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AUGUST H. GRIFFIN
REGISTER OF DEEDS
EDGAR COUNTY, IL
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COUNTY OF EDGAR, ILLINOIS

ORDINANCE NO. - 2023-34

**AN ORDINANCE ADOPTING RESTRICTIONS AND SITING STANDARDS RELATED
TO THE INSTALLATION AND USE OF COMMERCIAL WIND ENERGY
FACILITIES**

ADOPTED BY THE COUNTY BOARD
OF THE COUNTY OF EDGAR, ILLINOIS
THIS 22 DAY OF May, 2023

Published in pamphlet form by the authority of Edgar County,
Illinois, this 22 day of May, 2023

COUNTY OF EDGAR, ILLINOIS

Ordinance No. 2023-34

**AN ORDINANCE ADOPTING RESTRICTIONS AND SITING STANDARDS RELATED
TO THE INSTALLATION AND USE OF COMMERCIAL WIND ENERGY
FACILITIES**

WHEREAS, the County of Edgar, Illinois is an Illinois non-home rule unit of local government pursuant to Article VII, § 7 of the 1970 Illinois Constitution, organized and operating under the Illinois Counties Code, 55 ILCS 5/1-1-1, *et seq.*; and

WHEREAS, “The county board may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to counties, with such fines or penalties as may be deemed proper except where a specific provision for a fine or penalty is provided by law.” 55 ILCS 5/5-1113; and

WHEREAS, Section 5-12020 of the Counties Code (55 ILCS 5/5-12020) authorizes a county to “establish standards for commercial wind energy facilities, solar energy facilities, or both.”

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF EDGAR, ILLINOIS, AS FOLLOWS:

SECTION 1: The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the County Board.

SECTION 2: The County Board hereby adopts the “Wind Energy Conversion Systems Siting Ordinance” attached hereto as “EXHIBIT A”.

SECTION 3: All ordinances and parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby superseded to the extent that they may conflict.

SECTION 4: If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the

unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

SECTION 5: This Ordinance shall take effect upon its passage and publication as required by law.

SECTION 6: The County Clerk shall publish this Ordinance in pamphlet form.

PASSED this 22nd day of May, 2023.

AYES: 5
NAYS: 0
ABSENT: 0
PRESENT: 2

APPROVED this ____ day of May, 2023.



Jeff Voigt, Chairman

ATTEST:



August Griffin, Clerk

STATE OF ILLINOIS)
) ss.
COUNTY OF EDGAR)

CERTIFICATE

I, the undersigned, do hereby certify that I am the duly qualified and acting Clerk of the County of Edgar, Illinois.

I further certify that on May 22, 2023, the County Board of such County passed and approved Ordinance No. 2023-34 entitled:


**AN ORDINANCE ADOPTING RESTRICTIONS AND SITING STANDARDS
RELATED TO THE INSTALLATION AND USE OF COMMERCIAL WIND ENERGY
FACILITIES**

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2023-34 including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the Clerk's Office, commencing on May 22, 2023, to continue for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the County Clerk.

DATED at Paris, Illinois, this 22 day of May, 2023.

(SEAL)



County Clerk

EXHIBIT A

WIND ENERGY CONVERSION SYSTEMS SITING ORDINANCE

I. DEFINITIONS

- A. "Agricultural Impact Mitigation Agreement" or "AIMA" means the Agreement between the Commercial Wind Energy Facility Owner and the Illinois Department of Agriculture.
- B. "Applicant" means the entity who submits to the County an application for a Special Use Permit related to the siting and operation of any WECS or Substation. All references to Applicant in this Ordinance shall include Applicant's successors-in-interest and assigns, which includes a WECS Permittee (as defined below).
- 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. "Commercial wind energy facility" includes a wind energy conversion facility seeking an extension of a permit to construct granted by a county or municipality before January 27, 2023. Also referred to herein as "Wind Energy Conversion System" or "WECS" or "WECS Project".
- E. "Deconstruction" means The removal of a Commercial Wind Energy Facility from a Participating Property and the restoration of that property as provided in the Agricultural Impact Mitigation Agreement. The terms "Deconstruction" and "Decommissioning" have the same meaning and, therefore, may be interchanged with each other.
- F. "Financial Assurance" or "Financial Security" or "Decommission Security" means assurance from a credit worthy party that is acceptable to the County, with the County as a primary beneficiary and the owners of Participating Properties as secondary beneficiaries. Examples of Financial Assurances include a surety bond (e.g., performance and payment bond), trust instrument, cash escrow, or irrevocable letter of credit.
- G. "Meteorological Tower" means those towers which are erected primarily to measure wind speed and direction plus other data relevant to siting and operation of a WECS Project. 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.
- H. "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.
- I. "Nonparticipating Property" means real property that is not a participating property.
- J. "Nonparticipating Residence" means a residence that is located on nonparticipating 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.
- K. "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.

