

2021-01

McDonough County, Illinois

Siting of Wind Energy Conversion Systems (WECS)

ARTICLE XL – SITING OF WIND ENERGY CONVERSION SYSTEMS (WECS)

A PROCESS FOR REGULATING THE ISSUANCE OF SITING PERMITS FOR WIND ENERGY CONVERSION SYSTEMS (WECS)

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0. **AUTHORITY**

This Ordinance is adopted in accordance with statutory authority as set forth under applicable Illinois law (e.g., Article VII, Section 7 of the Illinois Constitution of 1970, and the Illinois Counties Code, 55 ILCS 5/ et seq.) including but not limited to Section 5-12020 of the Illinois Counties Code (55 ILCS 5/5-12020).

1. **PURPOSE**

The purpose of this ordinance is to create a process whereby a WECS siting permit may be issued within the county, allowing development of wind energy resources, while protecting the public health, safety, and community welfare. This ordinance replaces the prior ordinance that was passed on June 17, 2009.

2. **APPLICABILITY**

This ordinance applies to all unincorporated lands within the boundaries of McDonough County outside of the zoning jurisdiction of a municipality and the 1.5-mile radius surrounding the zoning jurisdiction of a municipality.

3. DEFINITIONS

In this section the following definitions shall apply:

Agricultural Wind System – A wind system that has a name plate capacity of less than the average electrical usage for the previous 12 months on the specific farm being served.

Applicant – The entity or person who submits to the County, pursuant to the terms of this Ordinance, an application for the siting of any WECS.

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

Owner – The entity or entities with an equity interest in the WECS, including their respective successors and assigns. Owner does not mean: (a) the property owner from whom land is leased for locating the WECS unless the property owner has an equity interest in the WECS; or (b) any person holding a security interest in the WECS 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 at the earliest practicable date.

Board – The McDonough County Board

Code Administrator – The McDonough County Highway Engineer

Fall Zone – means the area, defined as the furthest distance from the tower base, in which a WECS tower will collapse in the event of a structural failure. This area shall be at least 1.1 times the total height of the WECS structure.

Large Wind Energy Conversion System - A wind energy system that has a nameplate capacity of more than 50 kilowatts, a total height of more than 100 feet, a blade diameter of more than 30 feet, and one or more wind towers with turbines.

Occupied Structures – An occupied structure includes residences, churches and schools, but does not include outbuildings, barns, and other agricultural structures.

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, and day care facilities. Primary Structure excludes ancillary structures such as hunting sheds, storage sheds, pool houses, unattached garages, and barns.

Residential Wind System - A wind energy system consisting of a single wind turbine, single tower, and associated control or conversion electronics that generates power for an individual property.

Small Wind Energy Conversion System - A wind energy system that has a nameplate capacity of 50 kilowatts or less, a total height of 100 feet or less, a blade diameter of 30 feet or less, and one or more wind towers with turbines.

Total Height - The vertical distance from ground level to the tip of a wind turbine blade when the tip is at its highest point.

Wind Energy Conversion System ("WECS") means all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower to the Substation(s).

Written Notice – Notice by letter via certified mail, Fed Ex, or personal delivery. The effective date will be the date received by the recipient.

4. STANDARDS

a. Setback Requirements

1. WECS Towers shall be set back at least 1320 feet for participating land owners and 1650 feet for non-participating property owners from any Primary Structure. The distance for the above 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; but in no case shall a WECS Tower be located closer to a Primary Structure than 1.10 times the WECS Tower Height or within the Fall Zone of the WECS Tower. Each waiver of the above setback requirements shall be set forth in a written waiver executed by the participating land owner and/or the non-participating property owner and filed with the County Recorder of Deeds Office against title to the affected real property.
2. All WECS Towers shall be set back a distance of at least 1.10 times the WECS Tower Height from public roads, third party utility distribution and transmission lines, and communication towers in existence as of the approval date of the WECS Tower application unless waived in writing by the affected property owners and utility company or the County may waive this setback requirement. Distance shall be measured from the center of the WECS Tower foundation to the closest point on such above-ground public electric power line, third party transmission line, telephone line, and center of the base of the communication tower.
3. All WECS Towers shall be set back a distance of at least 1.10 times the WECS Tower Height or the Fall Zone, whichever is greater from adjacent parcel boundary lines. The affected adjacent property owner may waive this setback requirement. Each waiver of the above setback requirements shall be set forth in a written waiver executed by the participating land owner and/or the non-participating property owner and filed with the County Recorder of Deeds Office against title to the affected real property.

