Resolution No. 27 – 06/23

**Recommending Revisions to the Solar and Wind Energy Regulations as Established by the Wisconsin Administrative Code and the Wisconsin Statutes**

Moved/Sponsored by: County Zoning Agency

**WHEREAS**, the Wisconsin Legislature has limited how counties can regulate solar and wind energy systems pursuant to sections 66.0401 and 196.491 of the Wisconsin Statutes;and,

**WHEREAS**, the Wisconsin Public Service Commission (“PSC”) has promulgated rules that limit how counties can regulate wind energy systems under PSC 128 of the Wisconsin Administrative Code; and,

**WHEREAS**, the regulation of solar energy systems is generally dependent on size, with smaller solar energy systems being subject to sec. 66.0401(1m) Wis. Stat., and those above one hundred (100) megawatts being subject to the PSC; and,

**WHEREAS**, planning and zoning are fundamental regulatory functions of Wisconsin counties; and,

**WHEREAS**, the State has given planning and zoning authority to the county through sec. 59.69 Wis. Stat., specifically in order to “promote the public health, safety, convenience and general welfare; to encourage planned and orderly land use development; to protect property values and the property tax base” and to “preserve wetlands; to conserve soil, water and forest resources; to protect the beauty and amenities of landscape and man-made developments; to provide healthy surroundings for family life.” However, when it comes to utility-scale solar, the county process and authority are completely circumvented; and,

**WHEREAS**, while sec. 66.0401(1m) Wis. Stat. provides a mechanism for counties to consider areas of local concern, it provides little ability for counties to restrict or even deny a project based on local concerns from residents, environmental impact, or economic impact; and,

**WHEREAS**, an untold number of acres of prime farmland, wildlife habitat, threatened and endangered species of plants and animals, scenic country views, lives, and livelihoods could be destroyed with little to no opportunity for the county to intervene.

**NOW, THEREFORE, BE IT RESOLVED** that the Walworth County Board of Supervisors hereby requests that the Wisconsin Legislature revise secs. 66.0401(1m) and 196.491 Wis. Stats. as follows in order to grant Wisconsin counties the authority to responsibly site utility-scale solar installations in order to maintain orderly planning and comply with the statutory requirement laid out in sec. 66.1001(3) Wis. Stat. to adhere to the objectives, goals, and policies contained in the county’s comprehensive plan:

**~~66.0401(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.~~

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

**196.491(3)(d)** Except as provided under par. (e), the commission shall approve an

application filed under par. (a) 1. for a certificate of public convenience and necessity

only if the commission determines all of the following:

2. The proposed facility satisfies the reasonable needs of the public for an adequate supply of electric energy. ~~This subdivision does not apply to a wholesale merchant plant.~~

3. The design and location or route is in the public interest considering alternative sources of supply, alternative locations or routes, individual hardships, engineering, economic, safety, reliability and environmental factors, ~~except that the commission may not consider alternative sources of supply or engineering or economic factors if the application is for a wholesale merchant plant.~~ In its consideration of environmental factors, the commission may not determine that the design and location or route is not in the public interest because of the impact of air pollution if the proposed facility will meet the requirements of ch. 285.

**BE IT FURTHER RESOLVED** that the County Clerk will send a copy of this resolution to Governor Tony Evers, all members of the State Legislature representing Walworth County, and the Wisconsin Counties Association.

Rick Stacey Susi Pike

County Board Chair County Clerk

County Board Meeting Date: June 13, 2023

Action Required: Majority Vote X Two-thirds Vote \_\_\_\_\_\_ Other \_\_\_\_\_\_

Policy and Fiscal Note is attached.

Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

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Michael P. Cotter Date Jessica Conley Date

Corporation Counsel Finance Director

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Mark W. Luberda Date

County Administrator

If unsigned, exceptions shall be so noted by the County Administrator.

**Policy and Fiscal Note**

Resolution No. 27 – 06/23

**I. Title:** Recommending Revisions to the Solar and Wind Energy Regulations as Established by the Wisconsin Administrative Code and the Wisconsin Statutes

**II. Purpose and Policy Impact Statement:** Walworth County opposes the current Renewable Energy regulations as promulgated by the Wisconsin Public Service Commission (“PSC”) and the Wisconsin Statutes. The purpose of this resolution is to recommend revisions to these regulations.

**III. Budget and Fiscal Impact:** Passage of this resolution will not have any fiscal impact on the County budget.

**IV. Referred to the following standing committees for consideration and date of referral:**

Committee: County Zoning Agency Meeting Date: May 18, 2023

Vote: 4 – 3

County Board Meeting Date: June 13, 2023

Policy and fiscal note has been reviewed and approved as an accurate statement of the probable policy and fiscal impacts associated with passage of the attached resolution.

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Michael P. Cotter Date Jessica Conley Date

Corporation Counsel Finance Director

Mark W. Luberda Date

County Administrator