



2022-00000587

**AUGUST H. GRIFFIN
REGISTER OF DEEDS
EDGAR COUNTY, IL
03/21/2022 01:57 PM
ORDN**

PAGES: 13

EDGAR COUNTY SOLAR ENERGY SYSTEM (SES) ORDINANCE

MARCH 9, 2022

EDGAR COUNTY SOLAR ENERGY SYSTEM (SES) ORDINANCE

Scope

This article applies to all commercial solar energy facilities in unincorporated Edgar County that convert sunlight into electricity for the primary purpose of wholesale sales of generated electricity. This ordinance shall not be deemed to nullify any provisions of local, state, or federal law.

Purpose

1. To assure the protection of health, safety, welfare, and property values for all Edgar County residents and landowners.
2. To avoid adverse impact on important areas such as agricultural land, endangered species habitats, conservation land, and other sensitive lands.
3. To assure that any development and product of solar-generated electricity in Edgar County is safe and effective.
4. To promote the supply of solar energy in support of the State of Illinois' statutory goal of increasing energy production from renewable energy sources.
5. To facilitate economic opportunities for local residents.

Definitions

AIMA: Standard Agricultural Impact Mitigation Agreement (505 ILCS147), Illinois Department of Agriculture's required standards and policies to help preserve the integrity of any Agricultural Land that is impacted by the Construction and Deconstruction of a Commercial Solar Energy Facility.

Agrivoltaics: the simultaneous use of areas of land for both solar photovoltaic power generation and agriculture.

Applicant: The entity or person who submits to Edgar County an application for the siting and permitting of any SES or substation.

Aviation Protection: For solar farms located within 500 feet of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

County: refers to Edgar County

ECEMA: Edgar County Emergency Management Agency

ECPHD: Edgar County Public Health Department

ECSWCD: Edgar County Soil & Water Conservation District

Financial Assurance: Pursuant to the AIMA, funds or financial instruments that provide financial assurance sufficient for maintenance and decommissioning.

IDNR: IL Department of Natural Resources

IDO: refers to Illinois Department of Agriculture

ILPB: Illinois Pollution Control Board

Landowner: The person/persons or entity that signs the lease agreement with the “owner” for SES siting.

NPDES: National Pollutant Discharge Elimination System

Noxious Weeds: any of several plants designated pursuant to the Illinois Noxious Weed Law (505 ILCS 100/1 et seq.) and that are identified in 8 Illinois Administrative Code 220.

Operator: The entity responsible for the day-to-day operation and maintenance of the SES, including any third party subcontractors.

Owner: The entity or entities with an equity interest in the SES(s), including their respective successors and assigns. Owner does not mean (1) the property owner from whom the land is leased for locating the SES (unless the property owner has an equity interest in the SES); or (2) any person holding a security interest in the SES(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the SES(s) at the earliest practical date.

Professional Engineer: a qualified individual who is licensed as a professional engineer in Illinois.

Primary Structure: for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, churches, schools and day care facilities. Primary Structures exclude structure such as hunting sheds, storage sheds, pool houses, unattached garages and barns.

Solar Energy System (SES): all necessary devices that together convert solar energy into electricity and deliver that electricity to a utility’s transmission lines.

Solar Farm: A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

Solar Project: The collection of SESs as specified in the permit application.

Prohibition

No Solar Project governed by this Ordinance shall be constructed, erected, installed, or located within Edgar County, unless prior siting approval has been obtained in accordance with this Ordinance.

Other Standards

Ground-mount solar energy arrays that are the primary use on the lot, designed for providing energy to off-site uses or for export to the wholesale market, are permitted under the following standards:

- A. *Stormwater and NPDES:* Solar farms are subject to NPDES permit requirements. The SES must comply with ECPHD requirements for well and septic systems in the event of stormwater runoff.
- B. *Ground Cover and Buffer Areas:* Top soils shall not be removed during development, unless part of a remediation effort. Soils shall be planted to and maintained in perennial vegetation to prevent erosion, manage run off and build soil. The site shall be planted and maintained to be free of invasive or noxious species as identified by ECSWCD. Due to potential county liability under the Illinois Endangered Species Protection Act 520 ILCS 10/11(b), it is required that any crops planted be in compliance with all federal and state laws protecting endangered species. This will also include pollinators such as bees.
- C. *Foundations:* A qualified engineer shall certify that the foundation and design of the solar panels' racking and support is within accepted professional standards, given local soil and climate change conditions. All fees shall be paid by the SES Applicant/Owner/Operator.
- D. *Fencing:* Perimeter fencing for the site shall not include barbed wire or woven wire designs and shall preferably use wildlife-friendly fencing standards that include clearance at the bottom. Alternative fencing can be used if the site is incorporating agrivoltaics.
- E. *Other Standards and Codes:* All solar farms shall be in compliance with all applicable local, state, and federal regulatory codes, including the State of Illinois Uniform Building Code, as amended, and the National Electric Code, as amended.
- F. *Power and Communication Lines:* Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by Edgar County in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Edgar County Board.

