

**COLES COUNTY
AMENDED ORDINANCE**

**STANDARDS FOR WIND ENERGY
CONVERSION SYSTEMS
OVER 500kW
October 2022**

TABLE OF CONTENTS
STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS OVER 500 KW

- I. INTRODUCTION
 - A. TITLE
 - B. PURPOSE
- II. DEFINITIONS
- III. APPLICABILITY
- IV. PROHIBITION
- V. WECS PERMIT APPLICATION
- VI. FEES
- VII. DESIGN AND INSTALLATION
 - A. DESIGN SAFETY CERTIFICATION
 - B. CONTROLS AND BRAKES
 - C. ELECTRICAL COMPONENTS
 - D. COLOR
 - E. TURBINE CONSISTENCY
 - F. COMPLIANCE WITH THE FEDERAL AVIATION ADMINISTRATION
 - G. LIGHTING
 - H. WARNINGS
 - I. CLIMB PREVENTION
 - J. HEIGHT
 - K. BLADECLEARANCE
 - L. SETBACKS
 - M. AGRICULTURAL IMPACT MITIGATION
 - N. COMPLIANCE WITH ADDITIONAL REGULATIONS
 - O. USE OF PUBLIC ROADS
 - P. 911 ADDRESSING
 - Q. TERMS
- VIII. OPERATION
 - A. MAINTENANCE
 - B. INTERFERENCE
 - C. COORDINATION WITH LOCAL FIRE DEPARTMENT
 - D. MATERIALS HANDLING, STORAGE AND DISPOSAL
 - E. SHADOW FLICKER
- IX. NOISE LEVELS
- X. WILDLIFE REQUIREMENTS
- XI. PLATTING REQUIREMENTS; PARCEL IDENTIFICATION NUMBER
- XE1. PUBLIC PARTICIPATION
- XIIE. LIABILITY INSURANCE AND INDEMNIFICATION
 - A. INSURANCE
- XIV. DECOMMISSIONING PLAN (CESSATION OF OPERATIONS)
- XV. REMEDIES
- XVI. PENALTIES

I. INTRODUCTION

A. Title

This Ordinance shall amend An Ordinance Governing Wind Energy Conversion Systems and be cited and known as the Coles County Ordinance Governing Standards for Wind Energy Conversion Systems Over 500kW.

B. Purpose

This Ordinance is adopted for the following purposes:

1. To assure that any development and production of wind-generated electricity in Coles County is safe and effective;
2. To facilitate economic opportunities for local residents;
3. To protect the health, safety, welfare and property rights of Coles County residents and landowners during construction, operation, and deconstruction of wind energy conversion systems.

II. DEFINITIONS

- A.** " Wind Energy Conversion System" (WECS") means all necessary facilities that together convert wind energy into electricity and deliver that electricity to a utility ' s transmission lines , including, but not limited to, the rotor, nacelle, generator, WECS Tower, Electrical components, WECS foundation, transformer, electrical cabling from the WECS Tower to the substation(s)/switchyard(s), communications facilities, transmission lines, poles, and/or towers, operations and maintenance building, and other related devices, facilities, and equipment.
- B.** "Applicant" means the entity or person who submits to the County, pursuant to Section V of this Ordinance, an application for the special use permit for any WECS(s) or WECS Project or Substation(s).
- C.** "Construction" means the installation, preparation for installation, or repair of a commercial wind energy conversion facility.
- D.** "Construction Permit" means the Building Permit which shall be obtained from the Coles County Regional Planning & Development Commission prior to commencing any construction on the WECS project.
- E.** "Deconstruction" means the removal of a commercial renewable energy conversion facility from the property of a landowner and the restoration of that property as provided in the agricultural impact mitigation agreement and consistent with the Decommissioning/Deconstruction Plan and Cessation of Operations.

