

FORD COUNTY ZONING
ORDINANCE

APPENDIX A
STANDARDS FOR
WIND ENERGY
CONVERSION SYSTEMS

Revised: March 13, 2006 - RES 06 - 17
Revised: June 8, 2009 - RES 09 - 39
Revised: September 13, 2021 - RES 21 - 80
Revised: May 24, 2023 - RES 23 - 49

APPENDIX A
STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS

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I. INTRODUCTION

A. *Title*

This Ordinance from which this is derived is adopted in accordance with 55 ILCS 5/5-12020 and shall amend the Ford County Zoning Ordinance and be known, cited and referred to as Appendix A Standards for Wind Energy Conversion System.

B. *Purpose*

This Ordinance is adopted for the following purposes:

- 1.** To assure that any development and production of wind-generated electricity in Ford County is safe and effective.

2. To facilitate economic opportunities, security and stability of Ford County.
3. To allow the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.

II. DEFINITIONS

- A. "Applicant" means the entity or person, successors-in-interest, and assigns who submits to the County, pursuant to Section V of this Ordinance, an application for the special use permit for the siting of any Commercial Wind Energy facility or substation related thereto .
- B. "Board" means the Ford County Board as it exists on the date of adoption of this Appendix A Standards for Wind Energy Conversion System, and as it shall be constituted in the future.
- C. Commercial Operation Date means the calendar date on which the WECS Project produces power for commercial sale, not including test power.
- D. Commercial Wind Energy Facility means a wind energy conversion facility of equal or greater than 500 kilowatts in total nameplate generating capacity. Also referred to herein as "Wind Energy Conversion System" or "WECS Project"
- E. Financial Assurance or Financial Security or Decommission Security means assurance from a credit worthy party, examples of which include a surety bond (e.g., performance and payment bond), trust instrument, cash escrow, or irrevocable letter of credit.
- F. MET Towers – Meteorological Tower means those towers which are erected primarily to measure wind speed and direction plus other data relevant to siting and operation of WECS Projects. For purposes of this ordinance, Meteorological Towers do not include towers and equipment used by airports, the Illinois Department of Transportation, or other similar applications or government agencies, to monitor weather conditions.
- G. Notice to proceed means a written document, named as such, stating that the Applicant expresses an intent to commence construction activities on a WECS Project and identifying the date on which the construction activities are scheduled to commence.
- H. Non-participating property means real property that is not a Participating Property.
- I. Nonparticipating residence means a residence that is located on nonparticipating property and that is existing and occupied on the date that an applicant for a permit to develop WECS Project is filed with the County.

- J.** Occupied community building means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the WECS project is filed with the County: a school, place of worship, day care facility, public library or community center.
- K.** “Operator” means the person or entity responsible for the day-to-day operation and maintenance of the WECS, including any third-party subcontractors. The Operator must be a qualified wind power professional. All references to Operator in the Ordinance shall include the Operator’s successors-in-interest and assigns.
- L.** “Owner” means the entity or entities with a direct equity interest in the WECS(s), including their respective successors-in-interest 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. The definition includes the definition of Facility Owner as defined in ILCS 5/5-12020.
- M.** Participating Landowner - A landowner in Ford County that has entered into a contractual agreement with a company that is applying for a Special Use Permit for a WECS Project.
- N.** Participating Property means real property that is the subject of a written agreement between a Facility Owner and the Owner of the real property that provides the facility owner an easement, option, lease or license to use the real property for the purpose of constructing a WECS Project or supporting facilities. “Participating property” also includes real property that is owned by a facility owner for purposes of constructing a WECS Project or supporting facilities.
- O.** Participating Residence means a residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the WECS Project is filed with the County.
- P.** “Professional Engineer” means a qualified individual who is licensed in the State of Illinois. Where a structural engineer is required to take some action under terms of this Ordinance, a Professional Engineer may serve as the structural engineer if he or she has the appropriate structural engineering certification.
- Q.** Protected Lands means real property that is subject to a permanent conservation right consistent with the Real Property Conservation Rights Act, or registered or designated as a nature preserve, buffer, or land and water reserve under the National Natural Areas Preservation Act.

- R.** Public Conservation Lands means land owned in fee title by County, state or federal agencies and managed specifically for conservation purposes, including, but not limited to County, state and federal parks, state and federal wildlife managements, state scientific and natural areas, and federal wildlife refuges and waterfowl protected areas. Public Conservations lands do not include private lands upon which conservation easements have been sold to government agencies or non-profit conservation organizations. Public Conservation Lands also do not include private lands for which the owners have entered into contractual relationships with government or non-profit organizations for conservation purposes.
- S.** Repower/ Replace means any variation to foundations and/or tower structures including increasing megawatts per tower from the original approved Special Use Permit with the exception of like-kind replacement.
- T.** (Right of Way) A general term denoting land, property, or interest therein, usually a strip acquired for or devoted to transportation purposes.
- U.** “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 existing on the date that the application for a permit to develop the WECS Project is filed. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.
- V.** Special Use Permit means a permit approved by the County Board after a public hearing, allowing a particular use at a specified location subject to compliance with certain specified special conditions as may be required by the County Board.
- W.** Rotor Diameter – is the diameter of the circle created by rotating turbine blade tips.
- X.** Shadow flicker means alternating changes in light intensity caused by the moving blade of a wind power generator casting shadows on the ground and stationary objects.
- Y.** Sub-Station – means collections system of the WECS and increases the voltage for connection utility’s transmission lines.
- AA.** Supporting Facilities means the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity.
- BB.** WECS Permittee means an Applicant who applies for and receives a Special Use Permit under this ordinance for the siting and operation of a WECS or Substation. All references to a WECS Permittee in this

Ordinance shall include a WECS Permittee's successors-in-interest and assigns.