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- L. "Operator" means the person or entity responsible for the day-to-day operation and maintenance of a wind energy conversion system, including any third-party subcontractors. The Operator must be a qualified wind power professional. All references to Operator in the Ordinance shall include Operator's successors-in-interest and assigns.
- M. "Owner" means the person or entity or entities with an equity interest in a wind energy conversion system, including their respective successors-in-interest and assigns. The Owner does not mean (i) the property owner from whom land is leased for locating a wind energy conversion system (unless the property owner has an equity interest in a wind energy conversion system); or (ii) any person holding a security interest in a wind energy conversion system solely to secure an extension of credit, or a person foreclosing on such security interest, provided that after foreclosure, such person seeks to sell a wind energy conversion system at the earliest practicable date. This definition includes the definition of Facility Owner as defined in 55 ILCS 5/5-12020.
- 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 the purpose of constructing 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 as a professional engineer in 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 Illinois 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 management areas, state scientific and natural areas, and federal wildlife refuges and waterfowl protection areas. Public conservation 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 conservation organizations for conservation purposes.
- P. "Special Use Permit" means a permit approved by the County Board, after a public hearing, allowing a particular WECS at a specified location subject to compliance with the conditions of this Wind Energy Conversion Systems Siting Ordinance as may be required by the County Board.

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- Q. "Substation" means the apparatus that collects and connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.
- R. "Supporting Facilities" means the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the WECS.
- S. "WECS Permittee" means an Applicant who applies for and receives a Special Use Permit under this Ordinance for the siting and operation of any WECS or Substation. All references to a WECS Permittee in this Ordinance shall include a WECS Permittee's successors-in-interest and assigns.
- T. "WECS Project" means the collection of WECSs and Substations operations and maintenance buildings, and permanent Meteorological Towers, as specified in the Special Use Permit application.
- U. "WECS Tower" or "Wind Tower" means and includes wind turbine tower, nacelle, and blades.
- V. "WECS Tower Height" means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.
- W. "Wind Turbine" or "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.

II. APPLICABILITY

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

III. PROHIBITION

- A. No WECS Project, WECS or Substation governed by this Ordinance shall be constructed, erected, installed, or located within the county, unless prior siting approval has been obtained for each individual WECS Project, WECS and Substation or for a group of WECS Projects and Substations under a joint siting application pursuant to this Ordinance.

IV. SPECIAL USE PERMIT APPLICATION

- A. To obtain siting approval, the Applicant must first submit a Special Use Permit application to the County.
- B. The Special Use Permit application shall contain or be accompanied by the following information:
 - 1. A WECS Project Summary, including: (a) a general description of the project, including (i) its approximate overall name plate generating capacity, (ii) the potential equipment manufacturer(s), (iii) type(s) of WECS(s), (iv) the number of

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- WECS, and name plate generating capacity of each WECS, (v) the maximum height of the WECS Tower(s) and maximum diameter of the WECS(s) rotor(s), (vi) the number of Substations, (vii), project phasing plan, and project construction timeline plan, and (viii) the general location of the project; and (b) 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 Participating Property owner(s), if known, and documentation demonstrating land ownership or legal control of the Participating Property;
 3. A site plan for the WECS Project showing:
 - a. planned location of each WECS Tower, including legal descriptions for each site,
 - b. guy lines and anchor bases (if any),
 - c. Participating Residences
 - d. Non-participating Residences and Occupied Community Buildings parcel boundary lines (including identification of adjoining properties) within _____ feet of the WECS Project,
 - e. setback lines,
 - f. public access roads and turnout locations,
 - g. Substation(s), operations and maintenance buildings, and permanent Meteorological Towers,
 - h. electrical cabling from the WECS Tower to the Substation(s),
 - i. ancillary equipment,
 - j. third party transmission lines,
 - k. 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 (1,500) feet of the proposed WECS,
 - l. the location of all known communications towers within two (2) miles of the proposed WECS, and
 - m. the layout of all structures within the geographical boundaries of any applicable setback;
 4. All determinations of No Hazard to Air Navigation from the Federal Aviation Administration;
 5. A proposed Decommissioning Plan for the WECS Project including cost estimations;
 6. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance;
 7. An Agricultural Impact Mitigation Agreement (AIMA) executed between the Applicant and the Illinois Department of Agriculture;
 8. A topographic map of the WECS Project site and the surrounding area;
 9. Any waivers from the setback requirements executed by the Occupied Community Building owners and/or the non-participating property owners bearing a file stamp

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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 executed by the Occupied Community Building owners and/or the non-participating 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 Dept. of Natural Resources obtained through the Ecological Compliance Assessment Tool (EcoCAT) 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 States 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.
- C. 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
- D. The Applicant shall submit twenty (20) copies of the Special Use Permit application to the County, and at least one (1) copy in electronic format.

V. DESIGN AND INSTALLATION

A. Design Safety Certification

1. 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 ("CGL"), or an equivalent third party. All turbines shall be new equipment commercially available; no used or experimental equipment shall be used in any WECS Project without the approval of a variance by the County Board.
2. Following the granting of siting approval under this Ordinance, a structural engineer selected by the County 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, subsurface and climate conditions.

B. Controls and Brakes

All WECSs shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, tilt, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode.

