

Sections:

## **1 Definitions.**

**Ground Mount Solar Energy System.** A solar energy system that is directly installed into the ground and is not attached or affixed to an existing structure.

**Net Metering.** A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

**Solar Energy.** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

**Solar Energy System(SES).** The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing.

**Solar Farm Energy System(SFES).** A commercial facility, on a parcel(s) of five acres or more that converts sunlight to electricity, whether by photovoltaics, concentrating solar thermal devices, or various experimental technologies for on-site or off-site use with the primary purpose of selling wholesale or retail generated electricity. Community solar installations are included in this definition.

**Solar Farm Energy System Project Area.** An SFES project area may be comprised of a single parcel of land or two or more contiguous parcels of land providing that the total area of an SFES project area consists of five acres of land or more.

**Solar Panel.** A device for the direct conversion of solar energy into electricity. **Structure Mount Solar Energy System.** A solar energy system in which solar panels are mounted on top of a roof structure as either a flush mounted system or as modules fixed to frames which can be tilted toward the south at an optical angle.

**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.

## **Section 2. Commercial Solar Farm Energy System (SFES).**

A. **Purpose and Intent.** The purpose of these regulations is to provide a uniform and comprehensive set of standards for the installation and use of SFESs designed for commercial energy production. The intent of these regulations is to protect the public health, safety, and community welfare while allowing development of solar energy resources for commercial purposes. This ordinance shall apply to solar energy farms

in the unincorporated areas of the County outside of the zoning jurisdiction of a municipality and the 1.5-mile radius surrounding the jurisdiction of a municipality.

B. Building Permit. Solar Farm Energy Systems shall require a building permit and shall be subject to the procedures and standards included in this ordinance. Actual construction must start on a site within two years of application approval by the Vermilion County Board or such permit will no longer be valid. It is the responsibility of the owner/operator to provide the County with proof of actual construction.

C. SFESs are subject to the following requirements:

1. Height. Shall not exceed eighteen feet at maximum tilt of the solar panel(s).
2. No SRES shall be built on any lot less than 5 acres in size.
3. Setbacks. The front, side and rear yard setbacks shall be a minimum of ten (10) feet from the property lines which form the outside perimeter of an SFES project area. They shall be 100 feet from a residential structure.
4. Fencing. A locked fence of at least six feet in height but no greater than eight feet shall enclose the SFES.
5. Lighting. If lighting is provided at the project, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel.
6. Noise. Noise levels measured at the property line shall comply with standards set out by the Illinois Pollution Control Board. Noise levels may be enforced by the State of Illinois.
7. Installation and Design. The SFES shall be designed and located in order to prevent glare toward any inhabited buildings on adjacent properties as well as adjacent highways. Placement of the generator or noise producing electrical equipment shall be placed at the center of the project to the extent practical.
8. All wiring between solar panels and the solar farm facility substation shall be underground whenever possible.

9. Outdoor Storage. Only the outdoor storage of materials, vehicles, and equipment that directly support the operation and maintenance of the solar farm shall be allowed.

10. Proof an Agriculture Impact Mitigation Agreement (AIMA) has been executed with the Illinois Department of Agriculture. Failure comply with the Agricultural Mitigation Agreement and statue at 505 ILCs 147/15 et. seq. shall be a violation of this ordinance. Pursuant to 70 ILCS 405/22.02a an appropriate impact study shall be required as set out in the statutory Agricultural Mitigation Agreement which is incorporate herein as part of this ordinance.

11. Building Codes. All state, and national construction codes shall be followed. For purposes of this ordinance, the County adopts the National Electric Code and International Building Code as amended from time to time.

12. Vegetation and Ground Cover and Weed Control. Any weed control or planting of vegetation shall prevent Palmer, Amaranthus, and Conyza weed species, and other weed species that, at the time of application, are resistant to agricultural herbicides that are commonly used in Illinois. Any weed control or planting of vegetation shall also be certified to be in compliance with the Noxious Weed Act, 505 ILCS 100/1 et. seq., to prevent importation of noxious weeds or harmful vegetation. No soil sterilant shall be permitted on a solar site.

13. All drainage tiles shall be repaired or restored to same or better condition as when the project began. There will be an inspection for compliance by an independent inspector chosen by Vermilion County and paid for by the owner/operator.