- CC.** "WECS Tower" means the support structure to which the nacelle and rotor are attached.
- DD.** "WECS Tower Hub Height" means the distance from the center of the rotor hub to the top surface of the WECS Tower foundation.
- EE.** "WECS Tower Tip Height" means the distance from the rotor blade at its highest point to the ground at base of the WECS foundation.
- FF.** WECS Building Permit means a permit necessary for the commencement of work performed toward the construction, erection, or installation of an approved WECS Substation or operations and maintenance building in connection with a WECS Project. A WECS Building Permit may be issued by the County after a WECS Project has obtained a Special Use Permit from the County Board and the Zoning Board of Appeals determines after a public hearing that all conditions, if any, have been satisfied that are imposed by the Special Use Permit. The WECS Building Permit shall require the Applicant (WECS Permittee) to deliver in written "Notice to Proceed" for the WECS Project to the County prior to commencement of construction of the WECS Project. The term "commencement of construction", as used in this Ordinance includes any site development work (e.g., demolitions, grubbing, grading, excavation, road work, construction of Project-related structures and infrastructure improvement, etc.) regarding the WECS Project.
- GG.** Wind Turbine means any piece of electrical generating equipment that converts the kinetic energy of moving wind into electrical energy through the use of airfoils or similar devices to capture the wind.

III. APPLICABILITY

- A.** This Ordinance governs the siting of WECS projects and substations. WECS(s) and WECS Projects that generate electricity to be sold to wholesale or retail markets
- B.** Owners of a WECS project with an aggregate generating capacity of 0.5 MW or less who locate the WECS on their own property are not subject to this Ordinance

IV. PROHIBITION

No WECS Project or, WECS or Substation governed by this Ordinance shall be constructed, erected, installed, or located within Ford County unless prior Special Use Permit Application has been approved for each individual WECS Project, WECS Tower and ~~or~~ Substation or for a group of WECS Projects and Substations under a joint siting application pursuant to this Ordinance. Upon special use approval a Road

Use Agreement shall be obtained from the Road Authority. It is recommended that this be completed prior to the issuance of any building permits for, WECS Project or Substation or any part thereof.

V. SPECIAL USE PERMIT APPLICATION

- A.** To obtain siting approval, the Applicant must first submit a Special Use permit application to the Ford County Zoning Officer. This application must be submitted in English.

- B.** The special use permit application shall contain or be accompanied by the following information:
 - 1.** A WECS Project summary, including: (1) a general description of the project, including its name plate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), maximum number of WECS, and approximate name plate generating capacity of each WECS; the maximum height of the WECS Tower(s) ,and maximum diameter of the WECS(s) rotor(s); number of substations; a project site plan; project phasing plan and project constructions timeline plan; 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) and demonstrating land ownership or legal control of the property.

 - 3.** A site plan for the installation of WECS Project showing the planned location of each WECS Tower, including legal descriptions for each site, guy lines and anchor bases (if any). Participating and Nonparticipating Residences within one (1) mile of the WECS Project, Occupied Community Buildings within one (1) mile of the WECS Project property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substations(s), electrical cabling from the WECS Tower to the Substation(s), operations and maintenance buildings and permanent Meteorological Towers, electrical cabling from the WECS Tower to the Substations, ancillary equipment, third party transmission lines, the location of any wetlands, flood plain, drainage structures including surface ditches and subsurface drainage lines, underground mines, scenic and natural areas within one thousand five hundred (1500) feet of the proposed WECS, the locations of all known communications towers within two (2) miles of the proposed WECS, and layout of all structures within the geographical boundaries of any applicable setback.

 - 4.** All required studies, including but not limited to shadow flicker, noise impact, flood plain maps and wildlife impact, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance;

studies for shadow flicker and noise impact using computer modeling and submit documentation for No hazard to Air Navigation evidencing compliance with all applicable FAA requirements from the Federal Aviation Administration.

5. An Agricultural Impact Mitigation Agreement (AIMA) executed between the Applicant and the Illinois Department of Agriculture.
6. The topographic map shall include the WECS Project site and all lands within one (1) mile of the WECS Project.
7. The developer will commit to comply with, for the duration of the project, the Illinois law on wind energy conservation system assessment (35 ILCS 200/10 605). In case the state of Illinois lowers the assessment, the developer will continue to pay an amount equal to the property taxes assessed under the initial act (35 ILCS 200/10 605). In case the state of Illinois increases the assessment, the developer will pay property taxes according to such increased program.
8. A proposed Decommissioning Plan for the WECS Project including cost estimations
9. Waivers from the setback requirements executed by the occupied community building owners and/or the nonparticipating property owners bearing a file stamp from the County Recorder of Deeds Office confirming that the waiver was recorded against title to the affected real property.
10. Waivers from the shadow flicker mitigation requirements setback requirements executed by the occupied community building owners and/or the nonparticipating property owners bearing a file stamp from the County Recorder of Deeds Office confirming that the waiver was recorded against title to the affected real property.
11. Results and recommendations from the Illinois Department of Natural Resources obtained through the Ecological Compliance Assessment Tool or a comparable successor tool.
12. Results of the United States Fish and Wildlife Service's Information for Planning and consulting environmental review or a comparable successor tool that is consistent with the United State's Fish and Wildlife Service's Land-Based Wind Energy Guidelines.
13. Information demonstrating that the WECS Project will avoid protected lands.
14. Any other information requested by the County or the County consultants that is necessary to evaluate the siting application and

operation of the WECS Project and to demonstrate that the WECS Project meets each of the regulations in this Ordinance, including the Special Use Permit standards set forth below.

15. Notarized authorization letters from every participating landowner setting forth their agreement with having their property being included in the Special Use Permit application
16. The Applicant shall notify the Board of any changes to the information provided in Section V(B) within thirty (30) days of said changes being identified.
17. Material Changes to the application are not permitted once the notice of the Public Hearing has been published, unless requested or permitted by the County : and
18. The applicant shall submit twelve (12) copies of the Special Use Permit Application to th County, and at least one (1) in electronic format.

VI. APPLICATION FEES

- A. The applicant shall pay a flat fee of one hundred thousand dollars (\$100,000). For this fee, the Ford County Zoning Officer will review the application, get the necessary reviews by the Ford County State’s Attorney or their appointed Special Assistant State’s Attorney and engineering consultants, publish the legal notices, hold the Zoning Board of Appeals Hearing, and send their recommendations, with their findings of fact to the Board for final approval.
- B. Should the actual costs to the County exceed the submitted Application Fee, the Applicant shall be responsible for those additional costs and shall remit additional funds to the County within 15 days of receipt of a request from the County. No hearings on an Application shall be conducted nor final decisions rendered on an Application if there are Application fees due to the County. If the County’s expenses are less than one hundred thousand dollars (100,000) that remaining portion may be returned to the Applicant. An Applicant may request any unused Application Fee be applied toward the Building Permit Fees for the Facility.