- F.** "Financial Assurance" means reasonable assurance from a credit worthy party, examples of which include a surety bond trust instrument, cash escrow, or irrevocable letter of credit, or corporate guaranty from an entity whose credit is investment grade (reviewed on an annual basis).
- G.** "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS(s), including their respective successors, assigns and heirs, or third-party contractors.
- H.** "Owner" means the entity or entities with a direct equity interest in the WECS(s), including their respective successors, assigns and heirs. 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.
- I.** "Primary Structure" means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, churches, schools, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages, and barns.
- J.** "Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- K.** "Public Hearing" means the required hearing resulting from the special use permit application. The hearing is to take place not more than 30 days prior to an approval/siting decision by the county board. Said hearing to be conducted by a hearing officer appointed by the county board chairman with the advice and consent of the county board. Said individual is anticipated to be a former or retired judge or an individual appointed based on training and experience which qualifies the individual to conduct hearings, make recommendations or findings of fact and conclusions on the matters heard to the county board and otherwise exercise and perform the powers, duties, and functions necessary for public hearing. The Applicant shall reimburse the County for the hearing officer fee and costs.
- L.** "Rotor" means the rotating assembly in a turbine, especially a wind turbine.
- M.** "Substation" means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.
- N.** "WECS Project" means the collection of WECS(s) and Substations as specified in the Special Use Permit application pursuant to Section V of this Ordinance.
- O.** "WECS Special Use Permit" means the required permit obtained by an Applicant upon approval by the County Board following public hearing and prior to commencement of construction.

- P. " WECS Tower" means the support structure to which the nacelle and rotor are attached.
- Q. "WECS Tower Hub Height" means the distance from the center of the rotor hub to the top surface of the WECS foundation.
- R. "WECS Tower Tip Height" means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.
- S. "Shadow Flicker" means the phenomena that occurs when rotating wind turbine blades cast moving shadows upon stationary objects.
- T. "Wind energy device" means any device, with a nameplate capacity of at least 0.5 megawatts, that is used in the process of converting kenetic energy from the wind to generate electric power for commercial sale" (35 ILCS 200/10-600)

III. APPLICABILITY

This Ordinance governs the siting of WECS(s) and WECS Projects and Substation(s) that generate electricity to be sold to wholesale or retail markets, except that owners of WECS(s) with an aggregate generating capacity of 500 kW or less who locate the WECS(s) on their own property are not subject to this Ordinance but are subject to other requirements as in Coles County Standards for Wind Energy Conversion Systems 15-50kW or Coles County Standards for Wind Energy Conversion Systems 51 to 500 kW

The total number of wind energy devices that may be located in the geographic area of Coles County is limited to 120.

IV. PROHIBITION

No WECS or WECS Project or Substation(s) governed by Section III of this Ordinance shall be constructed, erected, installed, or located within Coles County unless prior special use permit application has been approved for each individual WECS or WECS Project or Substation(s) pursuant to this Ordinance. Upon approval, a construction permit shall be obtained from the Coles County Regional Planning & Development Commission prior to the commencement of construction of any WECS or WECS Project or Substation(s) or any part thereof.

V. WECS SPECIAL USE PERMIT APPLICATION

- A. A WECS Special Use Permit is subject to the following standard conditions.

- B. To obtain approval, the Applicant must first submit a WECS Special Use Permit application to the Coles County Regional Planning & Development Commission.
- C. The WECS Special Use Permit application shall contain or be accompanied by the following information:
1. A WECS Project summary, including, to the extent available: (1) a general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), maximum number of WECS(s), and approximate name plate generating capacity of each WECS; the maximum WECS(s) Tower Tip Height and maximum diameter of the WECS(s) rotor(s); the general location of the project; and (2) a description of the Applicant, Owner and Operator, including their respective business structures;
 2. The name(s), address (es), phone number(s) and signatures of the Applicant(s), Owner and Operator, and all participating property owner(s).
 3. A site plan for the installation of WECS(s) showing the proposed location of each WECS Tower, guy lines and anchor bases (if any), Primary Structure(s), property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), electrical cabling from the WECS Tower to the Substation(s), ancillary equipment, third party above or below ground transmission lines, and layout of all structures within the geographical boundaries of any applicable setback, the location of any construction staging areas including concrete batch plants. Minor modifications may be made to a site plan if the Planning and Development Committee determines the proposed modifications will not alter or change the essential character or operation of the original WECS Project as approved, a new WECS Permit shall not be required;
 4. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance;
 5. Financial assurance that the project can be developed as proposed before the construction permit is issued; and
 6. An executed Agricultural Impact Mitigation Agreement (AIMA) with the Illinois Department of Agriculture pursuant to 505 ILCS 147/1 et. seq.
 7. A Comprehensive drainage plan for farmland where surface or subsurface drainage will be impacted as a result of the construction, maintenance, or deconstruction of the WECS project.
 8. If the applicant intends to offer a "good neighbor plan," a "property value guarantee plan" or any other financial incentive plan in connection with a proposed WECS project, a copy of such plan shall be included with the permit application at the time the application is submitted.
 9. The applicant shall provide 14 complete copies of the WECS Special Use Permit application upon submittal of the WECS Special Use Permit application fee. One copy shall be submitted in electronic format.
- D. The Applicant shall notify the County of any material changes to the information provided in Section V.B above that occur while the WECS Special Use Permit application is pending.