- G. *Site Plan Required*: A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands, and other protected natural resources, topography, electric equipment, and all other characteristics requested by Edgar County.
- H. *Setbacks*: A minimum setback of 50 feet must be maintained on all property lines or right of way. Solar panels will be kept at least 500 feet from a primary structure that is not part of the Special Use. This requirement may be waived, provided the solar farm's owner/lessee obtains and records with the Edgar County Clerk & Recorder, signed and notarized affidavits agreeing that the need for a Special Use Permit be waived from all property owners adjoining the lot on which the SES is to be located. However, in no instance shall any part of the SES be located within fifty (50) feet of any of the aforementioned items.
- I. *Aviation Protection*: For solar farms located within 500 feet of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.
- J. *Natural Resource Inventory Information Report*: Solar farm developers shall be required to initiate a natural resource review inventory report by contacting the ECSWCD, this report will include soil and wetland information, water quality information, cultural resources, and endangered species. The ECSWCD has 30 days to release this information. The cost of the Natural Resource Inventory Report consultation will be borne by the developer.
- K. *Endangered Species and Wetlands*: Solar farm developers shall be required to initiate a natural resource review consultation with the IDNR through the department's online EcoCat program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation will be borne by the developer.
- L. No construction may intrude on any easement or right of way for a gas pipeline or hazardous liquid pipeline, an underground water main or sanitary sewer, a drainage district ditch or tile, or any other public utility facility unless specifically authorized by a crossing agreement that has been entered into with the relevant party.
- M. *Farmland Damage Mitigation*:
 - 1. All underground wiring or cabling for the SES shall be at a minimum depth of five feet below grade or deeper if required to maintain a minimum one foot clearance between the wire or cable and any agricultural drainage tile or a lesser depth if so authorized by the AIMA.
 - 2. The applicant shall locate all existing agricultural drainage tile prior to establishing any construction staging areas, construction of any necessary SES access lanes or driveways, construction of any SES structures, any common switching stations, substations, and

installation of underground wiring or cabling. The applicant shall contact affected landowners and tenants and the ECSWCD and any relevant drainage district for their knowledge of tile line locations prior to the proposed construction. Drainage districts and all affected landowners shall be notified at least four weeks prior to disruption of tile.

3. The location of drainage tile lines and any existing drainage tile easement shall be staked or flagged prior to construction to alert construction crews of the presence of drainage tile and the related easement. Any drainage tile for which there is no existing easement shall be protected from disturbance by a 30 feet wide no-construction buffer on either side of the drainage tile. This buffer shall be marked prior to the start of construction and shall remain valid for the lifetime of the SES permit and during any deconstruction activities that may occur unless specific construction is authorized in writing by all commissioners of the relevant drainage . A copy of the written authorization shall be provided to the County prior to the commencement of construction.
 4. Any agricultural drainage tile located underneath construction staging areas, access lanes, driveways, any common switching stations, and substations shall be repaired, replaced, or rerouted per agreement with the affected landowner or tenant. Tile lines must be marked in such manner that they will remain visible until the permanent repairs are completed.
 5. All exposed tile lines shall be screened or otherwise protected to prevent the entry into the tile of foreign materials, loose soil, small mammals, etc.
 6. Permanent tile repairs shall be made within 14 days of the tile damage provided that weather and soil conditions are suitable or a temporary tile repair shall be made. Immediate temporary repair shall also be required if water is flowing through any damaged tile line. All temporary and permanent tile repairs shall not be waived or modified except as authorized by the affected landowner or tenant. All damaged tile shall be repaired by a local tile contractor so as to operate as well after construction as before construction began.
 7. All soil conservation practices, such as terraces, grassed waterways, etc., that are damaged during SES construction and/or decommissioning shall be restored by the applicant to preconstruction condition in a manner consistent with the AIMA.
- O. *Noise Evaluation Report*: Noise levels from any SOLAR FARM shall be in compliance with the applicable Illinois Pollution Control Board (IPCBB) regulations (35 Illinois Administrative Code Subtitle H: Noise Parts 900, 901, 910).

Siting Approval Application

Prior to seeking approval to build any SES within the jurisdiction of this ordinance, the Applicant must provide evidence that an AIMA agreement has been approved by IDOA.

To obtain approval to build any SES within the jurisdiction of this ordinance, the Applicant must first submit a siting approval application to the County. The application shall be filed with the Edgar County Supervisor of Assessments and shall be accompanied by all supporting documentation at the time of submittal.

Public Participation

Nothing in this Ordinance is meant to augment or diminish existing opportunities for public participation at the Edgar County Board meeting wherein the permit is to be voted upon.