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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. Aesthetics and Lighting

The following items are required to mitigate visual impact:

1. Coatings and Coloring: Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color.
2. Turbine Consistency: To the extent feasible, the WECS Project shall consist of turbines of similar design and size, including tower height. Further, all turbines shall rotate in the same direction. Turbines shall also be consistent in color and direction with nearby facilities.
3. Lighting: WECS Projects shall utilize minimal lighting that is compliant with the applicable FAA regulations, as amended by the FAA. To the extent that such tower lighting is available, and is approved by the FAA for a WECS Project, the Applicant shall install Aircraft Detection Lighting Systems ("ADLS") or other similar technology to reduce light pollution and visual impacts caused by the WECS Towers.
4. Intra-project Power and Communication Lines: All power lines used to collect power from individual turbines and all communication lines 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.

E. 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 Wind 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 fifteen (15) feet from the ground.

F. 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 (6) feet high; or
 - b. Anti-climbing devices twelve (12) feet vertically from the base of the WECS Tower.

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G. Setback Requirements

WECS Towers shall be sited as follows, with setback distances measured from the center of the base of the WECS Tower;

- a. 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.
- b. 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;
- c. Nonparticipating Residences: 2.1 times the maximum blade tip height of the WECS Tower to the nearest point on the outside wall of the structure;
- d. Boundary Lines of Participating Property: None.
- e. 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.
- f. Public Road Rights-of-Way: 1.1 times the maximum blade tip height of the WECS Tower to the center point of the public road right-of-way.
- g. 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.
- h. Overhead Utility Service Lines to Individual Houses or Outbuildings: None.
- i. Fish and Wildlife Areas and Illinois Nature Preserve Commission 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.

The setback requirements may be waived by the written consent of the owner(s) of each affected property. 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.

H. Compliance with Additional Regulations

Nothing in this Ordinance is intended to preempt other applicable codes, state and federal laws, and regulations, including but not limited to the National Electrical Code, The National Electrical Safety Code, Illinois Commerce Commission, Federal Energy Regulatory Commission, and their designees or successors.

I. Use of Public Roads

1. An Applicant 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:

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- a. Identify any proposed public roads that will be used for construction purposes and secure written approval for such from 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 the 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 are authorized to collect fees for overweight and/or oversized load permits. 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; and
- b. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage;
- c. Obtain applicable weight and size permits from relevant government agencies prior to construction;
- d. Enter into a road use agreement with the County and each affected Road District that includes the following provisions, at a minimum:
 - i. Project layout map;
 - ii. Transportation impact analysis;
 - iii. Pre-construction plans;
 - iv. Project traffic map;
 - v. Project scope of repairs;
 - vi. Post-construction repairs;
 - vii. Insurance;
 - viii. Financial Security in forms and amounts acceptable to the County;

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 Owner or Operator during construction of the WECS so that those roads are in a 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.

2. 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, regarding the maintenance and repair of County public roads and highways, must be approved by the County Board prior

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to the Board's approval of any WECS Building Permit applications related to the construction of the proposed WECS Project.

3. The Applicant shall provide any executed road use agreement between the Applicant and Illinois Department of Transportation, Road Districts, units of local government, or other road and highway jurisdictions to the County. Such agreements must show approved entrances and be supplied to the County prior to any public hearing unless the County Highway Engineer allows for later submission. However, road use agreement shall be supplied prior to the issuance of any WECS Building Permit or prior to construction of the WECS Project.

J. 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 the issuance of any WECS Building Permit for the construction of said substations.

K. Communications Analysis; Interference

1. The Applicant, at its expense, shall have a third party, qualified professional (after submission of resume and relevant work experience) conduct an appropriate analysis of the television reception documenting the television stations that are received within one and one-half (1 ½) miles of the footprint of the WECS Project. The results of said study shall be public record and will serve as a baseline reading for television reception conditions prior to the construction of the WECS Project and shall be submitted as part of the Special Use Permit application.
2. The Applicant, at its expense, shall have a third party, qualified professional (after submission of resume and relevant work experience), conduct a communications analysis that indicates that the E9-1-1 communications, emergency communications or official County and local municipal communications reception shall not be negatively impacted or influenced by the proposed wind power facility. Said 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 shall provide the applicable microwave transmission providers and local emergency service provider(s) (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 provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s), the Applicant and the Operator, at Applicant's expense, shall take reasonable measures to minimize and mitigate

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such 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 immediately take all necessary and available commercial measures to eliminate any such interference.

4. If, after construction of the WECS, the Applicant (WECS Permittee) or Operator receives a written complaint related to interference with local broadcast residential television the Applicant (WECS Permittee) shall take commercially reasonable steps to respond to the complaint. A summary of complaint and subsequent response from Applicant shall be forwarded to the Edgar County Board for review. Once the construction is complete, television reception complaints may be submitted to Edgar County by filing a written complaint in the Office of the County Clerk & Recorder. Within thirty (30) calendar days of the filing of a complaint, the County Board, or its designee, shall verify the complaint and its contents. The Applicant (WECS Permittee) shall respond to the complaint in writing within fifteen (15) calendar days of the date the County Board, or its designee, verified the complaint and provided notice of the same ("Validation Date") to the Applicant (WECS Permittee). Said written response shall be addressed and forwarded to both the Edgar County Board and the complainant. Such response shall include but not be limited to the following: an acknowledgment that a complaint was made and evaluated by the Applicant (WECS Permittee). If the Applicant (WECS Permittee) determines a complaint to be valid then it shall provide an explanation, including a timeline, as to what remedial or mitigating actions the Applicant (WECS Permittee) will take to address the complaint. Where the Applicant (WECS Permittee) determines a complaint to be valid and timely provides an explanation, the Applicant (WECS Permittee) shall be given not less than fifteen (15) calendar days from the Validation Date to resolve said issue. If the Applicant (WECS Permittee) determines a complaint to be invalid then it shall provide an explanation, including supporting documentation and expert opinions, as to why the Applicant (WECS Permittee) believes the complaint is not valid.