4. All WECS Towers shall be set back a distance of at least 750 feet from the property line of any Public Conservation Lands. Distance shall be measured from the closest property line to the center of the WECS Tower foundation.
5. The Applicant does not need to obtain a variance from the County upon waiver by either the County or property owner of any of the above setback requirement. 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.
6. No WECS shall be constructed in any setback, dedicated public easement or dedicated public right-of-way without prior written authorization from the applicable landowner, township, and county.

b. Spacing and Density

A WECS shall be separated from any other WECS by a minimum of 200 feet measured from the tips of the blades when the blades are parallel with the ground.

c. Structure

A WECS shall be of monopole construction to the extent practicable. If monopole construction is not practicable, a wind tower must be of freestanding construction to the extent practicable. If monopole or freestanding construction is not practicable, a wind tower may be guyed.

d. Height

The total height of a WECS shall be 625 feet or less.

e. Clearance

The vertical distance from ground level to the tip of a wind turbine blade when the blade is at its lowest point must be at least 30 feet.

f. Access

All wind towers located in a WECS, including any climbing aids, shall be secured against unauthorized access by means of a locked barrier or security fence six (6) feet in height.

g. Electrical Wires

All electrical wires associated with a WECS, other than wires necessary to connect the wind turbine to its base and to overhead collection lines, shall be located underground as outlined in the Agricultural Impact Mitigation Agreement (AIMA Underground Cabling Depth). The Board may vary this requirement upon proof of hardship.

h. Lighting

WECS Projects shall utilize minimal lighting that is compliant with the applicable FAA regulations, as amended by the FAA. To the extent that such tower lighting is available, and is approved by the FAA for a WECS Project, the Applicant shall install Aircraft Detection Lighting Systems (ADLS) or other similar technology to reduce light pollution and visual impacts caused by the WECS Towers.

i. Equipment

UNLESS LOCATED UNDERGROUND, any electrical equipment associated with a WECS shall be located under the sweep area of a blade assembly to the extent practicable.

j. Appearance, Color, and Finish

Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color. Wind towers and turbines in an established wind farm system that are located within 1000 feet of each other must be of uniform design, including tower type, color, number of blades, and direction of blade rotation to the extent practicable.

k. Signs

No wind turbine, tower, building, or other structure associated with a WECS may be used to advertise or promote any product or service. No word or graphic representation, other than appropriate warning signs and owner identification, may be placed on a wind turbine, tower, building, or other structure associated with a wind energy system so as to be visible from any public road.

l. Design Safety Certification

WECS 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.

m. Signal Interference

The owner of a WECS must take such reasonable steps as are necessary to prevent, eliminate, or mitigate any interference with cellular, radio or television signals caused by the wind energy system.

n. Compliance with FCC and FAA

It is the responsibility of the owner of the WECS to contact the Federal Communications Commission and Federal Aviation Administration and obtain any and all necessary permits, and to be in compliance with all Federal Communications

Commission and Federal Aviation Administration laws and regulations. The owner shall provide documentation evidencing compliance to the Code Administrator.