Application Process

- A. To assist in the incidental cost of the application process, each applicant shall be required to pay a non-refundable application fee of ten thousand dollars (\$10,000). All fees shall be due at the time the application is submitted to the Edgar County Supervisor of Assessments.
- B. The County shall have the authority to create and require the use of any application or information form necessary or useful in the execution of this ordinance. However, no application, which substantially complies with the requirements of this ordinance, shall be refused appropriate review.
- C. The permit approval application shall contain or be accompanied by the following information:
 1. The name(s), address (es) and phone number(s) of the Applicant(s), Owner(s) and Operator(s) and all property owners, if known, as well as any available references and history of similar projects constructed, maintained or operated by any Applicant, Owner or Operator. Regardless of Applicant's home location, Applicant shall have a registered agent within the State of Illinois, authorized to receive service of all Notices from Edgar County related to subject matter governed by the Ordinance.; and
 2. A site plan for the installation of SES components, setback lines, public access roads, cabling, third party transmission lines, and layout of all structures within the geographic boundaries of any applicable setback. Any staging or layout area, where equipment will be gathered for installation, will be identified; and
 3. All required studies, certifications, reports, and approvals demonstrating compliance with the provisions of this Ordinance and all State and Federal laws.

- D. The County may reject any application which does not substantially and in good faith, contain the required or requested information.
- E. The application shall be reviewed by the Edgar County Board and the Edgar County State's Attorney who may request changes in the application; it being expressly allowed under any application by the Applicant to submit multiple SES Project Summaries which may vary in nameplate generating capacity and/or components used provided that each and every Project summary so submitted must still comply with these Ordinances and provided further that the County in its sole discretion may approve any one or more of such summaries once the Applicant has finalized its supply agreements for all SES components. The granting or denial of a permit application is a final decision of the Edgar County Board and may be appealed as provided for in Illinois Administrative Review Act, 735 ILCS 5/3-101.
- F. The applicant shall notify the County of any changes to the information, provided that the changes occur while the permit approval application is pending. Any material deviation between the specifications of the application and the actual construction are a violation of this ordinance, unless waived, in writing, by the County.
- G. Actual on site construction must commence within one year of building application approval by the Edgar County Board or permits will no longer be valid. Responsibility for proving actual construction to the County is placed on the Applicant/Owner/Operator.

Use of Public Roads

An Applicant, Owner or Operator proposing to use any county, municipality, township or village road(s), for the purpose of transporting SES parts and/or equipment for construction, operation, or maintenance of the SES shall:

1. Include in the application the identity of all such public roads to be used; and
2. Obtain applicable weight and size permits from relevant government agencies prior to construction.

To the extent an Applicant, Owner or Operator must obtain weight or size permits from the county, municipality, township or village, the Applicant, Owner or Operator shall:

1. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
2. Enter into a Roadway Use and Repair Agreement approved by the County Engineer, affected Township Highway Commissioner, and Edgar County States Attorney's office.

3. Secure Financial Assurance, in a reasonable amount agreed to by the relevant parties, for the purpose of repairing any damage to public roads caused by constructing, operating or maintaining the SES.

Coordination with the Local Fire Department and ECEMA

The Applicant, Owner, or Operator shall submit to the local fire department and ECEMA a copy of the site plan.

Upon request by the local fire departments and ECEMA, the Owner or Operator shall cooperate with those agencies to develop a county-wide emergency response plan. In addition, at no cost to the local fire departments or ECEMA, the Owner or Operator shall provide to ECEMA any specialized and necessary rescue and firefighting equipment that was identified as necessary by the local fire departments and ECEMA to be used in the event of an emergency at the project sites by the local fire departments and ECEMA. In addition, the Owner or Operator shall have the responsibility to update – at no cost to the local fire departments or ECEMA– any such equipment in possession of ECEMA

Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

Material Handling, Storage and Disposal

All solid wastes related to the construction, operation and maintenance of the SES shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

All hazardous material related to the construction, operation and maintenance of the SES shall be handled, stored, transported and disposed of in accordance with all applicable federal, state and local laws.

Other Requirements

- A. Upon request from Edgar County, the owner/lessee of the SES must submit, within 14 days, a current operation and maintenance report.
- B. Fencing is required, with minimum 6' height or maximum 8' height. The fence shall contain appropriate warning signage that is posted such that it is clearly visible on the site.
- C. Any lighting for SES shall be installed for security and safety purposes only. Except for lighting that is required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the facility.
- D. Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties.

- E. SES components must have a UL listing and must be designed with antireflective coating(s) and be in compliance with all State of Illinois Building, Electric, Plumbing, and Energy codes.

Liability Insurance and Indemnification

Commencing with the issuance of building permits, the Applicant, Owner, or Operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$3 million per occurrence and \$5 million in the aggregate. Such insurance may be provided pursuant to a plan of self-insurance by a party with a net worth of \$20 million or more. The County shall be named as an individual insured on the policy to the extent that the county is entitled to indemnification.

Any SES, Applicant, Owner, or Operator shall defend, indemnify, and hold harmless the County and its officials, employees, and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of actions, damages, injuries, costs, expenses, and liabilities whatsoever including reasonable attorney's fees, except to the extent arising in whole or part out of negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability"), arising out of Applicant, Owner, or Operators selection, construction, operation, and removal of the SES and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limited or qualifying the County's other indemnification rights available under law.