14. JULIE shall be contacted before digging or excavation begins.

15. Local drainage districts, if any, shall be contacted prior to any development on the project site to locate drainage district tiles.

16. Annual review and reporting.

a) The applicant, owner, and/or operator of an SFES project shall submit to the Vermilion County Board Office on the first Monday of July of each year following SFES project approval a report regarding SFES maintenance and operation. This report shall include:

i) Any physical modifications to the SFES and/or its infrastructure;

ii) Complaints pertaining to setbacks, noise, appearance, safety, lighting, and use of any public roads, received by the applicant, owner and/or operator concerning the SFES, and the resolution of such complaints;

iii) Calls for emergency services, including the nature of the emergency and how it was resolved;

iv) Status of liability insurance; and,

v) Any other information that the county might reasonably request.

b) Within thirty days of the receipt of this annual report, the County Board Office and Infrastructure Committee shall review the report and conduct an on-site field review of the SFES project. The Board Office and Infrastructure Committee shall compile a written report of the findings and within sixty days of the receipt of the report submit the report to the Vermilion County Board or any committee designated to oversee infrastructure issues.

c) The County Board shall charge a fee for this annual review in the amount of no more than five hundred dollars per SFES project area. This fee shall be paid to the County Board by the SFES applicant, owner, and/or operator at the time of annual report submission. Failure to provide the annual report and required fee shall be considered a cessation of operations.

d) The applicant, owner, and/or operator of an SFES project shall provide the Vermilion County Board and their designees access to the SFES project area for the purposes described in this ordinance. Failure to provide access shall be deemed a violation of this ordinance.

**D. Certification.** SFESs shall conform to applicable industry standards herein cited, including those from the UL and Federal Aviation Administration (FAA).

All applicable county, state, and national construction and electric codes shall be followed. For purposes of this ordinance, the County adopts the National Electric Code and International Building Code as amended from time to time.

**E. Safety.** All SFESs shall provide the following at all locked entrances:

1) A visible "High Voltage" warning sign;

2) Name(s) and phone number(s) for the electric utility provider;

3) Name(s) and phone number(s) for the site operator;

4) The facility's 911 address, GPS coordinates; and,

5) A Knox box with keys.

6) Evidence that the site plan has been submitted to the local fire protection district.

F. Application Process. The Application for a building permit for a Solar Farm Energy System shall be submitted with ten (10) copies and shall include:

1. An application fee of \$1,000.00
- 2) A written summary of the project including a general description of the project, including its approximate generating capacity.
- 3) The name(s), address(s), and phone number(s) of the owner and/or SFES operator.
- 4) A site plan of the SFES site showing:
  - a) Boundaries of the site.
  - b) All proposed SFES structures including, but not limited to, the project solar panels, substation, interconnect substation, and location and voltage of any overhead transmission lines
  - c) Property lines.
  - d) Setback lines.
  - e) The location of any known subsurface drainage tiles, and a statement describing attempts made to do tile surveys and to otherwise discover the location of drainage tile locations.
  - f) Identification of any flood zone areas within the project boundaries.
  - g) Location of all existing structures with their uses identified.
  - h) Wetland location, if any.
  - i) Septic systems.
  - j) Wells.
  - k) Existing easements, if any.
- 5) Proof of compliance with this solar ordinance and also proof of compliance with an erosion study by the Soil and Water Conservation District as defined under 70 ILCS 405/22.02a, and the Agricultural Mitigation Agreement statute at 505 ILCS 147/15 et. seq.
- 6) Emergency plan. The site and emergency plan shall be submitted to the local fire protection district(s) and/or department(s) whose jurisdiction is included in whole or in part within the SFES project area. Any specialized training necessary will be provided at the operator's expense
- 7) All other information as may be requested by the Infrastructure Committee.
- 8) At the sole discretion of the Infrastructure Committee with the consent of, or at the direction of, the County Board Chairman, if an independent engineering or consulting report is required to resolve any disputes, it shall be the responsibility of the applicant to pay for such engineer or consultant, provided

however that the County shall consult with the applicant and attempt to resolve any issue prior to incurring any costs.