VII. DESIGN AND INSTALLATION

A. *Design Safety Certification*

1. MET towers, WECS(s) and the WECS Project shall conform to applicable industry standards, including those of the American National Standards Institute (“ANSI”). Prior to the issuance of construction permits, Applicant shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (“UL”), Det Norske Veritas (“DNV”), Germanischer

Lloyd Wind Energy (“GL”), or an equivalent third party. All turbines shall be new equipment commercially available; no used or experimental equipment shall be approved by the Zoning Enforcing Officer or the Zoning Board of Appeals without the issuance of a variance.

2. Following the granting of the special use permit under this Ordinance, a Professional Engineer shall certify, as part of the WECS Building Permit application process that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
3. All components of the wind energy facility shall be sourced and manufactured in compliance with all Federal laws, regulations, and executive orders.

B. *Controls and Brakes*

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

C. *Electrical Components*

All electrical components of the WECS in the WECS Project shall conform to applicable local, state and national codes and relevant and international standards. Standards including but are not limited to Nation Electric Code, ANSI, UL and International Electric Commission.

D. *Color*

WECS towers and blades shall be painted white or gray or another non-reflective, unobtrusive color. Color sample shall be submitted and approved by the Board at the time the Applicant applies for a Special Use Permit under this Ordinance.

E. *Turbine Consistency*

To the extent feasible, the project shall consist of turbines of similar design and size, including tower height. All turbines shall rotate in the same direction and shall be consistent in color and direction with nearby facilities.

F. *Compliance with the Federal Aviation Administration*

The WECS in the WECS Project shall comply with all applicable FAA requirements and submit documentation evidencing compliance with all applicable FAA requirements.

G. *Lighting and Aesthetics*

- A.** 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 WECS Projects are required to use ADLS (aircraft detection lighting systems) or other similar or equivalent system to reduce light pollution and visual impacts of nighttime lighting on nearby residents, communities, and migratory birds in accordance with the FAA Advisory circular: 70/7460-IL section 14.1., and all other applicable FAA regulations or circulars.
- B.** 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 and at all entrances to the WECS Towers.
- 2.** Visible, reflective, colored objects, such as flags, plastic sleeves, 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.
- 3.** All power and communication lines used to collect power from individual turbines shall be buried underground at a depth in accordance with the Agricultural Impact Mitigation Agreement until same reach the property line or a substation adjacent to the property line:
 - a.** a minimum of 5 feet of top cover where it crosses Cropland.
 - b.** a minimum of 5 feet top cover where it crosses pasture land or other Agricultural Land comprised of soils that are classified by the USDA as being prime soils.
 - c.** a minimum of 3 feet of top cover where it crosses pasture land and other Agricultural Land not comprised of prime soils.
 - d.** a minimum of 3 feet of crop cover where it crosses wooded/bushy land
- 4.** No wind turbine generator tower or anemometer tower or site shall include any advertising sign, but logos of the Owner or Operator or the wind turbine generator manufacturer shall not be considered “advertising” for the purpose of this Ordinance.

5. At each entrance of a WECS Tower per Ford County ESTB regulations Owner/Operator shall place an eight-foot, six-inch (8' 6") above-ground galvanized post and shall include a blue sign with three-inch (3") letters and/or numbers in white. The sign/plate shall be eight inches by eighteen inches (8" x 18") and shall be maintained and visible at all times and shall be in compliance with current highway sign standards. These signs shall include 'in case of emergency call 911" and the 911 address and an emergency phone number of the facility owner which shall be answered 24 hours per day by a live operator. A non emergency phone number for the facility owner shall also be displayed. These phone numbers shall remain active with all calls being voice recorded for verification purposes and with comments and complaints reported to the Ford County Zoning Officer on a monthly basis. The recorded calls shall be maintained for at least four (4) months.
6. Warning signs identifying underground wire locations shall be placed and maintained at all road crossings.

I. *Climb Prevention*

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;
or
- C. Locked doors and interior ladders.

J. *Height*

The permitted maximum height of a commercial wind energy facility from which this is derived is adopted in accordance with 55 ILCS 5/5-12020 WECS Tower Tip Height will not exceed five hundred - (500) feet, unless a determination of the No Hazard to Air Navigation has been received by the applicant for the specific wind turbine location proposed by applicant, in which case the height allowed by the Determination of No Hazard to Air Navigation shall control.

K. *Blade Clearance*

The minimum suggested distance between the ground and any protruding blades(s) utilized on a WECS shall be fifty (50) feet, as measured at the lowest point of the arc of the blades.

L. *Setbacks*

The requirements in this section may be waived subject to the written consent of the owner of each affected nonparticipating property. WECS Towers shall be sited as follows, with setback distances measured from the center of the base of the WECS tower:

From property lines upon which a primary structure is located, all WECS Towers shall be set back a distance of not less than two thousand, two hundred and fifty (2,250) feet as follows: For nonparticipating landowners, the distance will be measured in a straight line from the center of the WECS Tower Foundation to the nearest point of the property line of the nonparticipating owner's property. Participating and nonparticipating property owners may waive this setback requirement, but in no instance shall a WECS tower be located closer than one thousand (1,000) feet, as measured from the center of the WECS Tower Foundation to the nearest point of a Primary Structure existing at the time of the execution of the waiver.

From property All WECS Towers shall be set back a distance of at least two and six-four hundredths (2.64) times the WECS Tower Tip Height or one thousand – three hundred and twenty feet (1320') whichever is greater from adjacent non-participating property lines without a primary structure, established as of the date of approval of the special use permit, unless waived in writing by the affected adjacent property owner(s). Distance shall be measured from such adjacent property line to the center of the WECS Tower foundation. lines upon which a primary structure is located, all WECS Towers shall be set back a distance of) not less than two thousand, two hundred fifty (2,250) feet as follows: For non-participating landowners, the distance will be measured in a straight line from the center of the WECS Tower Foundation to the nearest point of the property line of the non-participating owner's property. Participating and non-participating property owners may waive this setback requirement, but in no instances shall a WECS tower be located closer than one thousand (1,000) feet, as measured from the center of the WECS Tower Foundation to the nearest point of a Primary Structure existing at the time of the execution of the waiver.