- L. **Noise Levels**
Noise levels from each WECS or WECS Project shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. 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 professional, shall appropriately demonstrate compliance with the applicable noise requirements in its Special Use Permit application.

- M. **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

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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.

- N. **Avian and Wildlife Impact Study**
The Applicant, at its expense, shall have a third party, qualified professional (after submission of resume and relevant work experience) conduct an avian and wildlife impact study and submit said study to the County as part of the Special Use Permit application. Each WECS or WECS Project shall be located, designed, constructed, and operated so as to avoid and if necessary mitigate the impacts to wildlife.
- O. **As-Built Map and Plans**
Within sixty (60) calendar days of completion of construction of the WECS Project, the Applicant or Operator shall deliver "as-built" maps, site plan and engineering plans for the WECS Project that have been signed and stamped by a Professional Engineer and a licensed surveyor.
- P. **Engineer's Certificate**
The WECS Project engineer's certificate shall be completed by a structural engineer licensed in the State of Illinois or by a Professional Engineer with a certification from a structural engineer licensed in the State of Illinois and shall certify that the WECS tower and foundation design is compatible with and appropriate for each turbine design proposed to be installed and that the specific soils and subsurface conditions at the site can support the apparatus, given local soil, subsurface and climate conditions. All commercially installed wind turbines must utilize self-supporting, tubular towers. The WECS Project engineer's certificate shall be a public record and shall be submitted as part of the Special Use Permit application.
- Q. **Conformance with Approved Application and Plans**
The Applicant shall construct and operate the WECS Project in substantial conformance with the construction plans contained in a County- approved Special Use Permit application(s), conditions placed upon the operation of the Facility, this ordinance and all applicable state, federal and local laws and regulations.
- R. **Additional Terms and Conditions**
- a. 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 Professional Engineer (or structural engineer licensed in Illinois) as may be appropriate for the relevant discipline.
 - b. The County may retain a qualified, independent code inspector or Professional Engineer or structural 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.

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- c. The Applicant shall provide locked metal gates or a locked chain installed at the access road entrances of all the 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.
- d. The Special Use Permit granted to the Applicant shall bind and inure to the benefit of the Applicant, its successors-in-interest and assigns. If any provision in this Ordinance, or conditions placed upon the operation of the Commercial Wind Energy Facility is held invalid, such invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions in this Ordinance are severable.
- e. The Applicant of the WECS Project shall use two (2) methods to detect icing conditions on turbine blades: (1) sensors that detect when blades become imbalanced or create vibration due to ice accumulation; and (2) meteorological data from on-site meteorological towers, on-site anemometers, and other relevant weather sources that will be used to determine if ice accumulation is occurring. These control systems will either automatically shut down the turbine(s) in icing conditions or the Applicant will manually shut down the turbine(s) if icing conditions are identified.

VI. OPERATION

A. Maintenance

- 15. Annual Report. The Applicant (WECS Permittee) must submit, on an annual basis on the anniversary date of the siting approval application, an operation and maintenance report to the County. The report shall contain the following information: (i) a general description of any physical repairs, replacements or modification(s) to the WECS and/or its infrastructure; (ii) complaints pertaining to setbacks, noise, shadow flicker, appearance, safety, lighting and use of any public roads received by the Applicant concerning the WECS and the resolution of such complaints; (iii) calls for emergency services; (iv) status of liability insurance; and (v) a general summary of service calls to the WECS. Failure to provide the annual report shall be considered a material violation of this Ordinance and subject to Article IX (Defaults & Remedies).
- 16. Re-Certification. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification consistent with Article V, Section A (Design and Safety Certification), Paragraph 1, of this Ordinance. Like-kind replacements and modifications that are made in the ordinary course of operations, including expected repairs and warranty items, shall not require re-certification. Prior to making any physical modification (other than (i) alterations to mechanical load, mechanical load path, or major electrical components; (ii) like-kind replacement(s); (iii) or modifications made in the ordinary course of operations), the Applicant shall confer with a relevant third-party certifying entity identified in Article V, Section A (Design and Safety Certification), Paragraph 1 of this Ordinance to determine whether the physical modification requires re-certification, where required secure the same and provide proof of certification to the County.