o. Compliance with Illinois EPA

1. It is the responsibility of the owner of the WECS to contact the Illinois Environmental Protection Agency and obtain any and all necessary permits, and to be in compliance with all Illinois Environmental Protection Agency laws and regulations as to noise levels, and any other regulation as applicable.
2. Noise: 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, as part of the siting approval application process, shall appropriately demonstrate compliance with the applicable noise requirements. The Applicant, at its expense, shall have a third party, qualified professional (after submission of resume and relevant work experience), conduct an appropriate analysis of the noise impact to nearby properties. The sound pressure level generated by a WECS shall comply with all Illinois Pollution Control Board (IPCB) noise regulations. A modeling analysis of the proposed site shall be included in the application predicting the sound pressure in accordance with the best available practices. The program generating the modeling must take into account not only topography, but also prevailing winds, temperature, air density, ground cover, and other effects which contribute to the distance that sound can travel. The modeling must be submitted to the County as part of the Siting Approval Permit application. A "0" background ambient noise level shall be used for all modeling. After a WECS is completed and operational for one (1) year, the Applicant (WECS Permittee) of the WECS Project, at its expense, shall have a third-party, qualified professional (after submission of resume and relevant work experience) complete a second noise study to evaluate compliance with the IPCB noise regulations. The study shall be completed and returned to the Code Administrator within sixty (60) calendar days. The Applicant (WECS Permittee) shall immediately take measures to ensure compliance with the IPCB noise regulations should the study show a violation of IPCB noise regulations, unless said violation is excused and waived in writing by the affected landowners and occupants. All analyses and studies are subject to approval of the Code Administrator and are a matter of public record. After the initial one (1) year operational period, the Applicant (WECS Permittee) shall immediately take measures to ensure compliance with the IPCB noise regulations in the event that the Code Administrator is provided with credible evidence the WECS Project, as constructed and operated, does not meet the IPCB noise regulations, unless said violation is excused and waived in writing by the affected landowners and occupants.
3. Following the granting of siting approval under this Ordinance, the Code Administrator shall certify, as part of the permit application, that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

p. Compliance with Federal and State Permits/Notifications

It is the responsibility of the owner of the WECS to contact and secure the required Federal and State permits and notifications. The approved permits and notifications shall be part of the site permit and are required before holding the public meeting.

q. Shadow Flicker

a. Prior to the issuance of a Siting Approval Permit, the Applicant must present to the Code Administrator a Model Study presenting a conservative number of hours shadow flicker may appear on a Primary Structure of a non-participating property owner. Shadow flicker shall not exceed thirty (30) hours per calendar year on any Primary Structure using the Model Study information. The owner of any Primary Structure may waive this 30-hours limitation on shadow flicker, whether the owner is a participating property owner or a non-participating property owner. Each waiver of the 30-hours shadow flicker limitation shall be set forth in a written waiver executed by the owner of the Primary Structure, whether the owner is a participating property owner or a non-participating property owner. The executed waiver shall be filed with the County Recorder of Deeds Office against title to the affected real property.

b. The Applicant (WECS Permittee), at its cost, shall use commercially reasonable efforts to remedy and reduce shadow flicker affecting any property owner(s) who is not a participant in the WECS Project, where the property or properties receive more than thirty (30) hours of shadow flicker in a calendar year by promptly undertaking measures such as turning off the specific turbine(s) and/or purchasing and installing trees and/or other vegetation plantings, screening or awnings on the affected property owner's property in a manner that remedies and reduces shadow flicker.

r. Drainage Systems

The Applicant (WECS Permittee), at its expense, will repair, in a prompt and timely manner, all waterways, drainage ditches, agricultural drainage systems, field tiles, or any other private and public infrastructure improvements damaged during construction, maintenance and operation phases of the WECS Project. A drainage plan sufficient to provide remediation and in accordance with the Agricultural Impact Mitigation Agreement (AIMA) shall be submitted by the Applicant (WECS Permittee) for review and approval by the County.

5. PROHIBITION

No WECS, as defined in this Code shall be erected, installed, or located within those areas of McDonough County, Illinois described in Section 2 of this Ordinance unless prior siting approval has been obtained for each individual System pursuant to this Ordinance.

6. PERMIT REQUIREMENTS

a. Siting Permit

A Siting Permit approved by the Board is required for each WECS turbine except for an Agricultural Wind System or a Residential Wind System as defined in Section 3. The siting permit shall allow installation of the WECS turbine upon the parcel(s) designated in the application at any location upon such parcel(s) that will comply with the requirements of this Ordinance.

b. Expiration

A Siting Permit issued pursuant to this ordinance expires if:

1. The WECS is not installed and functioning within five (5) years from the date the permit is issued; or
2. The WECS is out of service or otherwise unused for a continuous 12-month period (See Section 7). The Board may grant reasonable extensions to the five (5) years and 12-month deadlines provided action to amend the inactivity has been active and consistent through the time period involved. For purposes of this section, placing the system for sale or intending to use the system at a future date does NOT constitute active and consistent activity.