1. All WECS Towers shall be set back a distance of (1.1) times the WECS Tower Tip Height from the nearest above-ground third party transmission lines, telephone lines and communication towers, in existence as of the date of approval of the special use permit, unless waived in writing by the affected property owner(s) and utility company. 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.
2. The Applicant does need to obtain a variance or other approval from the County upon written waiver by the applicable State, County, Township, utility company or property owner(s) of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be filed with the application and be recorded within thirty (30) days as part of the chain of title in the deed of the subject property.

To the extent that any of the above setbacks are judicially determined to be invalid for any reason, the invalid setbacks shall be modified to comply with the corresponding setback set forth below from which this is derived is adopted in accordance with 55 ILCS 5/5-12020:

1. Occupied Community Buildings: 2.1 times the maximum blade tip height of the WECS tower to the nearest point on the outside wall of the structure.
2. Participating Residences: 1.1 times the maximum blade tip height of the WECS Tower to the nearest point on the outside wall of the structure
3. No WECS Tower shall be sited within one- and one-half miles of the corporate limits of any incorporated municipality without waiver of this restriction being executed by the governing body of that municipality.
4. All WECS Towers shall be set back a distance of one- and one-half miles (1.5) from the legally established boundaries, as of the date of approval of the special use permit, of any municipality which enforces its own government. Distance shall be measured from the closest municipal boundary line to the center of the WECS Tower foundation.
5. Non-participating Residences: 2.1 times the maximum blade tip height of the WECS Tower to the nearest point on the outside wall of the structure.
6. Boundary lines of Participating Property: None
7. Boundary Lines of Nonparticipating property: 1.1 times the maximum blade tip height of the WECS Tower to the nearest point on the property line of the nonparticipating property.
8. All WECS Towers shall be set back a distance of at least one and one tenth (1.10) times the WECS Tower Tip Height from the nearest edge of the existing Right of Way of public roads as of the date of approval of the special use permit. Distance shall be measured from the center of the WECS Tower foundation to the nearest edge of the road Right of Way of such public road in existence as of the date of approval of the special use permit. The Township Road Commissioner or County Highway Engineer may waive this setback requirement as to roads within their respective jurisdictions.
9. Overhead Communication and Electric Transmission and Distribution Facilities (Not Including Overhead Utility Service Lines to Individual Houses or Outbuildings: 1.1 times the maximum blade tip height of the WECS Tower to the nearest edge of the property line, easement, or right of way containing the overhead line.
10. Overhead Utility Services to Individual Houses or outbuildings: None

11. Fish and Wildlife Areas and Illinois Nature Preserve Protected Lands: 2.1 times the maximum blade tip height of the WECS Tower to the nearest point on the property line of the fish and wildlife area or protected land.
12. The setback requirements may be waived by the written consent of the owners of each affected property. The Applicant does not need to obtain a variant from the County upon waiver by the property owner of the setback requirement. Any waiver of any of the above setback requirements shall run with the land and be recorded with the Recorder of Deeds of the County.

M. *Drainage Repair*

The Applicant, 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 in accordance with the Agricultural Impact Mitigation Agreement.

N. *Site Assessment*

To ensure that the subsurface conditions of the site will provide proper support for the WECS Towers and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports to the County Engineer with respect to each WECS Tower location, as part of its WECS Building Permit. The Applicant shall follow the guidelines for Conservation Practices Impact Mitigation submitted by the County Soil and Water Conservation District (or equivalent regulatory agency). The Applicant shall submit grading plans for the proposed Substations for review and comment by the County Soil and Water Conservation District prior to issuance of a Building Permit for the construction of said substations. Compliance with Additional Regulations Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

O. *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 WECS or Substation parts and/or equipment for construction, operation, or maintenance of WECS(s) or Substations(s), shall, prior to the issuance of construction permits:

Any proposed public roads that will be used for construction purposes shall be identified and approved in writing by the respective Road District Commissioner and the County Engineer prior to the granting of the Special Use Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from respective highway authority. Any road damage caused by the transport of the facility's equipment, the installation, maintenance, or removal, must be completely repaired to the reasonable satisfaction of the Road District

Commissioner and the County Engineer. The Road District Commissioner and County Engineer may choose to require either remediation of road repair upon completion of the WECS Project or reauthorized to collect fees for overweight and/or oversized load limits. Further, financial assurance in an amount to be fixed by the Road District Commissioner to ensure the Road District or the County that future repairs are completed to their reasonable satisfaction shall be provided. Applicant shall submit a draft form of said financial assurance with application for Special Use Permit.

- A.** Identify all such public roads; and
- B.** Enter into a Road Use Agreement with the County and each affected Road District: that includes the following provisions, at a minimum: project layout map, transportation impact analysis, pre-construction plans, project traffic map, project scope of repairs, post construction repairs, insurance, financial Security in forms and amounts acceptable to the County.
- C.** The road use agreement shall require Applicant to be responsible for the reasonable cost of improving roads used to construct WECS and the reasonable cost of repairing roads used by the facility owner during construction of the WECS so that those roads are in condition that is safe for the driving public after the completion of the WECS construction. Roadways improved in preparation for and during the construction of the WECS shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.
- D.** Obtain applicable weight and size permits from relevant government agencies prior to construction and/or maintenance activities.
- E.** All repairs and improvements to County Public roads and roadway appurtenances shall be subject to the prior approval of the County before being made and shall also be subject to inspection and acceptance by the County after such repairs and improvements are completed. The County's road use agreement, and any further agreements contemplated therein, County Public roads and highways, must be approved by the County Board prior to the Board's approval of any WECS Building Permit applications related to the construction of the proposed WECS Project.
- F.** Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and

P. Term

Notwithstanding any other provisions of the Ford County Zoning Ordinance, a special use permit for a WECS shall be effective and may be relied upon so long as construction of the WECS is commenced and continuously pursued within 36 months from date of approval of the special use permits associated with the WECS Project.