VI. FEES

- A.** The applicant, upon submittal of an application for a wind energy conversion system special use permit, shall submit a certified check to the county in the amount of \$150,000. This amount shall be placed in a special fund and will be used to cover the county's costs incurred during the application review process and public hearings, including, but not limited to, costs of experts and special attorneys retained by the county, if necessary, costs incurred by Coles County Regional Planning & Development Commission, and the cost of any appeals or civil action.
- B.** Should the actual costs to the county exceed the cost deposit, the applicant shall remit additional funds in increments of \$50,000 within 30 days of the receipt of written notice from the county. The county may stay the processing of an application or continue any hearings until such time as the requested additional funds have been paid.
- C.** Any amount remaining in the fund after the county renders its decision, exhaustion of all appeals, and payment of all bills and invoices, shall be refunded to the applicant.
- D.** Fees for WECS Construction Permits for each individual Wind Energy Conversion System turbine shall be calculated at \$25/foot per tower hub height (distance from the center of the rotor hub to the top surface of the WECS tower foundation). Fees for WECS Construction Permits are to be paid to the County no more than 30 days after County Board Approval.

VII. DESIGN AND INSTALLATION

A. Design Safety Certification

- 1. WECS(s) 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 Energie ("GL"), or an equivalent third party. All turbines shall be new equipment commercially available; no used or experimental equipment shall be approved by Coles County.
- 2. Following the granting of the WECS permit under this Ordinance, a Professional Engineer shall certify, as part of the construction permit application that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

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 regulation shall not be considered a sufficient braking system for over speed 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). Utility lines connecting the towers, substations, etc., shall be placed underground where practical.

D. Color

Towers and blades shall be painted a non-reflective, unobtrusive color that mitigates the visual impact of the structure. No advertisement shall be visible on the blades or tower.

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.

F. Compliance with the Federal Aviation Administration

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

G. Lighting

A lighting plan for each WECS shall be provided to the Planning & Development Commission. Such plan should select and submit to the FAA a request to use an Aircraft Detection Lighting System (ADLS) approved by the FAA. The applicant shall provide the County, the FAA approval of the required ADLS prior to the installation of any wind turbine tower sections. The plan must describe all lighting that will be used, including any lighting that may be required by the FAA. The lighting should be planned and developed in such a way to minimize the visual impact of the structures.

H. Warnings

1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
2. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.

3. A reflective 911 address sign shall be placed and maintained by the owner/operator at the entrance to each WECS access road from a public road. A sign or posting no more than 4 square feet in area shall be placed and maintained in conjunction with, but in a subordinate position of, that same 911 sign and shall provide the tower numbers and a toll-free telephone number, answered by a person twenty-four hours a day seven days per week, for emergency calls and informational inquiries.

I. Climb Prevention

A. All WECS Towers must be unclimbable by design or protected by anti-climbing devices such as:

1. Fences with locking portals at least six feet high; or
2. Anti-climbing devices 12 feet vertically from the base of the WECS Tower; or
3. Locked doors and interior ladders.

J. Height

WECS Tower Tip Height shall not exceed 700 feet.

K. Blade Clearance

The minimum distance between the ground and any protruding blade(s) utilized on a WECS shall be 75 feet, as measured at the lowest point of the arc of the blades.

L. Setbacks

1. All WECS Towers shall be set back 1.1 times the tower tip height of the tower, or 1,600 feet, whichever is greater, from any Primary Structure in existence or being built as of the date of application of the WECS Special Use permit. Distance shall be measured from the point of the Primary Structure foundation closest to the WECS Tower to the center of the WECS Tower foundation. The owner(s) of the Primary Structure may waive this setback requirement in writing; but in no case shall a WECS Tower be located closer to a Primary Structure than 1,200 feet.
2. An incorporated village or municipality must give written approval of any WECS towers to be located within 1.5 miles of the corporate limits of such incorporated village or municipality.
3. All WECS Towers shall be set back a distance of 1.1 times the tower tip height from adjacent property lines, as measured from the closest edge of the tower structure. The owner(s) of the affected adjacent property may waive this setback requirement in writing.