Decommissioning

- A. Financial Assurance shall be secured by the SES Owner or Operator for the purpose of adequately performing decommissioning in an amount equal to 100% the Professional Engineer's certified estimate of the decommissioning, not including salvage value. The Professional Engineer shall be selected by and paid for by the SES Owner. A Professional Engineer shall assess and certify the estimate for decommissioning before the SES's sixth, eleventh, and twenty-first years of operation.
- B. A decommissioning plan shall be required as part of the contract with the individual landowner to ensure that facilities are properly removed after their useful life. Decommissioning shall follow the AIMA and its structure and landowner protections. This contract shall include identification of and procedures for the Land Owner to access the Financial Assurances.
- C. The Land Owner shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

- D. The decommissioning and site reclamation plan shall be binding upon all successors of title, lessees, to any operator and/or owner of an SES.
- E. Upon request from the Edgar County Board, the owner/lessee must provide documentation within thirty (30) days that the SES is still in use. If it is not, the owner/lessee of the SES will have 180 days after notification from the Edgar County Board to remove the Solar Energy System from the property.
- F. Decommissioning of solar panels must occur in the event that they are not in use for 9 consecutive months.
- G. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation, and a plan ensuring financial resources will be available to fully decommission the site.

Remedies

- A. The Applicant, Owner or Operator failure to materially comply with any provisions within this ordinance shall constitute a violation under this Ordinance.
- B. To accomplish the purpose of this ordinance, Edgar County Board members, Highway Engineer, and the Supervisor of Assessments shall have the right to enter upon any land which a SES or structure related to the operation or maintenance of such SES is situated. If entry is denied, the Edgar County Board may seek an administrative search warrant to enter and inspect the land and structures.
- C. Prior to implementation of the existing County Procedures for the resolution of such default(s), the appropriate County body shall provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner or Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s), except those default(s) which implicate public safety in which case the Edgar County States Attorney in consultation with the Edgar County Board may issue a stop order.
- D. Any violation of this ordinance shall be an offense punishable by a fine not to exceed \$1,000 per day. Each day a violation goes un-remedied after the Owner or Operator is put on notice of the violation via letter to Applicant / Owner / Operator by registered mail to Applicant / Owner / Operator's Illinois registered agent is considered a separate offense. It is the goal of this ordinance to promote safety to protect the public, and the court in setting an appropriate fine shall consider the nature of the offense, the degree of public safety involved, the efforts of the County and the responsible owner or applicant to quickly and safely resolve any infraction.
- E. It is understood that if the Edgar County Board has to take action to enforce the Ordinance against the Applicant/Owner/Operator, any expense necessarily hired by the County, including but not limited to Attorneys and Engineering experts, should the County prevail, said

Applicant/Owner/Operator shall reimburse the County all funds paid by the County to said Attorneys, Engineers, and other experts.

- F. If any provision of the Ordinance or its application to any person or circumstances is held invalid, the invalidity of that provision or application does not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application.

Resolution for Edgar County Solar Energy System (SES) Ordinance

Whereas, the Draft Edgar County Solar Energy System (SES) Ordinance has been posted on the County's website for at least 10 days; and

Whereas, a Public Hearing was held on March 9, 2022 at 8:30 a.m. at the Edgar County Courthouse to present the proposed Edgar County Solar Energy System (SES) Ordinance; and

Whereas, sufficient time was allowed to take questions and provide answers; and

Therefore, Be It Resolved, that the moratorium placed on any new applications for solar farm development in Edgar County, Illinois has expired on this 9th day of March, 2022; and

Be It Further Resolved, that the foregoing Edgar County Solar Energy System (SES) Ordinance is now in effect.

I move for the adoption of the foregoing resolution


Board Member

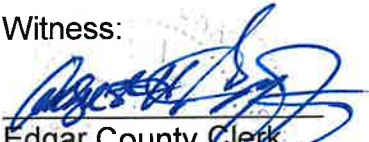
I second the motion for adoption of this resolution


Board Member

Passed and adopted this 9th day of March, 2022


Chairman of the Board

Witness:


Edgar County Clerk
(Seal)

Edgar County, Illinois



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2022-00000601

**AUGUST H. GRIFFIN
REGISTER OF DEEDS
EDGAR COUNTY, IL
03/23/2022 09:44 AM
ORDN**

PAGES: 14

THE EDGAR COUNTY WIND ENERGY CONVERSION SYSTEM (WECS ORDINANCE)

AMENDED

June 9, 2021

AMENDMENT TO THE EDGAR COUNTY WIND ENERGY CONVERSION SYSTEM (WECS) ORDINANCE

WHEREAS, the Edgar County Board is the deliberative governing body for the County of Edgar, State of Illinois; and

WHEREAS, the Board has been made aware of proposed Wind Energy Conversion System (WECS) developments in Edgar County and wishes to amend Ordinance No. 09-02 passed on Nov 20, 2009 (amended on Nov 19, 2010 & Nov 4, 2020); and


WHEREAS, that while the Board supports economic development in Edgar County, due to the substantial collateral impact of WECS construction and placement, prudent regulation is necessary; and

WHEREAS, the purpose of said regulations is to provide a uniform and comprehensive set of standards for the installation and operation of wind energy conversion systems designed for commercial energy production; and

WHEREAS, the intent of these regulations is to protect the public health, safety and community welfare while allowing development of wind energy resources for commercial purposes;

THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF EDGAR, ILLINOIS, THAT:

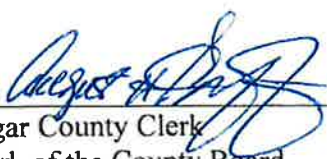
The County of Edgar, Illinois, hereby amends this Wind Energy Conversion System Ordinance, pursuant to Illinois State Statute 55 ILCS 5/5-12020, to institute regulations for siting Wind Energy Conversion Systems or WECS, outside the 1.5 mile extraterritorial jurisdiction of Edgar County, Illinois, municipalities. The effected municipalities may resolve to utilize this ordinance in the 1.5 mile extraterritorial jurisdiction.