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. It being understood that nothing in this Section VII. shall be constructed as to require any Owner or Operator of the WECS to violate any non-disclosure or confidentiality covenant that the Owner or Operator may have with any of (i) equipment supplier(s), (ii) the purchasers of electricity and/or environmental attributes from the WECS, or (iii) any debt or equity financier of the WECS.
3. 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 from the original third-party certifying entity of the WECS (ie: NV, GL, UL, etc.). Then the Owner or Operator of the WECS shall obtain such recertification. Like-kind replacements shall not require recertification. 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 to determine whether the physical modification require re-certification.
4. Any variation to foundations and/or tower structures from the approved Special Use Permit with the exception of like-kind replacement known as repower/replace constitutes a new project and a new Special Use Permit is required as pursuant to Article XXIII, 4.

B. Interference.

1. Prior to its application for a Special Use Permit the Applicant, at its expense, shall have a third party provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the project summary, a pre-construction baseline study of all properties within a one and one-half (1 1/2) mile radius of the footprint of the WECS Project.
2. The Applicant, at its expense, shall have a third party, qualified professional approved by the county (after submission of resume and relevant work experience) conduct an appropriate communications analysis baseline study including radio communication services (commercial stations as well as - official County and local municipal emergency communications), reception, television (satellite and over the air antenna reception), and internet reception within a mile and 1/2 of the footprint of the WECS Project. The baseline study shall be paid for by the applicant

and approved by the Board. The WECS provider(s) shall demonstrate that reception of all the above communications shall not be negatively impacted or influenced by the proposed wind power facility. This communication analysis shall be a public record and shall be submitted as part of the Special Use Permit application.

3. The Applicant and the Operator, at the Applicant's expense, shall take immediate actions to minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals and to eliminate any such interference that impacts local government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, caused by the operation of the WECS. The Applicant will provide the applicable microwave transmission providers and local emergency service providers (911 operators) copies of the WECS 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 providers demonstrate a likelihood of interference with its communications resulting from the WECS, the Applicant and the Operator, at Applicant's expense, shall take reasonable measures to minimize and mitigate anticipated interference and with regard to interference with local government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant and the Operator, at Applicant's expense, shall take all necessary and available commercial measures to eliminate any such interference. If, after construction of the WECS, the Applicant (WECS Permittee) or Operator receives a written complaint related to the above-mentioned interference, the Applicant (WECS Permittee) shall take commercially reasonable steps to respond to the complaint, except in the case of a complaint of interference with local government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications. In the case of local government public safety communications, the Applicant (WECS Permittee) and the Operator, at the Applicant's expense, shall take all necessary and available commercial measures to eliminate any such interference.

4. The Applicant, at its expense, shall have a third party, qualified professional (approved by the county after submission of resume and relevant work experience) conduct an appropriate baseline analysis study to determine whether the WECS Project will interfere with the normal operation of Doppler RADAR, and other applicable devices used to monitor and predict weather ("Equipment"). To the extent that the above provider demonstrates a likelihood of interference with the ability of the National Weather Service and local weather providers to use the information from such Equipment to monitor and predict weather, the Applicant and the Operator, at their expense, shall take immediate actions to minimize or mitigate interference with the proper operation of such Equipment, and the ability of the National Weather Service and local weather providers to use the information from such Equipment to monitor and predict weather.

5. In order to protect the public, any WECS Tower located within a National Weather Service severe weather warning area, including but not limited to a Tornado Warning or Severe Thunderstorm Warning, shall immediately be shut down by the Operator if the baseline study in paragraph (i) above demonstrates that it could interfere with the proper operation of such Equipment, and the ability of the National Weather Service and local weather providers to use the information from such Equipment to monitor and predict weather, unless the Applicant and the Operator have taken actions to eliminate such interference. The Operator will only restart the WECS Tower after the National Weather Service has ended the severe weather warning for the area in which the WECS Tower is located.

6. If, after construction of the WECS Project, the Applicant (WECS Permittee) or Operator receives a written complaint related to interference with local broadcast television, the Applicant (WECS Permittee) shall take commercially reasonable steps to respond to the complaint. A summary of complaint and subsequent response from the Applicant shall be forwarded to the Ford County Board for review. Once the construction is complete and a television reception complaint is received by the Ford County Board, who will have thirty (30) calendar days to verify the complaint, the Applicant (WECS Permittee) will be given fifteen (15) calendar days to respond, in writing (validation date). Said response shall be addressed and forwarded to both the Ford County Board and the complainant. Such response shall include, but not be limited to the following: an acknowledgement that a complaint was made and evaluated by the Applicant (WECS Permittee). If considered valid by the Applicant (WECS Permittee): an explanation, including a timeline as to what the Applicant (WECS Permittee) intends to do about the complaint. The Applicant (WECS Permittee) of the wind power facility will be given an additional fifteen (15) calendar days from the validation date to resolve said TV reception issue. If considered invalid by the Applicant (WECS Permittee), an explanation, including supporting documentation and expert opinions, as to why the Applicant (WECS Permittee) believes the complaint is not valid. Television reception complaints must be filed within six (6) months from the date of each wind turbine generator goes online.

C. Coordination with Emergency Service Providers

1. Prior to filing its application for Special Use Permit, the Applicant shall submit to the local emergency responders a copy of the site plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), and any amendments to such documents, for the wind power facility, so that the local law enforcement, fire protection district and rescue units, emergency medical service providers and emergency management service providers that have jurisdiction over each tower site may evaluate and coordinate their emergency response plans with the Applicant of the WECS Project.
2. The Applicant, at its expense, shall cooperate with all local emergency responders to develop and implement an emergency response plan a minimum, 24 hour contact information (names, titles, email addresses, cell phone numbers) for the Applicant and the Operator and at least three (3) designated WECS Project representatives (a primary representative with Two (2) alternate representatives, each of whom are on-call “24 hours per day/ 7 days per week/ 365 days a year”). Any change in the designate WECS Project representative or his/her contact information shall be promptly communicated to the County. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed and updated on an annual basis. The Applicant shall be responsible for any on site emergencies and any costs incurred related to their WECS Project, other than taxpayer funded Emergency Services. The Applicant of the WECS Project shall provide annual training for, and the necessary equipment to, the Operator and local emergency response authorities and their

personnel so that they can properly respond to a potential emergency at the WECS Project. Project special equipment to be provided includes, but is not limited to, permanently installed rescue equipment such as winches, pulleys, harnesses, etc. 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. Water, Sewer, *Materials Handling, Storage and Disposal*

1. All solid wastes related to the construction, operation and maintenance of the WECS in the WECS Project 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 Project shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.
 - i. The WECS Project shall comply with existing septic and well regulations as required by the County Health Department and the State of Illinois Department of Public Health.