G. Decommissioning Plan. As part of the Application process of applying for a building permit, the SFES project owner/operator shall submit a decommissioning plan to the Vermilion County Board Office and Infrastructure Committee. The Vermilion County Board Office, the Infrastructure Committee, or its designees shall review the plan for completeness and refer it to the Vermilion County Board or any committee(s) designated to oversee solar farm issues. The plan shall include:

- 1) A description of the plan to remove the SFES equipment and restore the land to its previous use upon the end of the project's life.
- 2) Provisions for the removal of structures, debris, and associated equipment on the surface and to a level of not less than five feet below the surface, and the sequence in which removal is expected to occur;
- 3) Provisions for the restoration of the soil and vegetation;
- 4) An estimate of the decommissioning costs certified by a professional engineer in current dollars. Such estimate shall be exclusive of salvage value. The engineer providing this estimate shall be engaged under contract by the Vermilion County Engineer and all costs associated with this engagement shall be borne by the applicant;
- 5) A written financial plan approved to ensure that funds will be available for decommissioning and land restoration;
- 6) 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;
- 7) Upon review of the decommissioning plan, the Infrastructure Committee, or its successor committee(s), of the Vermilion County Board may set an amount to be held in a bond, escrow or other acceptable form of funds approved by the Committee. The plan shall state that Vermilion County shall have access to the project and to the funds to effect or complete decommissioning one year after cessation of operations; and,
- 8) The applicant shall provide the county with a new estimate of the cost of decommissioning the SFES project every five years under the same conditions as set forth in this Section above. Salvage value of structures, shall not be considered with in the cost estimate calculations. Upon receipt of this new estimate, the county may require, and the applicant, owner, and/or operator of the SFES project shall provide, a new financial plan for decommissioning acceptable to the county. Failure to provide an acceptable financial plan shall be considered a cessation of operations.

H. After an approved final inspection of all required information a certificate of compliance shall be issued and thereafter the Vermilion County Board shall vote for the issuance of a building permit.

### **Section 3. Indemnification and liability.**

A. The applicant, owner, and/or operator of the SFES project shall defend, indemnify, and hold harmless the County of Vermilion and its officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever, including attorney's fees, without limitation, arising out of acts or omissions of the applicant, owner, and/or operator associated with the construction and/or operation of the SFES project.

B. The applicant, owner, and/or operator of the SFES project shall maintain a current general liability policy covering bodily injury and property damage with limits of at least two million dollars per occurrence and two million dollars in the aggregate. Evidence of liability coverage must be reported to the Vermilion County Board on an annual basis, and any loss of coverage must be reported within three working days of loss. Failure to maintain coverage shall be considered a cessation of operations.

### **Section 4. Cessation of operations.**

If any SFES provided for in this chapter has not been in operation and producing electricity for at least two hundred seventy consecutive days, it shall be removed. The Vermilion County Board shall notify the owner to remove the system. Within thirty days, the owner shall either submit evidence showing that the system has been operating and producing electricity or remove it. If the owner fails to or refuses to remove the solar energy system, the violation shall be referred to the Vermilion County State's Attorney for enforcement.

### **Section 4. Penalties.**

A failure to obtain applicable building permit(s) for the construction of a solar energy system or failure to comply with the requirements of a building permit or the provisions of this chapter or the requirements of the Agricultural Mitigation Agreement, 505 ILCS 147/15, shall be deemed a violation of this chapter. The state's attorney may bring an action to enforce compliance of the requirements of this chapter by filing an action in the circuit court for an injunction requiring conformance with this chapter or seek such other order as the court deems necessary to secure compliance with this chapter.

Any person who violates this chapter shall be fined not less than twenty-five dollars or more than five hundred dollars. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

Nothing herein shall prevent the county from seeking such other legal remedies available to prevent or remedy any violations of this chapter.

**Section 5. Infrastructure Committee.**

There is established an Infrastructure Committee who shall be appointed by the County Board Chairman with the concurrence of the County Board, who shall be qualified individuals to assist in the review of any application for solar panels and other reviews of infrastructure issues as may be delegated to them by the Board Chairman.