I move for the adoption of the foregoing Ordinance. 

I second the motion for the adoption of the foregoing Ordinance. 

PASSED and APPROVED this 9 day of June, 2021, by a roll call vote.

ATTESTED:


Edgar County Clerk
Clerk of the County Board

(SEAL)


Chairman of the Board
of Edgar County IL

I. Introduction

This ordinance shall amend the Edgar County Wind Energy Conversion System (WECS) Ordinance No. 09-02 passed on Nov 20, 2009 (amended on Nov 19, 2010 & Nov 4, 2020) and be known, cited and referred to as the Edgar County Wind Energy Conversion System (WECS) Ordinance.

A. Purpose

1. To assure the protection of health, safety, welfare, and property values for all Edgar County residents and land owners.
2. To assure that any development and production of wind-generated electricity in Edgar County is safe and effective.
3. To promote the supply of wind energy in support of the State of Illinois' statutory goal of increasing energy production from renewable energy sources.
4. To facilitate economic opportunities for local residents.

II. DEFINITIONS

A. "Applicant" means the entity or person who submits to Edgar County, pursuant to Section V of this ordinance, an application for the siting and permitting of any WECS or Substation.

B. "Financial Assurance" means reasonable assurance from a credit worthy party, examples of which include surety bond, trust instrument, cash escrow, irrevocable letter of credit, or a corporate guarantee from an entity whose credit is investment grade at Moody's at no less than A-3 (reviewed on an annual basis).

C. "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.

D. "Owner" means the entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (1) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (2) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) at the earliest practical date.

E. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in Illinois

F. "Primary Structure" means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure

includes structures such as residences, commercial buildings, hospitals, churches, schools and day care facilities. Primary Structures exclude structure such as hunting sheds, storage sheds, pool houses, unattached garages and barns.

G. "Wind Energy Conversion System (WECS)" means all necessary devices that together convert wind energy into electricity and deliver that electricity to a utility's transmission lines, including, but not limited to, the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation, transformer, electrical cabling from the tower to the substation(s)/switchyard(s), communication facilities, operations and maintenance building, and other related devices, facilities, and equipment.

H. "WECS Project" means the collection of WECSs as specified in the permit application pursuant to Section V of this ordinance.

I. "WECS Tower" means the support structure to which the nacelle and rotor are attached.

J. "WECS Hub Height" means the distance from the center of the rotor hub to the top surface of the WECS tower foundation.

K. "WECS Tower Tip Height" means the distance from the rotor blade at its highest point to the top surface of the WECS tower foundation.

L. "Substation" means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utilities transmission lines.

M. "Landowner" means the person/persons or entity that signs the lease agreement with the "owner" for WECS siting.

N. "County" refers to Edgar County

O. "IDOA" refers to the Illinois Department of Agriculture

III. Applicability

This Ordinance governs the siting of WECS's and Substations that generate electricity to be sold to wholesale and retail markets, except that owners of WECS's with an aggregate generating capacity of 3MW or less who locate the WECS's on their own property are not subject to this Ordinance.

Residential or private use towers are subject to the setback rule of 1.5 times the height from public roads.

IV. Prohibition

No WECS or WECS Project governed by Section III of this Ordinance shall be constructed, erected, installed, or located within Edgar County, unless prior siting approval has been obtained for each individual Tower, WECS and Substation pursuant to this Ordinance.

V. Siting Approval Application

A. To obtain approval to build any structure within the jurisdiction of this ordinance or as set out in Section III, the Applicant must first submit a siting approval application to the County. The application shall be filed with the Edgar County Supervisor of Assessments, and shall be accompanied by all supporting documentation at the time of submittal. Approval of the application will include a "Public Hearing".

B. To assist in the incidental cost of the application process, each applicant shall be required to pay a non-refundable application fee of \$1,500 per tower up to a maximum initial fee of seventy five thousand dollars (\$75,000). All fees shall be due at the time the application is submitted to the Edgar County Supervisor of Assessments.

C. The County shall have the authority to create and require the use of any application or information form necessary or useful in the execution of this ordinance. However, no application, which substantially complies with the requirements of this ordinance, shall be refused appropriate review.

D. The permit approval application shall contain or be accompanied by the following information.

1. A WECS Project summary, including, to the extent available: (a) a general description of the project, including its approximate name plate generating capacity: the potential equipment manufacturer(s), type(s) of WECS(s), number of WECSs and name plate generating capacity of each WECS, the maximum height of the WECS tower(s) and the maximum diameter of the WECS(s) rotor(s): the general location of the project; (b) A description of the Applicant, Owner, and Operator, including the respective business structures.