E. *Production Reporting*

The Owner/Operator shall notify the Board in writing of the notice to proceed. Once the WECS Project is operational, the Owner or Operator shall provide quarterly production reports (January 15, April 15, and October 15 of each year) to the County Board for each turbine. If a turbine fails to produce electricity for 6 (six) months, the Applicant must provide a remedy to get the turbine back in working order within six (6) months. The applicant shall update the Board on the progress of this issue every thirty (30) days. The Board, in its sole discretion, may grant an extension to the six (6) month deadline. The Board shall be notified in writing of any turbine that has not generated power for a six (6) month period and an explanation why.

IX. NOISE LEVELS

Noise levels from each WECS or WECS-Project shall be in compliance at all times with applicable Illinois Pollution Control Board (IPCB) regulations and requirements of this section. The Applicant shall submit manufacturer's wind turbine sound power level characteristics and other relevant data regarding wind turbine noise characteristics necessary for a competent noise analysis. The Applicant through the use of a qualified acoustic professional, as part of the special use

application process shall appropriately demonstrate compliance with the applicable noise requirements in its Special Use Permit Application and provide contour maps and at intervals of not greater than five (5) feet. Sound pressure levels shall be measured using the measurement procedures set forth in the IPCB regulations, except that sound pressure levels for the purpose of establishing a violation of this section may be measured at any point on residentially used property and for agricultural property not less than two hundred fifty (250) feet from any portion of the edge of the primary structure. No residentially used portion of any property shall exceed the noise levels set by the ICPB. To the extent any property has multiple uses or classifications, all the land utilized for a particular use must not exceed the ICPB noise regulations for the classification of use. The Owner of the receiving land may waive compliance with local measuring points requirements pertaining to the IPCB regulations for the owner's property.

The WECS-Project will maintain compliance with the applicable IPCB regulations throughout the entire operational period of the WECS Project. At least every twenty four (24) months, the County shall hire a quality noise acoustician to conduct testing for a thirty day period at the ten most at risk residential property lines and ten most at risk primary structures of any agricultural property as modeled in the application to ensure ongoing compliance with the IPCB noise regulations. The cost to conduct such testing shall be borne by the Facility Owner. If the Facility Owner does not pay within thirty days of being provided an invoice for these costs, the remedies in Article XVI shall be invoked. If at any time throughout the life of the, WECS the noise levels are found not to be in compliance with this section, the applicant or facility owner will immediately shut off any possibly offending turbines until the County approves a solution after a hearing with the Zoning Board of Appeals.

Noise levels at non-participating properties shall be tested upon the request of the Zoning Officer. The test results shall be provided to the Zoning Officer.

X. ICE THROW RISK LEVEL ASSESSMENT

As part of the Special Use Permit Application the Applicant shall provide a current risk level assessment that provides an ice throw model for the current turbine model to be used, and includes walkways, paths, and small roads which are used by a small amount of people, objects like barns, homes, or huts which are used regularly by the owner or by a small amount of by-passers. If the risk is above 10^{-5} (1/100,000) it shall be considered unacceptable and extensive risk reduction measures (e.g. relocation or change of turbine specifications) should be taken. The property owner can waive this requirement. Signed written waivers must be presented at public hearing and entered in evidence.

XI. SHADOW FLICKER

The Applicant shall conduct and provide an analysis on the potential shadow flicker onto adjacent properties as part of the Special Use Permit application approval process. The analysis shall identify the locations of the shadow flicker and the expected durations of the flicker over the course of a year.

Shadow flicker shall not affect an occupied community building or non-participating residence in excess of 30 hours per year under planned operating conditions.

Measures to alleviate the effects of shadow flicker shall be outlined by the applicant. These measures shall, at a minimum, include landscape screening or shadow mitigation technology.

XII. BIRDS, BATS AND WILDLIFE

The Applicant, through the use of an independent third party, qualified professional, approved by the county in writing (after submission of resume and relevant work experience) at their expense, such as an ornithologist or wildlife biologist, shall conduct an avian habitat study, as part of the special use application process, to determine impact of the installation of WECS(s) will have on birds, bats and wildlife. A copy of said study shall be provided to the County and the Ford County Soil and Water Conservation with the Special Use Application. The Applicant must take action to mitigate such adverse impacts on habitat and migration. Prior to the substantial completion of the physical aerial erection of the wind turbines, the Applicant shall develop the reasonable satisfaction of the Illinois Department of Natural Resources (“IDNR”) and the United States Fish and Wildlife Service (“USFWS”) (to the extent the IDNR and the USFWS choose to participate in the process), a professional monitoring program of reasonable duration and scope, consistent with common practice in the wind power industry, to assess migratory bird mortalities resulting from the operation of the WECS Project. The monitoring program shall be undertaken at the Owner’s expense and shall be performed at the direction of a qualified independent professional to be mutually agreed upon by the aforesaid parties in good faith. Such monitoring program shall commence upon the substantial completion of the physical aerial erection of the wind turbine generators, unless otherwise mutually agreed to by the Applicant, IDNR and USFWS (to the extent the IDNR and the USFWS choose to participate in the process). If the results of the monitoring program demonstrate the need, the Applicant of the WECS Project shall work with IDNR and USFWS (to the extent the IDNR and the USFWS each, respectively, choose to participate) to develop an appropriate response, including the potential further study and implementation of practicable mitigation measures that may either directly or indirectly minimize migratory bird mortality or increase bird populations. The Applicant shall review and consider and shall decide to follow the guidelines suggested by the Illinois Department of Natural Resources (“IDNR”) and United States Fish and Wildlife Services (“USFWS”) Endangered Species Consultation Program. All WECS towers shall be set back at least one and one-

half (1.5) miles from any identified active eagle's nest. Special consideration shall be given to NRI and LESA reports when citing turbines.

XIII. AGRICULTURAL IMPACT MITIGATION

Pursuant to 505 ILCS 147/15(a), the Applicant, at its expense, shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture prior to any public hearing required before a siting decision on the WECS Project application. All impacted agricultural land, whether impacted during construction operation, or decommissioning activities, must, at a minimum, be remediated by the Applicant, pursuant to the terms of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. The Applicant shall submit the executed Agricultural Impact Mitigation Agreement to the County as part of the Special Use Permit Application.