B. Coordination with Emergency Responders:

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1. The Applicant shall submit to the Edgar County Emergency Management Agency 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 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. Special equipment to be provided includes, but is not limited to, permanently installed rescue equipment such as winches, pulleys, harnesses, etc.
3. The Applicant and the Operator shall cooperate with all local emergency responders to develop an emergency response plan. The plan shall include, at 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). Representatives must be selected such that at least one is available at all times seven (7) days per week and three hundred sixty-five (365) days per year. Any change in the designated WECS Project representative or a representative's contact information shall be promptly communicated to the County within no more than five (5) business days. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed and updated on an annual basis.
4. Nothing in this section shall alleviate the need to comply with all other applicable life-safety, fire, and emergency laws and regulations.

C. Water, Sewer, Materials Handling, Storage and Disposal

1. All solid waste 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.
3. 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, including but not limited to the Department of Public Health Act and the Private Sewage Disposal Code.

D. Shadow Flicker

The Applicant must present to the County Board a model study on potential shadow flicker. The Applicant shall appropriately demonstrate to the County Board through industry standard modeling that no Occupied Community Building or Non-participating residence will experience an expected duration of 30 hours or more per year. An Occupied Community Building owner or a Non-participating participating residence owner may waive this shadow flicker mitigation requirement. Each waiver of the above shadow flicker mitigation requirement shall be set forth in a written waiver executed by the Occupied

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Community Building owner or non-participating residence owner and filed with the County Recorder of Deeds Office against title to the affected real property.

- E. **Signage**
Signage regulations are to be consistent with ANSI and AWEA standards. A reasonably visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations and at all entrances to Wind Towers.
- F. **Drainage Systems**
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.
- G. **Complaint Resolution**
The Applicant shall, at its expense and in coordination with the County, develop a system for logging and investigating complaints related to the WECS Project. The Applicant shall resolve such non-emergency complaints on a case-by-case basis and shall provide written confirmation to the County. The Applicant shall also designate and maintain for the duration of the WECS Project either a local telephone number or a toll-free telephone number "hotline" and an email address for the purpose of allowing members of the public to submit inquiries and complaints related to the WECS Project, both of which shall be answered by a customer service representative on a 24/7 basis. The Applicant shall post the telephone number(s) and email address(es) for the customer service representative(s) in a prominent, easy to find location on their websites and at the WECS Project site on signage. All costs and fees incurred by the County in attempting to or resolving complaints shall be reimbursed by the Applicant of the WECS Project.

VII. LIABILITY INSURANCE AND INDEMNIFICATION

- A. Commencing with the issuance of a WECS Building Permit, the Applicant shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least Five Million Dollars (\$5,000,000.00) per occurrence and in the aggregate; and, shall further maintain the above-stated lines of insurance from delivery of the "Notice to Proceed by the Applicant under the turbine supply and/or balance of plant construction contract(s) for the WECS Project, in coverage amounts of at least Five Million Dollars (\$5,000,000.00) per occurrence and Twenty Million Dollars (\$20,000,000.00) in the aggregate during the life of the WECS Project. The Applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a WECS Building Permit, corresponding policies and endorsements to be provided within sixty (60) days of issuance, and at each subsequent renewal, at least annually thereafter.
- B. The Applicant (WECS Permittee) shall defend, indemnify and hold harmless the County and its officers, appointed and elected officials, employees, attorneys, engineers, and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relating to or arising out of the issuance of the Special Use Permit or the construction, operation, maintenance and removal of the WECS and affiliated equipment including, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of

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the Applicant (WECS Permittee), the Owner or the Operator under this Ordinance or the Special Use Permit, except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the negligence or intentional acts of such Indemnified Parties. This general indemnification shall not be construed as limiting or qualifying the County's immunities or other indemnification rights available under the law.

VIII. DECOMMISSIONING AND SITE RECLAMATION PLAN REQUIRED

- A. The Applicant must formulate a Decommissioning and Site Reclamation Plan to ensure that the Commercial Wind Energy Facility is properly decommissioned. The Decommissioning and Site Reclamation Plan shall be binding upon the Applicant and its successors-in-interest and assigns, and shall apply to all participating parcels in the Commercial Wind Energy Facility, irrespective of the owner of title to such parcels. A signed Decommissioning and Site Reclamation Plan must be submitted to the county prior to the granting of the Special Use Permit. The Applicant shall ensure that the Commercial Wind Energy Facility is properly decommissioned within eighteen (18) months after the end of the useful life of the Commercial Wind Energy Facility. A Commercial Wind Energy Facility will be presumed to have no remaining useful life if: (1) no electricity is generated for a continuous period of twelve (12) months and (2) the Commercial Wind Energy Facility Owner fails, for a period of 6 consecutive months, to pay the Landowner amounts owed in accordance with the Underlying Agreement.
- B. The Applicant shall include removal of all physical material of the project improvements to a depth of sixty (60) inches beneath the soil surface and the restoration of the area in accordance with the Agricultural Impact Mitigation Agreement.
- C. A Decommissioning and Site Reclamation Plan shall be prepared by an independent Professional Engineer licensed in the State of Illinois, at the cost of the Applicant, and shall include:
 1. the estimated Deconstruction cost per turbine, in current dollars at the time of filing, for the Commercial Wind Energy Facility, taking into account, among other things:
 - i. the number of Wind Turbines and related Commercial Wind Energy Facilities involved,
 - ii. the original Construction costs of the Commercial Wind Energy Facilities,
 - iii. the size and capacity of the Wind Turbines,
 - iv. the salvage value of the Commercial Wind Energy Facilities,
 - v. the Construction method and techniques for the Wind Turbines and other Commercial Wind Energy Facilities.
 2. A comprehensive detailed description of how the Owner plans to pay for the Deconstruction of the Commercial Wind Energy Facility.
 3. A description of the methodology and cost to remove all above ground and below ground WECS facilities of the approved Special Use Permit;
 4. Provisions for the removal of all above ground and below ground WECS facilities of the approved Special Use Permit;
 5. Methodology and cost to restore all areas used for construction, operation and access to a condition equivalent to the land prior to the Commercial Wind Energy Facility construction;