2. The name(s), address (es) and phone number(s) of the Applicant(s), Owner(s) and Operator(s) and all property owners, if known, as well as any available references and history of similar projects constructed, maintained or operated by any Applicant, Owner or Operator. Regardless of Applicant's home location, Applicant shall have a registered agent within the State of Illinois, authorized to receive service of all Notices from Edgar County related to subject matter governed by the Ordinance.

3. A site plan for the installation of WECSs showing the planned location of each WECS tower, guy lines and anchor bases (if any), Primary Structures, property lines (including identification of adjoining properties), setback lines, public access roads and turnout location, Substation(s), electrical cabling from the WECS Tower to the Substation(s) ancillary equipment, third party

transmission lines, and layout of all structures within the geographic boundaries of any applicable setback. Any staging or layout area, where equipment will be gathered for installation, will be identified.

4. All required studies, certifications, reports, and approvals demonstrating compliance with the provisions of this Ordinance and all State and Federal laws.

5. The County may reject any application which does not substantially and in good faith, contain the required or requested information.

E. The application shall be reviewed by the County Board and the Edgar County States Attorney who may request changes in the application; it being expressly allowed under any application by the Applicant to submit multiple WECS Project Summaries which may vary in nameplate generating capacity and/or type of wind turbine generator used provided that each and every Project summary so submitted must still comply with these Ordinances and provided further that the County in its sole discretion may approve any one or more of such summaries once the Applicant has finalized its supply agreements for wind turbine generators, substation transformers, and the like. The granting or denial of a permit application is a final decision of the Edgar County Board and may be appealed as provided for in Illinois Administrative Review Act, 735 ILCS 5/3-101.

F. The applicant shall notify the County of any changes to the information, provided that the changes occur while the permit approval application is pending. Any material deviation between the specifications of the application and the actual construction are a violation of this ordinance, unless waived, in writing, by the County.

G. When proposed siting infringes upon or prevents a non-participating adjacent property owner or his agent from participating in accepted agriculture aerial application practices, the applicant must negotiate in good faith with said landowners for lost opportunity and expected benefits of such application. It would be suggested that the applicant be responsible for any additional application cost of aerial chemical application.

H. Following applicant approval the Applicant is eligible to apply for Wind Tower building permits. Actual on site construction must commence within one year of building application approval by the County Board or permits will no longer be valid.

VI. DESIGN AND INSTALLATION

A. The County must be notified before construction begins for one or more towers. This notification will include the GPS co-ordinates for each tower, and a non-refundable \$1,500 per tower construction permit fee up to a maximum fee of seventy five thousand dollars. (\$75,000).

B. A road use agreement with the County Engineer and the Township Highway Commissioner of each effected township must be executed and included with the construction permit fee by the Applicant at the time of construction notification.

C. Design Safety Certification

1. All WECSs shall conform to applicable industry standards, including those of the American National Standards Institute (“ANSI”). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (“UL”), Det Norske Veritas (“DNV”), Germanischer Lloyd Wind Energie (“GL”), or an equivalent third party. The Committee shall have the discretion to refuse any certificate or require additional certification. Any dispute as to the sufficiency of the certification shall first be addressed by informal consultation between the Applicant, Owner / Operator and the County Board. If the informal consultation does not resolve the dispute then the dispute shall be resolved by application to the County Board. Any appeal for the decision of the Board shall be as provided in the Administrative Review Act, 735 ILCS 5/3-101. WECS shall be maintained and operated within applicable industry standards during construction and operation until their decommissioning as set out in this ordinance.

2. A Licensed Illinois Professional Engineer shall certify that, as part of the building permit application, the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

3. All structures other than WECS which may be built in conjunction with the operation of the WECS shall comply with applicable safety and building codes; and, if there are no codes which are found to be applicable, then they shall comply with the International Building Code standards, insofar as practical.

D. Controls and Brakes

1. All WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

E. Electrical Components

1. All electrical components of the WECS shall conform to applicable to local, State and Federal codes, and relevant national and international standards (e.g. ANSI and International Electrical Commission).

F. Color

1. Tower and blades shall be painted white or gray or another non-reflective, unobtrusive color.

G. Compliance with the Federal Aviation Administration

1. The Applicant for the WECS shall comply with all applicable FAA requirements.

2. Projects shall utilize minimal lighting. No exterior tower lighting other than normal security lighting shall be permitted except as may be required by the FAA. All projects are required to use ADLS (aircraft detection lighting system) or equivalent to reduce the impact of night time lighting on nearby residents, communities, and migratory birds in accordance with the FAA Advisory circular: 70/7460-IL section 14.1 in the event lighting is required by the FAA, any outage of said lighting due to power outage or storms, must be reported to the FAA, as in a NOTAM (Notice to Airman).

H. Warnings

1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

2. Visible, reflective, colored object, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.

I. Climb Protection

1. All WECS Towers must be un-climbable by design or protected by anti-climbing devices such as:

- a. Fences with locking portals at least 6 feet high or;
- b. Anti-climbing devices 12 feet vertically from the base of the WECS Tower.