XIV. CONFORMANCE AND APPROVED APPLICATION PLANS

The Applicant shall construct and operate the WECS Project in substantial conformance with the construction plans contained in a County approved submitted special Use Permit Application, conditions placed upon the operation of the Facility, this ordinance and all applicable state, federal and local laws and regulations.

XV. ADDITIONAL TERMS AND CONDITIONS

1. All technical submissions as defined in the Professional Engineering Practice Act of 1989 (225(ILCS 325/4(w) and contained in the Special Use Permit Application shall be prepared and signed by an Illinois Professional Engineer (or structural engineer) for relevant discipline.
2. The County may retain a qualified, independent code inspector or professional engineer both to make appropriate inspections of the WECS Project during and after construction and to consult with the County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the WECS Project is performed in compliance with applicable electrical and building codes. The cost and fees so incurred by the County in retaining said inspector or engineer shall be promptly reimbursed by the Applicant of the WECS Project.
3. The Applicant shall provide locked metal gates or a locked chain installed at the access road entrances of all wind turbine generator locations. An exception may be made when the landowner has filed a written statement with the County which states that the owner does not want a locked metal gate installed and has provided a signed liability waiver to the county.

XVI. PUBLIC PARTICIPATION

Nothing in the Ordinance is meant to augment or diminish existing

opportunities for public participation in the County's consideration of the special use application.

XVII. LIABILITY INSURANCE AND INDEMNIFICATION

A. Commencing with the issuance of 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 ten million (\$10,000,000.00) in the aggregate; and shall further maintain the above stated lines of insurance from deliverer of the "Notice to Proceed" by the Applicant under the turbine supply and/or balance of plant construction contracts for the WECS Project, in coverage amounts in 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. Thee Applicant shall file the original certificate of insurance upon commencement 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. All policies must name the County as an additional insured and shall contain the designation of primary and non-contributory

B. To the greatest extent permitted by law the Applicant, (WECS Permittee) shall defend, indemnify and hold harmless the County and its officers, appointed and elected officials, employees, attorneys, engineers and agent (collectively and individually, the "Indemnified Parties") from and against any and all claim, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relation to or arising out of the issuance of the Special Use Permit or the , construction, operation maintenance and removal of the WECS in the WECS Project 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 of omissions of the Applicant (WECS Permittee), the Owner or the operator under this Ordinance or to the Special Use permit. This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under the law. In the event of a lawsuit against the Board or the citizens of Ford County, if the courts deem it a frivolous lawsuit, the Applicant, owner/Operator of the WECS project suing shall be responsible for all the Ford County and private citizens' legal fees. Venue for all disputes shall be in Ford County.

XVIII. DECOMMISSIONING PLAN

Prior to the issuance of Special Use Applications, Owner or Operator shall submit prepare a Decommissioning Plan from an Illinois licensed professional engineer chosen by the County and paid for by the Applicant. The Decommissioning Plan shall include the cost estimation to the County and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the application. Prior to receiving any building permit for the Commercial Wind Energy Facility the Applicant or Owner shall provide a Decommissioning Agreement and post the required Financial Assurances for the benefit of the County. The Decommissioning Agreement and Financial Assurances shall comply with 55 ILCS 5/5-12020. Periodically, and as required by the Agricultural Impact Mitigation Agreement, the Owner must update the Decommissioning Plan, cost estimates, and provide updated Financial Assurances to the benefit of the County.

The Owner will reevaluate the estimated costs of Deconstruction after the tenth anniversary and every five years thereafter, which evaluation shall be done by an independent third-party Professional Engineer chosen by the County and paid for by the Facility Owner. These reevaluations shall be utilized to determine the updated level of Financial Assurance required from the Facility Owner. If the Facility Owner does not update the Financial Assurance as required by Agricultural Impact Mitigation Agreement within thirty days of notification from the County, the remedies section in Article XIX shall be invoked

The Decommissioning Plan, shall include the following elements:

A. Description of the triggering events for decommissioning of the WECS Project, which shall include, but not be limited to any wind turbine generator and/or any equipment not being used or generating electricity for a continuous period of six months. If energetic felling will be used a description of safety measures shall be included to show compliance with safety protocols including but not limited to seismic monitoring for non-participating properties and residences, maintaining tower stability, draining oil and cutting towers according to a detailed demolition plan.

B. Removal of all above-ground structures, debris and cabling, and all physical material pertaining to the project improvements and provisions for the removal of underground foundations down to a depth of 5 feet below the soil surface and hauled to a certified concrete recycling facility. Access drives(lanes) may be left in place if the owner of the property waives the removal of such. Any waivers(including but not limited to setbacks, removal, etc.) between landowners and the Owner or Operator shall in no way cause the Board or Ford County employees to be liable in any way. Any waiver of any of the removal of such access drives shall run with the land and be recorded as part of the chain of title in the deed of the subject property. No WECS Tower shall be left standing, and all materials

shall be handled and disposed of according to local, State and Federal Law.

C. Provisions for the restoration of the soil surface and vegetation to the same condition that existed immediately before construction of such improvements. Items required to be repaired after decommissioning are required but not limited to county and township roads, bridges and culverts. An independent professional engineer shall be present to ensure drainage tiles, waterways, culverts, etc. are repaired as work progresses for any county, and township properties. All storm water management, floodplain, and other surface water codes and ordinances shall be followed.

D. An estimate of the decommissioning costs and salvage value, certified by a Professional Engineer with expertise in decommissioning wind farms before approved by the Board, which shall be updated and submitted to the Ford County Zoning Enforcing Officer every two years, from the commencement of commercial operation.

E. The wind energy facility owner shall grant perfected security in the escrow account by the use of a control agreement establishing the county as owner of record pursuant to the secured transit article of the uniform code (810 ILCS 9ETSEQ). The estimate may include net savings from salvage value. The Financial Assurance shall not decrease over time, but may be increased by the County if necessary to cover the reviewed estimated cost every two years. The Financial Assurance instrument shall be in place before any construction permits are issued; an affidavit to the Ford County Zoning Officer representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, and for the property owners to ensure that the WECS and related improvements are properly decommissioned within six (6) months of abandonment or earlier termination of the wind project. After the six (6) month period, any turbines left standing will be deemed a health hazard. At this time all escrow funds will be utilized by the County which will have the right to remove the towers and access any related salvageable materials for the County to sell. Additionally, the County is not obligated to remove the concrete improvements which provide the structural base for the towers, this will be the sole responsibility of the property owner. Further, any costs exceeding the escrow funds relating to decommissioning, will become the sole responsibility of the property owner. If this money is not readily available, this will result in a Lien on the property until the remaining expense is paid in full.