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6. A work schedule and a permit list necessary to accomplish the required work;
 7. Methodology to identify and manage any hazardous or special materials.
 8. Submission of a draft form of Financial Security to the County in the form of a surety bond (performance and payment bond), irrevocable letter of credit or a cash escrow account that names County as the beneficiary, or other type of Financial Security that is approved by the County. If an irrevocable letter of credit or surety bond (performance and payment bond) is selected, the original of the irrevocable letter of credit or surety bond shall be held by the County. If a cash escrow is selected, the cash escrow shall be held and managed by an independent third party (e.g., escrow agent or title company) on behalf of the County, subject to escrow instructions that incorporate the applicable decommissioning and repair / replacement / restoration obligations of this Agreement as executed by the County and the Applicant.
 9. The amount of Financial Security shall be equal to the total cost of all decommissioning and restoration work minus the salvage value of the WECS Project. To determine that amount, the Applicant shall: (a) obtain bid specifications provided by a Professional Engineer; (b) request estimates from construction / demolition companies capable of completing the decommissioning of the WECS Project; and (c) secure certification of the selected estimate by a Professional Engineer and structural engineers. The County engineer, an independent engineer of the County's choosing, and the County state's attorney or designee will review all estimates and make a recommendation to the County Board for an acceptable estimate. The County reserves the right to pursue other estimates. All costs to secure the estimates will be funded by the Applicant.
 10. A provision that the terms of the Decommissioning and Site Reclamation Plan shall be binding upon the Applicant including any of its successors-in-interest and assigns;
 11. Confirmation by affidavit that the obligation to decommission the Commercial Wind Energy Facility is included in the lease agreement for every parcel included in the Special Use Permit application. A list of all landowners should be kept current, and affidavits shall be secured from Applicant and landowners stating their financial understanding;
 12. A provision that allows for the County to have the legal right to transfer applicable Commercial Wind Energy Facility material to salvage firms;
 13. Identification of and procedures for the County to access the Financial Assurances; and
 14. A provision that the County shall have access to the site, pursuant to reasonable notice to affect or complete decommissioning. A portion of the Decommission Security will be required to be held for one (1) year past the decommissioning to settle any potential disputes.
- D. A second Deconstruction Plan shall be filed with the County on or before the end of the tenth year of the Commercial Operation Date.

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- E. Provisions triggering the decommissioning of any portion of the Commercial Wind Energy Facility:
1. Inactive construction for twelve (12) consecutive months.
 2. If no electricity is generated by the WECS Project for twelve (12) consecutive months after electricity is initially generated and the Applicant has not paid landowners amount owed in accordance with their lease agreements for a period of six (6) consecutive months.
 3. The Applicant dissolves or abandons the WECS Project without first transferring the WECS Project to a successor-in-interest or assign.
 4. If any part of an individual turbine or the WECS Project falls into disrepair, is in threat of collapsing or any other health and safety issue.
- F. Provisions for the removal of structures, debris and cabling; both above and below the soil surface:
1. Items required to be removed include but are not limited to: turbines, towers, blades, transformers, foundation pads, electrical collection/interconnection systems, overhead collection system, Operations/maintenance buildings, spare parts buildings and substation/ switching gear buildings (unless otherwise agreed to by the owner of the Participating Property), Access Road(s) (unless owner of Participating Property requests in writing that the access road is to remain), Operation/maintenance yard/staging area (unless otherwise agreed to by the owner of the Participating Property) transporters, underground cables, fencing, access roads, culverts, and debris and litter generated by Deconstruction and Deconstruction crews. A landowner must sign an agreement if they wish for the access roads or culverts to remain.
- G. Provisions for the restoration of soil and vegetation:
1. All affected areas shall be inspected, thoroughly cleaned and all construction related debris shall be removed.
 2. All affected areas must be remediated pursuant to the terms of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
 3. Items required to be restored include but are not limited to: windbreaks, waterways, site grading, drainage tile systems and topsoil to former productive levels.
 - a. In work areas involving decommission from expansion of turbine crane pads, widening access roads or any other work areas, the topsoil must be first removed, identified and stored separate from other excavated material for later replacement as applicable.
 - b. The 60-inch below-surface excavation area shall be filled with clean sub-grade material of similar quality to that in the immediate surrounding area.
 - c. All sub-grade material will be compacted to a density similar to surrounding grade material.
 - d. All unexcavated areas compacted by equipment used in decommissioning shall be de-compacted in a manner that adequately restores the topsoil

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and sub-grade material to the proper density consistent and compatible with the surrounding area.