c. Revocation/Suspension

A Siting Permit issued pursuant to this ordinance may be revoked or suspended by the Code Administrator upon a violation of any of the requirements or conditions contained in this ordinance, or upon a failure to comply with any of the requirements or conditions contained in this ordinance, including failure to adhere to the terms of the Road Use Agreement. However, before the Code Administrator may revoke or suspend the Siting Permit, the Code Administrator shall first provide written notice to the Owner, Operator and Applicant setting forth the alleged violations or failure to comply and provide the Owner, Operator and/or Applicant the opportunity to cure such violation or failure to comply within a thirty (30) calendar day period from the date of the notice; provided that, should the Owner, Operator and/or Applicant commence to cure within that 30-day period and diligently pursue to cure the same, then the Owner, Operator and/or Applicant shall receive an additional sixty (60) calendar days to continue to pursue the cure before the Code Administrator may revoke or suspend the Siting Permit.

d. Fees

1. Upon submittal of the application for a WECS Siting Approval Permit, the Applicant shall submit a check to McDonough County in the amount of Fifty Thousand Dollars (\$50,000.00) ("Plan Review Deposit"). These funds shall be placed in a guaranteed money market account and will be used to compensate and reimburse the County for actual, documented costs incurred during the review process for the WECS application. Should the actual, documented costs

to the County exceed Fifty Thousand Dollars (\$50,000.00), the Applicant shall be responsible for those additional costs and shall remit additional funds to the County within fifteen (15) calendar days of receipt of a request from the County. Any amount remaining in the money market account after the County completes the application process and pays all bills and invoices shall be refunded to the Applicant.

2. The application for a Siting Approval Permit must be accompanied by a consideration fee in the amount of One Thousand Dollars (\$1000.00), required for each wind tower with turbine.
3. Upon approval of a siting permit by the Board, a fee of Twenty-Five Dollars (\$25.00) per vertical foot, (being the measurement from the base of the wind turbine to the hub), per turbine, is due upon issuance of the Notice of Construction by the Owner or Developer of the WECS, or upon the commencement of the construction of the WECS.
4. An Agricultural Wind System and a Residential Wind System as defined in Section 3, are exempt from fees.

e. Financial Assurance

1. Reasonable evidence of financial ability of the owner and operator to construct, maintain and decommission the WECS is a condition precedent to the commencement of construction, and must be submitted to the Code Administrator at the notice of construction, following issuance of any siting permit under this ordinance.
2. Reasonable evidence of financial ability of any subsequent or successor owner/operator, following issuance of any siting permit under this ordinance to original applicant, to construct, maintain and decommission the WECS, must be submitted to the Code Administrator upon becoming subsequent or successor owner/operator of WECS.
3. McDonough County shall require a performance bond, surety bond, escrow account, letter of irrevocable letter of credit or other financial assurance to McDonough County from the owner and/or operator for each WECS that guarantees the performance of the restoration requirement set forth in Section 7. The Financial Assurance shall be in accordance with the Agricultural Impact Mitigation Agreement requirements.

f. Final Plan Layout to Local Emergency Services

1. Prior to the commencement of construction of the WECS, a construction plan survey depicting an accurate representation of the structures, access roads, and any other additions/improvements, must be submitted to the Code Administrator and the McDonough County local emergency services.

2. An as built survey depicting an accurate representation of the structures, access roads, and any other additions/improvements, must be submitted to the Code Administrator and the McDonough County local emergency services within thirty (30) days of completion of the wind farm.