F. Identification of and procedures for County access to Financial Assurances updated annually;

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 any authorized Ford County representative shall have access to the site, pursuant to reasonable written notice, to inspect, monitor and concur until the decommissioning process has been satisfactorily.

XIX. REMEDIES

- A. The Applicant's failure to materially comply with any of the provisions under the Special Use Permit, any conditions imposed on the project, and/or failure to comply with any law or regulations shall be a default and shall be grounds for revocation of the Special Use Permit by the County Board.
- B. Prior to implementation of the applicable County procedures for the resolution of defaults, the County Board must first provide written notice to the Applicant and Operator, setting forth the alleged default(s) and provide an opportunity for the applicant or the Operator to cure the default(s) within a thirty (30) calendar day period from the date of the notice. Should the Applicant commence the cure within that thirty (30) day cure period, and diligently pursues a cure, then the Applicant shall receive an additional sixty (60) days to continue to pursue the cure before the County Pursues procedures for the resolution of default. If the default relates to a life safety issue or interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant or the Operator shall take all necessary and available commercial measures to immediately cure the default. If the Applicant or Operator cannot cure the default(s) or resolve the alleged default(s) within the cure period, then applicable County Ordinance provisions addressing the resolution of such default(s) shall govern.
- C. Any violation of this Ordinance shall be an offense punishable by fine not to exceed five hundred dollars (\$500). 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 the 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 resolve any infractions quickly and safely. It is the intent that any disputes between the parties be resolved promptly and where possible by informal discussion as outlined elsewhere in this Ordinance.
- D. If the Applicant cannot cure the default(s) or resolve the alleged default(s)

within the cure period, Applicant shall be liable for payment of cost and fees, including Attorney's fees related to enforcement of this section.

XXI. BUILDING PERMIT FEES

Upon application for construction of each WECS Tower, payment of a fee for each generator in the WECS Project of fifty thousand dollars (\$50,000) for the first two (2) megawatts and an additional amount of ten thousand dollars (\$10,000) for each additional megawatt the generator is rated for or prorated portion thereof.

XXII. HEARING FACILITATOR

The County may engage the services of a hearing facilitator by ordinance or resolution. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the board and the county but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence, and the propriety of any arguments.

The hearing facilitator shall be an attorney, licensed to practice in the State of Illinois. The Applicant shall reimburse the county for the fees and costs charged by the facilitator.

XXIII. HEARING FACTORS

The County Board may approve a Commercial Wind Energy Facility Special Use Permit application if it finds the evidence complies with State, Federal and local law and regulations, and with the standards of this zoning code including the factors listed below. The factors below are applied as a balancing test, not individual requirements to be met.

- a. The establishment, maintenance or operation of the WECS Project will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- b. The WECS Project will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values of surrounding properties;
- c. The establishment of the WECS Project will not impede the normal and orderly development and improvement of the surrounding properties;
- d. Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;

- e. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
- f. The proposed WECS Project is not contrary to the objectives of the current comprehensive plan of the County (if any); and
- g. The WECS Project shall, in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is located (if a zoning ordinance is in effect), except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the County Board.

1. Special Use Permit Conditions and Restrictions. The County Board may stipulate conditions, guarantees and restrictions, upon the establishment, location, construction, maintenance, and operation of the WECS Project as are deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this Ordinance.

2. Revocation.

a. The Special Use Permit shall be subject to revocation if the Applicant dissolves or ceases to do business, abandons the WECS Project or the WECS ceases to operate for more than twelve (12) consecutive months for any reason.

b. Subject to the provisions of Article XI (Remedies), a Special Use Permit may be revoked by the County Board if the WECS Project is not constructed, installed and/or operated in substantial conformance with the County-approved Project plans, the regulations of this Ordinance and the stipulated Special Use Permit conditions and restrictions.

3. Transferability; Owner or WECS Permittee. The Applicant shall provide written notification to the County Board at least thirty (30) days prior to any change in ownership of a WECS Project of any such change in ownership. The phrase "change in ownership of a WECS Project" includes any kind of assignment, sale; lease, transfer or other conveyance of ownership or operating control of the Applicant, the WECS Project or any portion thereof. The Applicant or successors-in-interest or assignees of the Special Use Permit, as applicable, shall remain liable for compliance with all conditions, restrictions and obligations contained in the Special Use Permit, the provisions of this Ordinance and applicable County, state and federal laws.

4. Modification. During the life of the WECS Project any modification of a WECS Project that alters or changes the essential character or operation of the WECS Project in a way not intended at the time the Special Use Permit was granted, or as subsequently amended, shall require a new

Special Use Permit. The Applicant or authorized representative, shall apply for an amended Special Use Permit prior to any modification of the WECS Project.

5. Permit Effective Date: The Special Use Permit shall become effective upon approval of the ordinance by the County Board.

XXIV. INTERPRETATION

The provisions of these regulations shall be held to the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of Ford County. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of Ford County nor conflict with any statutes of the State of Illinois.

XXIV. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, publication and approval as required by law.

XXVI. PUBLIC NUISANCE

Any WECS declared to be unsafe by the 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 procedure set forth in this Ordinance.

XXVII. SEVERANCE

If any section, clause, or provision of the Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Exhibit "A"

Sunset Provision

Should the Illinois Supreme Court find P.A. 102-1123 invalid or should an Illinois Appellate Court find P.A. 102-1123 invalid, and that declaration is not appealed to the Illinois Supreme Court or the Illinois Supreme Court declines to hear an appeal of the Appellate Court's finding, the text of this amendment shall be stricken and the text adopted by the Ford County Board on September 13, 2021, which is attached hereto as "Exhibit A" shall be reinstated and shall govern Wind Energy Conversion Systems in Ford County.

Any Special Use Permits issued under this amended ordinance shall be governed by the terms of this amended ordinance regardless of any reversion to the language of Exhibit A as set forth above.