- e. Where possible, the topsoil shall be replaced to its original depth and surface contours.
 - f. Any topsoil deficiency and trench settling shall be mitigated with imported topsoil that is consistent with the quality of the effected site.
- 4. Items required to be repaired after decommissioning include but are not limited to: roads, bridges and culverts.
 - 5. An independent drainage engineer shall be present to ensure drainage tiles, waterways, culverts, etc. are repaired as work progresses.
 - 6. A soil erosion control plan shall be approved by the County Soil and Water Conservation District.
 - 7. All applicable stormwater management, floodplain and other surface water rules, regulations and ordinances shall be followed.
- H. Estimating the costs of decommissioning:
- 1. Costs shall include but not be limited to engineering fees, legal fees, accounting fees, insurance costs, decommissioning and site restoration minus the salvage value of the Commercial Wind Energy Facility.
 - 2. The County may – but is not required to – reevaluate the estimated costs of Deconstruction of any Commercial Wind Energy Facility after the tenth anniversary, and every five years thereafter, of the Commercial Operation Date which reevaluation must be performed by an independent third-party Professional Engineer licensed in the State of Illinois. The County shall provide the Owner with a copy of any reevaluation report. Based on any reevaluation, the County may require changes in the level of Financial Assurance used to calculate the phased coverages described in the AIMA. required from the Owner. The Owner shall be responsible for the cost of any reevaluation by a third party Professional Engineer.
- I. Financial Assurance:
- 1. Financial Security shall be phased in and provided to the County over the first eleven (11) years of the project as follows:
 - g. On or before the first anniversary of the Commercial Operation Date, the Applicant shall provide the County with Financial Security to cover ten (10) percent of the estimated costs of decommissioning the WECS Project as determined in the Decommissioning and Site Reclamation Plan.
 - h. On or before the sixth anniversary of the Commercial Operation Date, the Applicant shall provide the County with Financial Security to cover fifty (50) percent of the estimated costs of decommissioning the WECS Project as determined in the Decommissioning and Site Reclamation Plan.
 - i. On or before the eleventh anniversary of the Commercial Operation Date, the Applicant shall provide the County with Financial Security to cover one hundred (100) percent of the estimated costs of decommissioning the WECS Project as determined in the Decommissioning and Site Reclamation Plan.

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2. The County shall have immediate access, upon written notice to the Applicant, to use the Decommission Security if:
 - j. After abandonment of the Project, the Applicant, upon a reasonable determination by the County Board, fails to address a health and safety issue in a timely manner; or
 - k. The Applicant fails to decommission the abandoned turbine(s) or the entire WECS Project in accordance with the Decommissioning and Site Reclamation Plan.
3. If possible for the type of Decommission Security provided, the Applicant shall grant perfected security in the Decommission Security by use of a control agreement establishing the County as an owner of record pursuant to the Secured Transit Article of the Uniform Commercial Code, 810 ILCS 9/ et seq.
4. The County Board or its escrow agent shall release the Decommission Security when the Applicant has demonstrated and the County concurs that decommissioning has been satisfactorily completed, or upon written approval of the County to implement the decommissioning plan. Ten percent (10%) of the Decommission Security shall be retained one (1) year past the date to settle any outstanding concerns.
5. Any interest accrued on the Decommission Security that is over and above the total value as determined by the Illinois Professional Engineer shall go to the Applicant.
6. The Applicant shall identify procedures for the County to assess the Financial Assurances, particularly if it is determined that there is a health and/or safety issue with the Commercial Wind Energy Facility and the principal company fails to adequately respond as reasonably determined by the County Board.
7. The County shall be listed as a debtor in connection with any proceeding in insolvency or bankruptcy but shall not be responsible for any claims against the Applicant.
8. The Applicant shall agree that the obligations and liabilities under a Special Use Permit shall be binding upon the Applicant (which, for the avoidance of doubt, includes its successors-in-interest and assignees) and the Operator. The Applicant further shall agree that the sale, assignment in fact or at law, or other transfer of the Applicant's financial interest in the Commercial Wind Energy Facility shall in no way effect or change the Applicant's obligation to continue to comply with the terms, covenants and obligations of a Special Use Permit unless such successor-in-interest or assignee agrees to assume all obligations of the Special Use Permit, including but not limited to the decommissioning obligations associated with the Commercial Wind Energy Facility.
9. The County and its authorized representatives have the right of entry onto the Commercial Wind Energy Facility for the purpose of inspecting the methods of reclamation or for performing actual reclamation if necessary.