**Section 6. Severability.**

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

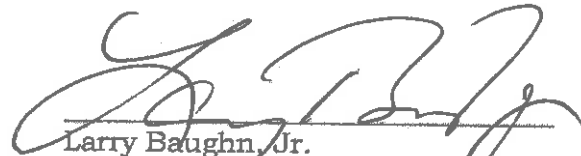
**Section 7. Effective Date.**

This ordinance is effective upon passage by the Vermilion County Board



PRESENTED, APPROVED, AND ORDAINED by the County Board of Vermilion County, Illinois at the August 13th, 2019, meeting.  
DATED, this 13th day of August, 2019.

AYE 21 NAY 0 ABSENT 6

  
Larry Baughn, Jr.  
Chairman, Vermilion County Board

ATTEST:  
  
Clerk of the County Board

ORDINANCE: 19-0806

RE: Ordinance- Solar Energy Systems  
APPROVED BY EXECUTIVE COMMITTEE: 05/23/2019

Larry Baughn, Jr. <i>Committee Chairperson</i>	<input type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
Craig Golden	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
Steven Fourez	<input type="radio"/> Y	<input type="radio"/> N	<input checked="" type="radio"/> A
Kevin Green	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
Crisi Walls	<input type="radio"/> Y	<input type="radio"/> N	<input checked="" type="radio"/> A
Greg Thatcher	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
Becky Stark	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
AJ Wright	<input type="radio"/> Y	<input type="radio"/> N	<input checked="" type="radio"/> A

ORDINANCE

WHEREAS, wind turbines have blossomed as an industry as a means of seeking alternative energy sources, and

WHEREAS, Vermillion County is likely to be an area of interest for wind farms to harvest the energy of wind, and

WHEREAS, such wind farms represent both a substantial investment in dollars and a substantial impact on the land such that some regulation concerning their structure and eventual decommissioning is warranted, and

WHEREAS, The Illinois Statutes at 55 ILCS 5/5-1063 permit counties to regulate structures outside of the incorporated areas within the county,

Be it therefore ordained that the following ordinance be enacted into law with an immediate effective date provided that this ordinance shall be separately printed and made available to all interested parties and be displayed upon the County of Vermillion website.

PRESENTED, APPROVED AND ORDAINED by the County Board of Vermillion County, Illinois at the January 20, 2009 A.D. Session.

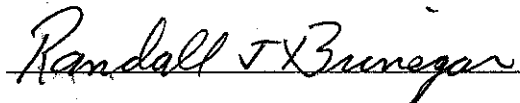
DATED this 20th day of January 2009, A.D.

AYE 23 NAY 0 ABSENT 3  
VACANCY- 1

  
Chairman, Vermillion County Board

ATTEST:

  
Clerk of the County Board

  
Approved to Form: State's Attorney

APPROVED BY EXECUTIVE COMMITTEE:	<u>James McMahon, Chr.</u> <input checked="" type="radio"/> N A
<u>Edwin Barney</u> Y N A	<u>Robert Fox</u> <input checked="" type="radio"/> N A
<u>John Dreher</u> Y N A	<u>Bruce Stark</u> <input checked="" type="radio"/> N A
<u>Gary Weinard</u> <input checked="" type="radio"/> N A	<u>vacant</u>

## I. INTRODUCTION

### A. Title

This Ordinance shall amend the Vermilion County Ordinances and be known, cited and referred to as the Vermilion County Wind Energy Structure Ordinance.

### B. Purpose:

This Ordinance is adopted for the following purposes:

1. To assure that any structures, and equipment connected to such structures, used in the development and production of wind-generated electricity in Vermilion County are safe and effective;
2. To facilitate economic opportunities for local residents;
3. To promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources while adhering to required structural regulations to enhance safety.

## II. DEFINITIONS

- A. "Applicant" means the entity or person who submits to the County, pursuant to Section V of this Ordinance, an application for the permitting of any WECS or Substation.
- B. "Financial Assurance" means reasonable assurance from a credit worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit.
- C. "Committee" means the County Structural Safety Committee who are appointed by the County Board Chairman and shall at a minimum include the County Engineer, a representative from the County Health Department, and the State's Attorney or an assistant state's attorney, and such at large members as required and as may be appointed by the County Board Chairman.

