discontinued and the building or portion thereof vacated, by notice served on the building owner or any person using or causing such use or occupancy to be continued and such person shall vacate such building or portion thereof within ten (10) days after receipt of the notice or make the building or portion thereof comply with the requirements of the chapter.
 - b. Any building, structure, or premises, or any part thereof, hereafter vacated or damaged by any cause whatsoever so as to jeopardize public safety or health, shall not hereafter be occupied or used under an existing certificate of occupancy or without the same, until an application has been filed and a new certificate of occupancy issued.
 4. Hardship. The code official shall have the authority and power to permit the occupancy of any building or structure in the town prior to issuance of an occupancy certificate, in all such case of hardship as in his or her judgment in discretion warrant occupancy before final stage of completion as set forth in this chapter. Before granting such permission, the code official shall first examine the premises and determine if it is safe and sanitary. The code official shall determine the time within which such building or structure can be completed, such time should not exceed one hundred twenty (120) days.

SEC. 1.1.090 RESIDENTIAL GARAGE.

- A. Notwithstanding s. SPS 320.05, the scope also includes the construction and inspection of detached garages serving one and two family dwellings. The building structure and any heating, electrical or plumbing systems shall comply with the Uniform Dwelling Code. Petitions for variance and appeals shall be handled as in Section 1.1.020 B. 1.

SEC. 1.1.100 FARM BUILDINGS.

- A. The construction of, addition to, or alteration of farm buildings are exempt from the issuance of a building permit. All other provisions of this Code with regards to any heating, electrical, plumbing or fire protection systems and permits shall apply.

SEC. 1.1.110 REGULATION AND PERMIT FOR RAZING BUILDINGS.

- A. Buildings within the scope of Sections 1.1.020 and 1.1.030 of this Code shall not be razed without a permit from the code official. A snow fence or other approved barricade shall be provided as soon as any portion of the building is removed and shall remain during razing operations. After all razing operations have been completed, the foundation shall be filled at least one (1) foot above the adjacent grade, the property raked clean, and all debris hauled away. Razing permits shall lapse and be void unless the work authorized thereby is commenced within six (6) months from the date thereof or completed within thirty (30) from the date of commencement of said work. Any unfinished portion of work remaining beyond the required thirty (30) days must have special approval from the code official.
- B. Without prior approval from the code official, all debris must be hauled away at the end of each day for the work that was done on that day. No combustible material shall be used for backfill. There shall not be any burning of materials on the site of the razed building without written consent from the town board and the code official. If any razing or removal operation under this Section results in, or would likely result in an excessive amount of dust particles in the air creating a nuisance in the vicinity thereof, the permittee shall take all necessary steps, by use of water spraying or other approved means, to eliminate such nuisance. The permittee shall take all necessary steps, prior to the razing of a building, through the employment of a qualified person in the field of pest control or by other approved means, to treat the building as to prevent the spread

and migration of rodents and insects therefrom during and after the razing operations. If razing or removal operation under this Section results in, or would likely result in the exposure of such hazardous materials as asbestos or lead, the permittee shall take all necessary steps, through the employment of a qualified person in the field of removal of such substances, to treat and eradicate such materials prior to the razing operation beginning.

SEC. 1.1.120 BASEMENTS AND EXCAVATIONS.

- A. **Basement Subflooring.** First floor subflooring shall be completed within sixty (60) days after the basement is excavated.
- B. **Closing of Abandoned Excavations.** Any excavation for building purposes or any uncovered foundation which shall remain open for more than three (3) months shall be deemed abandoned and a nuisance and the code official shall order that unless the erection of the building or structure on the excavation or foundation shall commence or continue forthwith suitable safeguards shall be provided or foundation be filled to grade to prevent accidental injury to children or other frequenters or that the excavation. Such order shall be served upon the owner of record or the owner's agent, where an agent is in charge of the premises, and upon the holder of an encumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or the holder of an encumbrance of record cannot be found, the order may be served by posting it on the premises and make publication in the official newspaper for two (2) consecutive publications at least ten (10) days before the time for compliance stated in the order commences to run. Such time shall be not less than fourteen (14) or more than twenty (20) days after service. If the owner of the land fails to comply with the order within the time required, the code official shall cause the excavation or foundation to be filled to grade. The cost of such abatement shall be charged against the real estate and entered on the next succeeding tax roll as a special charge and shall bear interest at a rate established by the town board from the date of the report by the Code Official, or his or her designee, on the cost thereof, pursuant to the provisions of Sec. 66.60, Wisconsin Statutes.

SEC. 1.1.130 REGULATION FOR MOVING BUILDINGS.