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IX. DEFAULTS & REMEDIES

- A. The Applicant's failure to materially comply with any of the provisions of this Ordinance, and/ or failure to comply with any law or regulation related to the WECS 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 default(s), the County Board must first provide written notice to the Applicant, Operator, and Owner, if different from Applicant, (hereinafter collectively "Notified Parties") by certified mail or personal service, setting forth the alleged default(s) and provide an opportunity for the Notified Parties to cure the default(s) within a thirty (30) calendar days from the date of the notice. Should the Notified Parties commence the cure within that 30-day cure period, and diligently pursue a cure, then the Notified Parties shall receive not less than an additional sixty (60) calendar 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 Notified Parties shall take all necessary and available commercial measures to immediately cure the default. If the Notified Parties 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. To accomplish the purpose of this ordinance, Edgar County Board members, Highway Engineer, and the Supervisor of Assessments shall have the right to enter upon any land which a WECS or structure related to the operation or maintenance of such WECS is situated. If entry is denied, the Edgar County Board may seek an administrative search warrant to enter and inspect the land and structures.
- D. Any violation of this Ordinance shall be an offense punishable by a fine of not less than \$100 but not to exceed \$1,000 per day. A separate offense shall be deemed committed upon each day during or on which a violation of any provision of this Ordinance or of any other County ordinance exists, occurs, or continues. It is the goal of this ordinance to promote safety to protect the public, and the court in setting an appropriate fine shall consider the nature of the offense, the degree of public safety involved, the efforts of the County and the responsible Owner or Applicant to quickly and safely resolve any infraction.

X. FEE SCHEDULE AND PERMITTING PROCESWECS

1. Application Fees

- a. Prior to processing any Application for a Commercial Wind Energy Facility, the Applicant must submit a certified check to the County for the Application Fee equal to **\$5,000** per megawatt (mW) of proposed nameplate capacity. These funds shall be placed in an FDIC insured account and will be used to cover the county's cost incurred in processing the Application.
- 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.
- c. Any unused amounts of the Application Fee shall be refunded to the Applicant within six months of the County Board rendering a final decision on the matter, unless any pending litigation, disputes or negotiations involving the County

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exist regarding the Commercial Solar Energy Facility, in which case any amounts owed to the Applicant shall be refunded within six months of the conclusion of the litigation, disputes or negotiations. An Applicant may request any unused Application Fee be applied toward the Building Permit Fees for the Facility.

2. All Costs to be Paid by Applicant or Owner

- a. In addition to all fees noted above, the Applicant or Owner shall pay all costs incurred by the County, including but not limited to, those costs associated with all offices, boards and commissions of the County, and third-party costs incurred by the County. This includes, but is not limited to, the direct or indirect costs associated with the hearing, permitting, operations, inspections, decommissioning, litigation, disputes, and/ or negotiations.

XI. REVIEW AND CONSIDERATION OF SPECIAL USE PERMIT APPLICATION

- A. The Edgar County State's Attorney or designee shall review the application for completeness with the requirements of this Ordinance in a preliminary investigation.
- B. Upon completion of this preliminary investigation, the Edgar County Clerk and Recorder shall schedule a date for a public hearing before the County Board to be held within forty-five (45) days after the filing of the Special Use Permit application.

XII. HEARING FACILITATOR

- A. The County may engage the services of a hearing facilitator. 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.
- B. 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.

XIII. HEARING FACTORS

- A. The County Board may approve a Commercial Wind Energy Facility Special Use Permit application provided it finds the evidence complies with state, federal and local law and regulations, and with the standards of this Ordinance.

XIV. REVOCATION.

- A. In any case where a Special Use Permit has been approved for a WECS Project, the Applicant shall apply for all permits and agreements from the County and all other permits required by other government or regulatory agencies to commence construction, and commence and actively pursue construction of the Project within thirty-six (36) months from the date of the granting of the Special Use Permit. If the Applicant fails to apply for a WECS Building Permit from the County and all other permits required by other government or regulatory agencies prior to construction and/or fails to commence and actively pursue construction of the Project within the thirty-six (36) month period, then without further action by the County Board, the Special Use Permit authorizing the construction and operation of the WECS Project shall be

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automatically revoked and void. Upon written request supported by evidence that the Applicant has diligently pursued issuance of all necessary government and regulatory permits for the Project required to commence construction and that any delay in commencement of construction of the Project is due to conditions out of his/her/its control, the County Board, in its sole discretion, may extend the above thirty-six (36) month period by passage of an ordinance that amends the Special Use Permit.

- B. 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.
- C. 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 Application, County-approved Project plans, or the regulations of this Ordinance.

XV. 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, stock or asset purchase, 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.

XVI. MODIFICATION.

Any modification of a WECS Project that alters or changes the essential character or operation of the WECS from what was presented 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 such modification of the WECS Project.

XVII. PERMIT EFFECTIVE DATE.

The Special Use Permit shall become effective upon passage and approval of an ordinance by the County Board approving the Special Use Permit application.

XVIII. 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 Edgar County. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of Edgar County nor conflict with any statutes of the State of Illinois.

XIX. SEVERABILITY

If any section, paragraph, clause, phrase or part of this Ordinance is for any reason held invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of these regulations.

XX. CALCULATION OF DATES

The time within which any act provided by this Ordinance is to be done shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday in which Edgar County Offices are closed, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a holiday or a Saturday or Sunday then such succeeding day shall also be excluded.

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XXI. EFFECTIVE DATE

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