- D. "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.
- E. "Owner" means the entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) 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 practicable date.
- F. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in any state in the United States.
- G. "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 structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.
- H. "Siting Approval" or "Permit Approval" means the approval of a building permit to locate and construct the WEC(s) at a particular location. The term permits approval and siting approval shall be interchangeable for the purposes of this ordinance.
- I. "Substation" means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.
- J. "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), and other related equipment.
- K. "WECS Project" means the collection of WECSs and Substations as specified in the siting approval application pursuant to Section VI of this Ordinance.
- L. "WECS Tower" means the support structure to which the nacelle and rotor are attached.
- M. "WECS Tower Height" means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

### III. APPLICABILITY

This Ordinance governs the permitting and building of WECSs and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of WECSs with an aggregate generating capacity of 100 KW or less are not subject to this Ordinance, except for those provisions relating to setback lines under section IV H and as to that provision all WECS shall be in compliance. As to WECS with an aggregate generating capacity of 100 KW or less a permit is required to verify compliance with the setback provisions herein, but there shall be no charge for the same.

### IV. PROHIBITION

No WECS or Substation governed by Section III of this Ordinance shall be constructed, erected, installed, or located within Vermilion County, unless prior approval has been obtained for each individual WECS and Substation pursuant to this Ordinance from the County Structural Safety Committee.

No WECS or Substation governed by Section III of this Ordinance shall be operated or maintained in violation of this Ordinance or in violation of the terms of the permit as may be approved by the County, or in an unsafe condition

### V. Vermilion County Structural Safety Committee

There is hereby created an advisory committee, the County Structural Safety Committee. The committee shall be appointed by the County Board Chairman and shall consist of the representative of the

- A. Vermilion County Highway Engineer
- B. Vermilion County Health Department
- C. Vermilion County State's Attorney's Office
- D. Such at-large community representatives as may be required and as may be appointed by the County Board Chairman

The committee chairman shall organize the times and meeting places of the committee. The chairman shall be named by the County Board Chairman from such representatives as may be appointed, and may be removed from the chairmanship at the discretion of the chairman. All meetings shall be open to the public and shall be held at a public place with notice as required under the Open Meetings Act. In the absence or unavailability of the committee chairman, the County Board Chairman may call a meeting of the committee for any purpose.

The committee shall be limited to the review of permits applications and matters under the governance of this ordinance.

Any final decision or action of the Committee may be appealed. The first step in such appeal is to request an informal consultation with the committee. If such informal consultation is not available within 72 hours, excluding weekends and holidays, or if the informal consultation does not resolve the matter, a further appeal may be had by requesting the County Board Chairman to appoint a three person appeal committee from the current members of the County Board who shall hear the dispute and resolve the matter by hearing within seven days, excluding weekends and holidays unless the appealing party requests an extension. If, after a hearing and decision is rendered, such resolution is not acceptable to either party, then the matter may be further reviewed in accordance with the Illinois Administrative Review Act, 732 ILCS 5/3-101 et. seq.

The decision to grant or deny a permit application is within the sole discretion of the County Board and that decision may be appealed as provided for in the Illinois Administrative Review Act, supra, only after the County Board has voted on the matter.

#### VI. 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 permit approval application to the County. The application shall be filed with the Vermilion County Board Office, and any forms or information relative to the permit process shall be made available at such location.
- B. To assist in the incidental costs of the application process, each applicant shall be required to pay a non-refundable application fee of \$ 1,000.00 per \*\*\*wind turbine structure to be built as part of the WECs project. All fees shall be due at the time the application is submitted to the County Board Office and shall be deposited into the Vermilion County General Fund.
- C. The Structural Safety Committee 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 that 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: (1) 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 maximum diameter of the WECS(s) rotor(s); the general location of the project; and (2) a description of the 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, as well as any available references and history of similar projects constructed, maintained or operated by any Applicant, Owner and Operator;
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 Structure(s), property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, 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 geographical boundaries of any applicable setback;
4. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance; and
5. Any other information required by the County as part of its permit process as may be hereinafter described in this ordinance or requested by the County Structural Safety Committee. To the extent practical, the Committee shall develop a written application cover sheet with a checklist of required and requested information to assist in presentation of the application. The Committee may request information concerning the background and experience of any owner, operator or construction group involved. The Committee may reject any application, which does not substantially, and in good faith contain the required or requested information.
6. The County Structural Safety Committee shall review the application. Once the permit application is received and reviewed by the Committee, the Committee may direct