J. Setbacks

1. To insure the safety of surrounding buildings and owners, all WECS Towers shall be set back 3,250 feet from any Primary Structure. The distance for the setback shall be measured from the point of the Primary Structure foundation closest to the WECS Tower to the center of the WECS Tower foundation. The owner of the Primary Structure may waive this setback requirement, in writing; but in no case shall the WECS Tower be located closer than 1,000 feet.

2. All WECS Towers shall be set back at least 1.5 times the WECS Tower Tip Height or 825 feet (whichever is further) from property lines of non-participating property owners. The affected adjoining non-participating property owner may waive this setback requirement in writing.

3. All WECS Towers shall be set back a minimum distance of 1.5 times the WECS Tower Tip Height or 825 feet (whichever is further) from public roads, third party transmission lines, and communication towers. The County may waive the setback requirement, in writing.

4. The Applicant does not need to obtain a variance from the County upon waiver, in writing, by either the County or property owner of any of the above setback requirements.

Any waiver of any of the above setback requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property.

K. Compliance and Additional Regulations

1. Nothing in this ordinance is intended to preempt other applicable state and federal laws and regulations that would include, but not limited to, the Edgar County Soil and Water Conservation District.

L. Pre and Post Well Inspections

1. Inspections will be done if pile driving is required, or soil stability/conditions are deemed warranted by the EPA and/or the Edgar County Soil and Conservation District for the homeowner's water wells within one mile of a wind turbine at the expense of the owner/operators of the WECS project.

N. Use of Public Roads

1. An Applicant, Owner or Operator proposing to use any county, municipality, township or village road(s), for the purpose of transporting WECS or Substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) or Substations shall:

- a. Include in the application the identity of all such public roads to be used; and
- b. Obtain applicable weight and size permits from relevant government agencies prior to construction.

2. To the extent an Applicant, Owner or Operator must obtain weight or size permits from the county, municipality, township or village, the Applicant, Owner or Operator shall:

- a. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
- b. Enter into a Roadway Use and Repair Agreement approved by the County Engineer, affected Township Highway Commissioner, and States Attorney's office.
- c. Secure Financial Assurance, in a reasonable amount agreed to by the relevant parties, for the purpose of repairing any damage to public roads caused by constructing, operating or maintaining the WECS(s).

VII. Operation

A. Maintenance

1. The Owner or Operator of the WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition to the said annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County reasonably requests.

2. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Section VI (C) (1) of this ordinance. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than like-kind replacement), the Owner or Operator shall confer with a relevant third-party certifying entity identified in Section VI (C) (1) of this Ordinance, as well as the County Board, to determine whether the physical modifications requires re-certification. The County Board may, in sole discretion, require re-certification unless adequate showing is made that such is not required.

3. During maintenance and repair of WECS(s), Section VI (L) will be utilized.

B. Interference

1. The applicant shall provide the applicable microwave transmission providers and local emergency provider(s) (911 operators) copies of the project summary and site plan, as set forth in Section V.D. 1 and V.D.3 of this Ordinance. To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s), the Applicant shall take reasonable measures to mitigate such anticipated interference. If, after construction of the WECS, the Owner or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall take reasonable steps to respond to the complaint. In addition, Applicant shall comply with all State and Federal rules and regulation in this regard.

2. If, after construction of the WECS, the Owner or Operator receives a written complaint relating to interference with broadcast or satellite residential television and data transmission, the Owner or Operator shall take reasonable steps to respond to the complaint.

C. Coordination with the Local Fire Department

1. The Applicant, Owner or Operator shall submit to the local fire department and the Edgar County Emergency Management Agency, a copy of the site plan.

2. Prior to the issuance of construction permits, the Owner or Operator shall cooperate with the local fire department to develop and implement a fire protection plan in coordination with local emergency response authorities to ensure that all appropriate emergency services are cognizant of actions required in the event of a fire or other emergency at the WECS project. The Owner or Operator shall be responsible for the cost incurred by the local emergency response providers on any site emergencies related to the Owner or Operators WECS Project. In addition, the Owner or Operator shall provide training for, and the necessary equipment to, local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the WECS Project. Proof of training shall be provided and paid for by the Applicant.

3. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

D. Material Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

2. All hazardous material related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable federal, state and local laws.

VIII. Noise Levels

1. Noise levels from each WECS or WECS Project shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. The Applicant, through the use of a qualified professional, shall appropriately demonstrate compliance with the above noise requirements.

IX. SHADOW FLICKER

With the use of Shadow mitigation technology, there shall be a thirty (30) hours per year shadow flicker allowed on a non-participating primary structure or where Domestic animals are present. The non-participant property owner and/or participant may waive this requirement. Shadow Mitigation Technology shall be used on all non-participating areas determined as modeling dictates. After receiving a written complaint to the Edgar County Board, the matter will be handled in accordance with the Remedies of the Ordinance.

X. Birds and Bats and Other Natural Resource and Wildlife Issues

1. A qualified professional, such as an ornithologist or wildlife biologist, shall conduct an avian habitat study, as part of the permit approval application process, to determine if the installation of WECS will have a substantial adverse impact on birds and/or bats.