- A. **General Requirements.**
 - 1. No person shall move any building or structure upon any of the public ways of the town without first obtaining a permit therefore from the code official, and upon the payment of the required fee. Every such permit issued by the code official for the moving of a building shall designate the route to be taken, the conditions to be complied with and shall limit the time during which said moving operations shall be continued.
 - 2. A report shall be made by town employees with regard to possible damage to trees. The estimated cost of trimming, removal and replacement of public trees, as determined by the town, shall be paid to the code official prior to issuance of the moving permit.
 - 3. Issuance of moving permit shall further be conditioned on approval of the moving route by the town board.
- B. **Continuous Movement.**
 - 1. The movement of buildings shall be a continuous operation during all the hours of the day and at night, until such movement is fully completed. All such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection or so near thereto as to prevent easy access to any fire hydrant or any other public facility. Lights shall be kept in conspicuous places at each end of the building during the night.
- C. **Street Repair.**
 - 1. Every person receiving a permit to move a building shall, within one (1) day after said building reaches its destination, report that fact to the code official so that he or she may have the streets or roads over which said building has been moved inspected and ascertain their condition. If the transportation of said building has caused any damage to any road, street or highway, the person to whom the permit was issued shall forthwith place them in as good repair as they were before the permit was granted. On the failure of the said permittee to do so within ten (10) days thereafter to the satisfaction of the town board, the town board shall repair the damage done to such streets and hold the

person obtaining such permit and the sureties on his bond responsible for the payment of same.

D. Conformance with Code.

1. No permit shall be issued to move a building within or into the town and to establish it upon a location within the town until the code official has made an investigation of such building at the location from which it is to be moved and is satisfied from such investigation that said building is in a sound and stable condition and of such construction that it will meet the requirements of this Code in all respects. A complete plan of all further repairs, improvements and remodeling with reference to such building shall be submitted to the code official and he or she shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of this Code and that, when the same are completed, the building as such will so comply with this Code. In the event a building is to be moved from the town to some point outside the boundaries thereof, the provisions with respect to the furnishing of plans and specifications for proposed alterations to such building may be disregarded.

E. Bond.

1. Before a permit is issued to move any building over any public way in the town, the party applying therefore shall give a bond to the town in a sum to be fixed by the town board, and which shall not be less than one thousand dollars (\$1,000.00). Said bond shall be executed by a corporate surety or two (2) personal sureties to be approved by the town board or designated agent. Said bond shall be conditioned upon, among other things, the indemnification to the town for any costs or expenses incurred by it in connection with any claims for damages to any persons or property, and the payment of any judgment together with the costs and expenses incurred by the town in connection therewith arising out of the removal and/or moving of the building for which the permit is issued.
2. Unless the code official, upon investigation, shall find it to be a fact that the excavation exposed by the removal of such building from its foundation shall not be so close to a public thoroughfare as to permit the accidental falling therein of travelers or the location, nature and physical characteristics of the premises and the exposed excavation, such as to make intrusion upon the premises and the falling into such excavation of children under twelve (12) years of age unlikely, the bond required by Subsection (e)(1) shall be further conditioned upon the permittee erecting adequate barriers and within forty-eight (48) hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the Code Official, or his or her designee, and reasonably adopted or calculated to prevent the occurrences set forth herein.

F. Insurance.

1. The code official shall require, in addition to the said bond above indicated, public liability insurance covering injury to one (1) person in the sum of not less than one hundred thousand dollars (\$100,000.00) and for one (1) accident in the sum of not less than two hundred thousand dollars (\$200,000.00), together with property damage insurance in the sum of not less than fifty thousand dollars (\$50,000.00), or such other coverage as deemed necessary.

SEC. 1.1.140 FEES.

- A. All permit fees required by this Code shall be established by resolution of the town board. These fees shall be subject to annual review and amendment.
- B. If a permit is not obtained prior to commencement of work, the above fees shall be doubled.

SEC. 1.1.150 SEVERABILITY.

- A. If any section, clause, provision or portion of this Code, or of the Wisconsin Statutes or Administrative Code adopted by reference is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

SEC. 1.1.160 REPORT OF VIOLATIONS.

A. Town officers shall report at once to the code official, any work that is being carried on without a permit as required by this Code.

SEC. 1.1.170 PENALTIES.

A. The enforcement of this section and all other laws and ordinances relating to building shall be by means of the withholding of building permits, imposition of forfeitures and injunctive action. Forfeitures shall be not less than \$25.00 nor more than \$1,000.00 for each day of noncompliance.

SEC. 1.1.180 EFFECTIVE DATE.

A. This ordinance shall be effective January 1, 2020, upon passage and publication as provided by law.

SECTION 2. Effective Date. This Ordinance shall become effective January 1, 2020, and upon passage and publication as provided by law.

APPROVED: _____

Allen Schneider, Chairperson

Date Approved: December ____, 2019

Date Signed: December ____, 2019

This is to certify that the foregoing Ordinance was approved by the Town Board of the Town of Decatur, Green County, Wisconsin at a meeting held on the ____th day of December 2019, and was submitted for signatures on the ____day of December 2019.

Ann L. Schwartz, Town Clerk

TOWN OF DECATUR
ORDINANCE NO. 28

AN ORDINANCE CREATING CHAPTER 28 OF SAID CODE OF ORDINANCES TO PROVIDE FOR THE REGULATION OF WIND ENERGY SYSTEMS.