changes in the application. Prior to submission to the County Board, the Committee shall determine if any changes have been made to the project described in the application. Prior to its submission to the County Board the application shall have as much specific location and other information as available. If such changes are made and accepted or if the application is accepted as presented, the Committee shall forward the same to the County Board. If the Committee does not recommend that application, it shall be sent to the Board with a negative recommendation. The Board may accept a permit application by a majority vote if the application is recommended by the Committee, however if an application is not recommended by the Committee, then the permit shall be approved only if 2/3 of the Board vote to approve such application over the negative recommendation of the Committee. The Committee shall note any concerns for the Board's consideration, and the Board shall make an independent judgment as to the appropriateness of the issuance of any permit. A permit application shall not be denied if the application meets the requirements of this ordinance or has obtained acceptable waivers or variances. However, an application may be denied where the applicant has a history of poor workmanship such that the safety of the public will be at risk. The granting or denial of a permit application is a final decision of the County Board and may be appealed as provided for in the Illinois Administrative Review Act, 735 ILCS 5/3-101.

- E. The Applicant shall notify the County of any changes to the information provided in Section VI.B above that occurs while the permit approval application is pending.

## VII. DESIGN AND INSTALLATION

### A. 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 certification or require additional certification. Any dispute



as to the sufficiency of the certification shall first be addressed by informal consultation between the Applicant, Owner and /or Operator. If the informal consultation does not resolve the dispute then the dispute shall be resolved by application to the County Board committee of three members as chosen by the County Board Chairman. Said Board members shall be chosen from the entire County Board as needed. Any appeal from the decision of the three person County Board Committee 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. Following the granting of permit approval under this Ordinance, a Professional Engineer shall certify, as part of the building permit application that 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. All underground connections shall be at least 36 inches below the ground except as otherwise allowed by the National Electric Code (N.E.C.).
4. Any staging or layout area where equipment will be gathered for installation will be identified to and approved by the Committee.

#### B. 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.

C. Electrical Components

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

D. Color

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

E. Compliance with the Federal Aviation Administration

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

F. 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 objects, 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.

G. Climb Prevention

1. All WECS Towers must be unclimbable by design or protected by anti-climbing devices such as:
  - a. Fences with locking portals at least six feet high; or
  - b. Anti-climbing devices 12 feet vertically from the base of the WECS Tower.

H. Setbacks

1. To ensure the safety of surrounding buildings and owners, all WECS Towers shall be set back at least 1000 feet 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.

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 transmission lines, and communication towers. The County may waive this setback requirement.
3. All WECS Towers shall be set back a distance of at least 1.10 times the WECS Tower Height from adjacent property lines. The affected adjacent property owner may waive this setback requirement.
4. 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 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.

I. Compliance with Additional Regulations

Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

J. 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 Substation(s), shall:

- a. Identify all such public roads; 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 a

weight or size permit 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 appropriate jurisdiction(s) having authority over the various roadways to be used. Where a County Road is involved the County Engineer and State's Attorney's Office must approve the agreement as it relates to County Roads. Where a township road or highway is involved, the appropriate township highway commissioner shall be notified and approve any such agreement. This ordinance does not replace or change the jurisdiction of existing governmental units as to roads and highways within their jurisdiction.
- 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.

## VIII. 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 above 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 (A) (1) of this Ordinance. Like-kind replacements shall not require re-certification. Prior to making any physical

modification (other than a like-kind replacement), the owner or operator shall confer with a relevant third-party certifying entity identified in Section VI (A) (1) of this Ordinance as well as the Structural Safety Committee to determine whether the physical modification requires re-certification. The Committee may in its sole discretion require re-certification unless adequate showing is made by that such is not required.

B. Interference

1. The Applicant shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the project summary and site plan, as set forth in Section V.B.1. and V.B.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.
  
2. If, after construction of the WECS, the Owner or Operator receives a written complaint related to interference with local broadcast residential television, the Owner or Operator shall take reasonable steps to respond to the complaint.