7. RESTORATION/DECOMMISSIONING REQUIREMENT

- a. As per the Renewable Energy Facilities Agricultural Impact Mitigation Act (505 ILCS 147/ et seq.) each owner of a WECS is required to submit an Agricultural Impact Mitigation Agreement (AIMA) for approval by the Illinois Department of Agriculture. The owner of the WECS is required to submit to the Code Administrator the approved AIMA and a Decommissioning Plan and Decommissioning Obligation Cost study. The decommission obligation costs shall be revisited and revised on an as needed basis.
- b. A wind energy system that is out of service for a Continuous 12-month period will be deemed to have been abandoned. The Code Administrator may issue a Notice of Abandonment to the owner of a WECS that is deemed to have been abandoned. The Code Administrator shall withdraw the Notice of Abandonment if the Board approves an extension based on hardship conditions. Efforts to operate the system must be shown to have been active and consistent through the time period involved. For purposes of this section, placing the system for sale or intending to use the system at a future date does NOT constitute active and consistent activity.
- c. The owner of a wind energy system shall provide the Code Administrator with a written Notice of Termination of Operations if the operation of a WECS is terminated.
- d. Within 8 months of receipt of Notice of Abandonment or within 8 months of providing Notice of Termination of Operations, the owner and operator of a WECS must:
 1. Remove all wind turbines, aboveground improvements, and outdoor storage;
 2. Remove all foundations, pads, and underground electrical wires to a depth of five (5) feet below the surface of the ground; unless said requirement to remove underground electrical wires is waived by land owner of property where underground electrical wires are located; and
 3. Remove all hazardous material from the property and dispose of the hazardous material in accordance with federal and state law.
- e. All Code Administrator decisions pertaining to this Ordinance may be appealed to the Board.

8. SITING PERMIT PROCEDURE

- a. Siting permit applications shall be submitted to the Code Administrator. The application must be on a form approved by the Code Administrator and must be accompanied by the following:
 1. A WECS Project Summary, including to the extent available: a general description of the project, with approximate name plate generating capacity, potential equipment manufacturer(s), type(s) of WECS, number of WECS, name plate generating capacity of each WECS, maximum height of the WECS tower(s) and maximum diameter of the WECS rotor(s), general location of the project; and description of applicant, owner, and operator, including their respective business structures;
 2. The name(s), address(es), and phone number(s) of the applicant(s), owner and operator, and all property owner(s), if known;
 3. A graphic Site Plan Exhibit including the easement boundaries and legal descriptions for each site;
 4. A topographic map of the project site which shall include the project site and the surrounding area which shall encompass an area at least a quarter mile from the proposed project site;
 5. Location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed WECS;
 6. Location of all underground utility lines associated with the wind energy system site;
 7. An Agricultural Impact Mitigation Agreement (AIMA) between the Applicant and the Illinois Department of Agriculture;
 8. Dimensional representation of the structural components of the tower construction including the base and footings; and
 9. Any and all such other information as may be requested by the Code Administrator, or which is requested per the Application.
- b. The Code Administrator will review the application materials for completeness and may request that the applicant provide additional information. When the Code Administrator determines that the application is complete, the Code Administrator will forward it to the Board.
- c. The Board will conduct a public meeting on the application to be held no earlier than 30 calendar days but no later than 21 days prior to the decision of the Board on the siting application. A legal notice of said public meeting shall be published in a newspaper of general circulation no later than 14 days prior to the date of said public

meeting. Following the public meeting the Board shall grant a siting permit if it determines that the requirements of this ordinance are met. The Board may include conditions in the permit as provided if those conditions preserve or protect the public health, safety and property values.

- d. The Board recommendations, finding of facts and any conditions will be recorded in the minutes.
- e. The Board's final decision to approve or reject a siting permit application is an Administrative Decision subject to review solely under the Illinois Administrative Review Law (735 ILCS 5/3 et seq.) and the provisions of the same are hereby expressly adopted.
- f. Notice of the Board's final decision shall be sent by certified mail to all persons with property subject to the proposed siting, all persons with property adjacent to the siting, all persons with property contiguous to the siting, Board Members, wind farm owners and developers, and any person who participated in the public meeting and is deemed to be affected by this decision.

9. VIOLATIONS

It is unlawful for any person to construct, install, maintain, modify, or operate a WECS that is not in compliance with this ordinance or with any condition contained in a siting permit issued pursuant to this ordinance.

10. ADMINISTRATION AND ENFORCEMENT

- a. This ordinance shall be administered by the Code Administrator.
- b. The Code Administrator may enter any property for which a siting permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met as specified by statute, Ordinance, code, and/or any other applicable Illinois or Federal Law.

11. PENALTIES

- a. Any violation of this ordinance is a petty offense with a maximum fine of \$500, with each day of violation constituting a separate offense.
- b. Nothing in this section shall be construed to prevent the county from using any other lawful means to enforce this ordinance.