XI. Public Participation

1. Nothing in this Ordinance is meant to augment or diminish existing opportunities for public participation at the County Board meeting wherein the permit is to be voted upon.

XII. Liability Insurance and Indemnification

1. Commencing with the issuance of construction permits, the Applicant, Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$10 million per occurrence and \$10 million in the aggregate. The Owner or Operator of the WECS shall maintain this policy for the lifetime of the WECS and submit a copy of the same to the Edgar County Board at each renewal. Such insurance may be provided, pursuant to a plan of self insurance, by a party with a net worth of \$50 million or more.

The County shall be named as an additional insured on the policy to the extent the County is entitled to indemnification in accordance with sub-section 2.

2. Applicant, Owner or Operator shall defend, indemnify and hold harmless the Local Township, County and their officials, employees and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney fees, except to the extent arising in whole or in part out of the negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of Applicant, Owner or Operators selection, construction, operation and removal of the WECS and affiliated equipment including without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under the law.

XIII. Decommissioning Plan

1. Prior to receiving construction permit approval under this Ordinance, the Land Owner and the Applicant, Owner or Operator must formulate a Decommissioning Plan to ensure that the WECS Project is properly decommissioned, and have such plan approved by the County Board. The Decommissioning Plan shall include:

a. Provisions describing the triggering events for decommissioning the WECS Project which shall include but not be limited to any wind turbine generator or anemometer tower that is not generating electricity for a continuous period of six (6) months.

b. Provisions for removing the above ground structures, debris and cabling, and provisions for removal of underground foundations and cables down to a depth of 5 feet below the soil surface.

c. Provisions for the restoration of the soil and vegetation to the same condition that existed immediately before construction of such improvements.

d. An estimate of the decommissioning costs certified by a Professional Engineer, reviewed at year 10 and every 5 years thereafter, taking into account the expected life of the WECS.

e. Financial Assurance, secured by the Owner or Operator, for the purpose of adequately performing decommissioning, in an amount equal to the Professional Engineer's certified estimate of the decommissioning. This estimate is to be reviewed at year 10 and every 5 years thereafter. It is recommended that the Land Owner require the Financial Assurances for any decommissioning costs that will occur for the tower site and/or sites on his or her property. It is recommended that a combination of an irrevocable letter of credit and an escrow account be used to secure this financial obligation. The amount of the irrevocable letter of credit will be reduced in accordance to the amount of money deposited into an escrow account.

f. Identification of and procedures for the Land Owner to access the Financial Assurances.

g. A provision that the terms of the Decommissioning Plan shall be binding upon the Owner or Operator and any of their successors, assigns, or heirs; and

h. A provision that the Land Owner shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

XIV. Public Nuisance

Any WECS declared to be unsafe by the Edgar County Board by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, or abandonment is hereby declared a Public Nuisance and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures set forth in this ordinance.

XV. Remedies

1. The Applicant, Owner or Operator failure to materially comply with any of the above provisions shall constitute a violation under this Ordinance.

2. Prior to implementation of the existing County Procedures for the resolution of such default(s), the appropriate County body shall provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner or Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s), except those default(s) which implicate public safety in which case the States Attorney in consultation with the County Board may issue a stop order.

3. Any violation of this ordinance shall be an offense punishable by a fine not to exceed \$1,000. Each day a violation goes un-remedied after the Owner or Operator is put on notice of the violation via letter to Applicant / Owner / Operator by registered mail to Applicant / Owner / Operator's Illinois registered agent is considered a separate offense. It is the goal of this ordinance to promote structural safety to protect the public, and the court in setting an appropriate fine shall consider the nature of the offense, the degree of public safety involved, the efforts of the County and the responsible owner or applicant to quickly and safely resolve any infraction.

4. It is understood that if Edgar County has to take action to enforce the Ordinance against the Applicant/Owner/Operator, any expense necessarily hired by the County, including but not limited to Attorneys and Engineering experts, should the County prevail, said Applicant/Owner/Operator shall reimburse the County all funds paid by the County to said Attorneys, Engineers and other experts.

XVI. County Authority to Enter and Inspect

1. To accomplish the purpose of this ordinance, County Board members, Highway Engineer, and the Supervisor of Assessments shall have the right to enter upon any land which a WECS or

structure related to the operation or maintenance of such WECS is situated. If entry is denied, the County may seek an administrative search warrant to enter and inspect the land and structures.

XVII. Conflict with Other Laws and Severability

1. Should any provision of this ordinance conflict with any other ordinance, county regulation or rule, then the provisions of this ordinance shall apply and shall prevail to the extent allowed under law due to the special nature of the structures covered by this ordinance.

2. Should any provision, section or part thereof, or the application of this ordinance to any person or circumstance, be found or held to be unconstitutional or invalid by any court of competent jurisdiction, such section or part thereof shall be deemed a separate, distinct and independent provision and such holding or finding shall not affect the validity of the remaining portions of this ordinance which can be given effect without the invalid section, provision or part thereof.

XVIII. Effective Date

1. This ordinance shall become effective immediately upon the date of its passage by the County Board.