

700.41 Solar and wind access.

(1) PURPOSE. The purpose of this section is to promote the use of solar and wind energy by allowing an owner of an active or passive solar energy system or a wind energy system to receive compensation for an obstruction of solar energy by a structure outside a neighbor's building envelope as defined by zoning restrictions in effect at the time the solar collector or wind energy system was installed.

(2) DEFINITIONS. In this section:

(a) "Building envelope" means the 3-dimensional area on a lot on which building is permitted, as defined by the existing ground level and by any applicable height restriction, setback requirement, side yard requirement or rear yard requirement, notwithstanding any provisions for variances, special exceptions or special or conditional uses in effect in the city, town or village in which the lot is located.

(b) "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.

(c)

1. "Obstruction" means any of the following:

a. The portion of a building or other structure which blocks solar energy from a collector surface between the hours of 9 a.m. to 3 p.m. standard time if the portion of the building or structure is outside a building envelope in effect on the date of the installation of the solar collector.

b. The portion of a building or other structure which blocks wind from a wind energy system if the portion of the building or structure is outside a building envelope in effect on the date of the installation of the wind energy system.

2. "Obstruction" does not include blockage by a pole, wire, television antenna or radio antenna.

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

(e) "Solar energy" has the meaning given under s. [66.0403 \(1\) \(k\)](#).

(f) "Solar energy system" has the meaning given under s. [13.48 \(2\) \(h\) 1. g.](#)

(g) "Standard time" has the meaning given under s. [66.0403 \(1\) \(L\)](#).

(h) "Wind energy system" has the meaning given in s. [66.0403 \(1\) \(m\)](#).

(3) DAMAGES. Except as provided under sub. [\(4\)](#), the owner of a solar energy system or a wind energy system is entitled to receive damages, court costs and reasonable attorney fees from any person who uses property which he or she owns or who permits any other person to use the property in any way which would create an obstruction of the owner's solar collector surface or wind energy system. The owner of the solar energy system or wind energy system shall have the burden of showing by a preponderance of the evidence the amount of the damages.

(4) APPLICABILITY.

(a) The provisions of this section related to solar energy systems do not apply to any obstruction:

1. Existing on or before May 7, 1982.

2. For which a building permit was issued prior to installation of the solar collector, the solar energy to which is blocked by the obstruction.

3. Existing on or before the date of installation of the solar collector, the solar energy to which is blocked by the obstruction.

(b) The provisions of this section related to wind energy systems do not apply to any obstruction:

1. Existing on or before May 7, 1994.

2. For which a building permit was issued before the installation of the wind energy system, the wind to which is blocked by the obstruction.

3. Existing on or before the date of installation of the wind energy system, the wind to which is blocked by the obstruction.

History: [1981 c. 354](#); [1981 c. 391](#) s. [183](#); Stats. 1981 s. 700.41; [1983 a. 27](#) s. [2202 \(57\)](#); [1985 a. 120](#); [1993 a. 414](#); [1999 a. 150](#) s. [672](#).

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