12. COUNTY HIGHWAY AND TOWNSHIP ROAD AGREEMENTS

An applicant, owner, or operator proposing to construct, operate or maintain a WECS or related substation shall, prior to construction of the WECS, but not as a condition for a siting permit:

- a. Identify and evaluate all public roads and drainage structures within McDonough County to be used for transporting WECS components and/or equipment for the construction, operation, or maintenance of the WECS; and
- b. Enter into a written road use agreement with the governmental unit having jurisdiction over the identified public roads regarding the use of county/township road, bridges, and rights-of-way; and
- c. Obtain applicable weight and size permits from the governmental unit having jurisdiction over the identified public roads; and
- d. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential damage to identified public roads, with said baseline survey to be conducted by a mutually agreed upon third party professional; and
- e. Provide the Code Administrator with:
 1. The list of public roads to be used;
 2. The baseline survey, as produced by third party professional; and
 3. An executed copy of each written agreement and supporting documentation required by the appropriate governmental units having jurisdiction over the identified public roads at a minimum addressing:
 - i. The use and repair, which are directly related to the installation and construction of WECS, of public roads, bridges, and rights-of-way located within the governmental unit's jurisdiction; and
 - ii. Performance/surety bonds or other financial assurance documents required to guarantee the performance of the road agreements; and
 - iii. If no written agreement is required by the governmental unit having jurisdiction over the identified public roads, then the applicant, owner, or operator shall provide an executed written statement provided by the governmental unit stating no such agreement is required.

13. WECS OWNER/PROPERTY OWNER RESTORATION AGREEMENT

Each WECS lease shall have a signed agreement between WECS owner and property owner regarding restoration requirements as discussed in this ordinance.

14. LIABILITY INSURANCE AND INDEMNIFICATION

Commencing with the issuance of a WECS Building Permit, the Applicant shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least Five Million Dollars (\$5,000,000.00) per occurrence and in the aggregate; and, shall further maintain the above-stated lines of insurance from delivery of the "Notice to Proceed by the Applicant" under the turbine supply and/or balance of plant construction contract(s) for the WECS Project, in coverage amounts of at least Five Million Dollars (\$5,000,000.00) per occurrence and Twenty Million Dollars (\$20,000,000.00) in the aggregate during the life of the WECS Project. Such insurance may be provided, pursuant to a plan of self-insurance, by a party with a net worth of Fifty Million Dollars (\$50,000,000.00) or more. Applicant may provide limits as a combination of Commercial General Liability, Umbrella Liability, and Excess Liability Insurance. The county and its officers, appointed and elected officials, employees, attorneys, engineers and agents (the "County Affiliates") and all affected Road Districts and their officers, appointed and elected officials, employees, attorneys, engineers and agents (the "Road District Affiliates") shall be included additional insureds on the insurance certificate(s), endorsement(s) and policies for all aspects of the WECS Project for both ongoing and completed operations and for all automobiles owned, leased, hired or borrowed, as applicable, by the Applicant for the WECS Project. The coverage shall contain no special limitations on the scope of protection afforded to the County and the County Affiliates or the affected Road Districts and the Road Districts' Affiliates. The insurance coverage of the Applicant shall be primary as respects the additional insureds. The Applicant shall file the original certificate of insurance with the Code Administrator upon commencement of project construction prior to the issuance of a WECS Building Permit, corresponding policies and endorsements to be provided within sixty (60) days of issuance, and at each subsequent renewal, at least annually thereafter.

The Applicant (WECS Permittee) shall defend, indemnify and hold harmless the County and its officers, appointed and elected officials, employees, attorneys, engineers 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's fees relating to or arising out of the issuance of the Siting Approval Permit or the construction, operation, maintenance and removal of the WECS and affiliated equipment including, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of the Applicant (WECS Permittee), the Owner or the Operator under this Ordinance or the Siting Approval Permit, except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the negligence or intentional acts of such Indemnified Parties. This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under the law.

15. SEVERABILITY

The provisions of this ordinance are severable, and the invalidity of any section, subdivision, paragraph, or other part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Approved and adopted by the McDonough County Board on this _____

16 day of June, 2021.

L. Scott Schwere
Chairman

Dutch Dyer
County Clerk