RECITALS

- A. Section 66.0401 of the Wisconsin Statutes limits and defines the ability of political subdivisions to regulate wind energy systems.
- B. The Wisconsin Public Service Commission has created regulations under said statutes which further limit and define the ability of political subdivisions to regulate wind energy systems.
- C. Title 4, Chapter 11, of the Green County Zoning Regulations is titled the “Wind Energy System Siting Ordinance” and said Ordinance sets forth Green County’s regulation of wind energy systems.
- D. It is the desire of the Town Board to exercise such authority as it is permitted to exercise under Wisconsin law to regulate wind energy systems and to adopt and expand on Green County’s Wind Energy System Siting Ordinance.

NOW, THEREFORE, the Town Board of the Town of Decatur, County of Green, State of Wisconsin, ordains as follows:

SECTION I: Chapter 28 of the Town of Decatur Code of Ordinances, to be captioned “Wind Energy Systems,” is created as follows:

SECTION 1. INTRODUCTION AND DEFINITIONS

1.1 Authority

The Town Board of Decatur has created this Chapter of the Municipal Code of the Town of Decatur, Green County, Wisconsin, under the authority granted to it pursuant to Wisconsin Statutes Section 66.0401.

1.2 Purpose

The purpose of this Chapter is to, within the limited authority granted to the Town Board as a political subdivision, restrict the installation and use of Wind Energy Systems within the Town of Decatur, establish procedures for regulation of Wind Energy Systems within the Town of Decatur, and preserve and protect the public health and safety within the Town of Decatur.

1.3 Intent

It is the general intent of this Chapter to regulate, within the limited authority granted to the Town Board by the Sections 66.0401 and 66.0403 of the Wisconsin Statutes, the installation and use of Wind Energy Systems within the Town of Decatur. The Town of Decatur hereby adopts the terms of Green County's Wind Energy System Siting Ordinance and expands on the same as set forth below.

1.4 Abrogation and Lesser Restrictions

It is not intended by this Chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, or permits adopted or issued pursuant to law. If any specific provision of this Chapter is found to be a greater restriction than a specific restriction created by Wisconsin Code Chapter PSC 128 – Wind Energy Systems, authorized by Wisconsin Statute Section 196.378(4g)(b), then the lesser restriction of Wisconsin Code Chapter PSC 128 shall apply.

1.5 Interpretation

The provisions of this Chapter shall be liberally construed in favor of the Town and public health and safety and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.6 Severability

Should any provision in this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected.

SECTION 2. TOWN REQUIREMENTS

2.1 Notice Required

No Owner may construct a Wind Energy System within the Town of Decatur or expand an existing or previously approved Wind Energy System within the Town of Decatur without first providing Notice to the Town Board.

2.2 Notice

(A) No less than 30 days before filing an Application with the State of Wisconsin or Green County regarding any Wind Energy System, the Owner shall use a commercially reasonable method to provide written notice of the planned Wind Energy System to the Town Clerk of the Town of Decatur.

(B) The Notice shall contain the following information:

(1) A complete description of the Wind Energy System, including the number and size of the planned wind turbines;

(2) A map showing the planned location of all Wind Energy System Facilities;

- (3) Contact information for the Owner;
- (4) A list of all potential permits or approvals the Owner anticipates may be necessary for construction of the Wind Energy System; and
- (5) Whether the Owner requests the Town of Decatur to be a part of a joint review process and the name of each city, village, town, or county that may participate in the joint review process (in which case the Town Clerk and Town chairperson shall coordinate with officials from participating parties).

SECTION 3. PENALTIES AND ENFORCEMENT

Any person who violates any of the requirements set forth in this Chapter shall be deemed in violation of this Chapter and the Town Board may initiate action in any court of competent jurisdiction to impose a forfeiture and/or enjoin the violation. Any person shall, upon conviction of any such violation, forfeit not less than \$200 nor more than \$5000 for each day the violation continues, together with the costs of prosecution, and, in default of payment, shall be imprisoned in the county jail until such forfeiture is paid, but not to exceed 90 (ninety) days.

SECTION II. This Ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

Dated this 20 day of August, 2019.


Allen Schneider, Town Chair

SUMMARY OF ORDINANCE FOR PUBLICATION

PLEASE TAKE NOTICE THAT the Town Board of the Town of Decatur, Green County, Wisconsin, has adopted Ordinance No. 28 on August 20, 2019, creating Chapter 28 of the Town of Decatur Municipal Code.

Said Ordinance results in the assumption of the powers permitted under Wisconsin law for political subdivisions to regulate wind energy systems.

The full text of the Ordinance may be obtained from the Town Clerk, Angie Geiwitz, by calling her at 608-897-4965, by viewing it on the Town's web site at townofdecatur.com or by viewing the Ordinance at the Decatur Community Center at 1408 14th St Brookwood WI 53520, where it is posted.

CERTIFICATION

I hereby certify that the above ordinance was adopted by the Town Board of the Town of Decatur on the 20 day of August, 2019, and that on the 14 day of August, 201, a summary of this ordinance, set forth above, consistent with Wis. Stat. § 60.80 (5), was published in _____, the official newspaper of the Town of Decatur.

Angie Geiwitz
Angie Geiwitz, Town Clerk

Subscribed and sworn to before me
this _____ day of _____, 2019.

Notary Public, Green County, Wisconsin
My Commission is permanent
or expires: _____