C. Coordination with Local Fire Department

1. The Applicant, Owner or Operator shall submit to the local fire department a copy of the site plan.
2. Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire department's emergency response plan.
3. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

D. Materials 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 materials related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

#### IX NOISE LEVELS

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 permit approval application process, shall appropriately demonstrate compliance with the above noise requirements.

#### X BIRDS AND BATS AND OTHER NATURAL RESOURCE AND WILDLIFE ISSUES

Consultation with the Illinois Department of Natural Resources (hereinafter "IDNR") as required pursuant to 17 Ill. Adm. Code Part 1075 shall be included by any applicant. The burden to conduct such consultations shall be upon the applicant and shall be reviewed by the Committee. The Committee shall weigh the recommendations of the Illinois Department of Natural Resources, if any, but shall not be bound by them and the County Board and Committee shall exercise independent judgment on the acceptance or rejection of such recommendations or may require implementation of such recommendations or alternatives determined by the County Board to be appropriate. It shall be the applicant's obligation to certify that based upon consultation with the IDNR, the siting, building and operation of the WECS will not violate existing law. The Committee may require any independent study suggested by IDNR and the applicant shall pay for such studies.

Where applicable, the Committee shall consider the need for requesting an Incidental Take Authorization from IDNR or requiring the same as part of the application process.

#### XI PUBLIC PARTICIPATION

Nothing in the 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

The 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 \$5 million per occurrence and \$5 million in the aggregate. The same shall apply to all contractors and subcontractors during the construction process. Proof of such insurance shall be kept current and on file at the County Board Office.

## XIII. DECOMMISSIONING PLAN

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

- A. Provisions describing the triggering events for decommissioning the WECS Project;
- B. Provisions for the removal of structures, debris and cabling, including those below the soil surface, and shall provide for the removal of all buried objects above a depth of 36 inches under the soil;
- C. Provisions for the restoration of the soil and vegetation;
- D. An estimate of the decommissioning costs certified by a Professional Engineer, 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 costs;
- F. Identification of and procedures for County access to 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 County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

#### XV. REMEDIES

- A. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Ordinance.
- B. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s), except those defaults that implicate public safety in which case the County Engineer in consultation with the Committee may issue a stop order.
- C. Any violation of this ordinance shall be an offence punishable by a fine not to exceed \$1,000.00. Each violation shall be a separate offense. Each day a violation occurs or continues shall be a separate offense. A court may set any appropriate per day fine for each day the infraction exists or until such infraction is remedied. It is the goal of this ordinance to promote structural safety to protect the public and the court in setting any appropriate fine shall consider the nature of the offense, the degree of public safety involved, the efforts of the County and responsible owner or applicant to quickly and safely resolve any infraction. It is the intent that any dispute between the parties be resolved promptly and where possible by informal discussions as outlined elsewhere in this ordinance.

#### XVI. COUNTY AUTHORITY TO ENTER AND INSPECT

To accomplish the purposes of this ordinance, the County Structural Safety Committee shall have the right to enter upon any land upon 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 WAIVER AND VARIANCES

The County Structural Safety Committee may allow waivers and variances of various buildings or equipment connected to the buildings, not in compliance with the ordinance when it is shown that the cost of compliance exceeds the benefit sought and does not implicate a danger to the public, or that technology has changed requiring such waiver or variance, or the application of a particular section of the ordinance is unworkable or impractical and sufficient proof exists to show that alternative means or equipment will serve the purposes of this ordinance, or that the true intent of the code or rules legally adopted under this code have been incorrectly interpreted. Such variances whether at the permit application stage or over the life of the WECS shall be considered at the request of the applicant or owner or managing entity responsible for the WECs and shall be in writing and demonstrate the need for a waiver or variance to the satisfaction of the committee. Such variance or waiver shall be filed with the County Board Office.

## XVIII. Conflict with Other Laws and Severability

- A. Should any provision of this ordinance conflict with any other law or ordinance, state statute, regulation or rule, then the provisions of this ordinance shall apply and shall prevail over other ordinances to the extent allowed under law due to the special nature of the structures covered by this ordinance.
- B. 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.

## XIX. EFFECTIVE DATE

This ordinance shall become effective immediately upon the date of its passage by the county board.