4. All WECS Towers shall be set back a distance of at least 1.1 times the WECS Tower Tip Height from public roads, above-ground third party transmission lines, telephone lines and communication towers, in existence as of the date of application 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.
5. All WECS Towers shall be set back a distance of at least 1.1 times the WECS Tower Tip Height from the nearest edge of the existing right of way of public roads as of the date of application of the WECS permit. Distance shall be measured from the nearest edge of the road right of way of such public road in existence as of the date of approval of the WECS permit.
6. All WECS substations shall be set back 100 feet from the property line of any property containing a primary structure.
7. All WECS towers shall be 1.5 miles from any community unit district school property line. The affected school may waive this setback requirement, but in no case shall a WECS Tower be located closer to a school property line than 1400 feet.
8. There shall be at least 3,500 feet separation from the exterior above-ground base of a WECS tower to any Restricted Landing Area or Airport.
9. The Applicant does not need to obtain a variance from the County upon written waiver by the County 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 recorded as part of the chain of title in the deed of the subject property.

M. Agricultural Impact Mitigation

All impacted agricultural land must, at a minimum, be remediated pursuant to the terms of the AIMA included in the Special Use Permit application as required by Section V, Paragraph C, subparagraph 6. Furthermore, such remediation shall include measures which repair field tile damaged in farm fields and under public roads during construction of the WECS. Applicants, WECS owners and operators must take steps toward erosion and sediment control and provide remediation when notified to do so by the County.

N. 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

- A. 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, upgrades and decommissioning, or maintenance of WECS(s) or Substation(s), shall, prior to the issuance of WECS Construction Permits:
1. Identify all such public roads within the county to be used for transportation of WECS components or substations components and/or equipment for the construction, operation, or maintenance of the WECS (s) or substations(s);
 2. Provide the Coles County Highway Department and the Coles County Regional Planning Commission with the following prior to the issuance of Construction Permits:
 - a) The list of roads to be used;
 - b) An executed copy of applicable weight and size permits from appropriate governmental units having jurisdiction over identified public roads; and
 - c) An executed copy of each written road use agreement and supporting documentation required by the appropriate governmental units having jurisdiction over identified public roads addressing:
 - i. The use and proposed repair plan for the public roads, bridges, and rights of way located within that governmental unit's jurisdiction;
 - ii. The pre-construction baseline survey prepared and sealed by a State of Illinois Licensed Professional Engineer to determine existing road and bridge conditions for assessing potential damage to identified public roads;
 - iii. The method to conduct a post-construction baseline survey prepared and sealed by a State of Illinois Licensed Professional Engineer to determine any actual damage to identified public roads and bridges ;
 - iv. Proposed remediation or compensation to the appropriate governmental unit having jurisdiction over identified public roads for any actual measured damage to public roads and bridges; and
 - v. Performance/surety bonds or other financial assurance documents required to guarantee the performance of the road use agreements.
 - vi. If no such written agreement is required by the governmental unit having jurisdiction per identified public roads, an executed written statement from said unit of government stating no agreement is required shall be submitted.
- B. Reasonable dust control measures will be required during construction of the WECS.

P. 911 ADDRESSING

Prior to the issuance of Construction Permits, the applicant shall provide in a GIS shape file format, the turbine locations and access roads to the Coles County Regional Planning Commission. This information will be used for E-911 addresses for each of the wind turbines. New 911 addresses will be issued by the Coles County GIS located in the Coles County Regional Planning & Development Commission.

Q. TERMS

Notwithstanding any other provisions for permitting a WECS shall be effective and may be relied upon so long as construction of the WECS is commenced within 36 months after issuance of the special use permit, which period may be extended by the County Board without further public hearing.

VIII. OPERATION

A. Maintenance

Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Section VII.A.I of this Ordinance. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the Owner or Operator shall confer with a relevant third- party certifying entity identified in Section VII.A.I of this Ordinance to determine whether the physical modification requires re-certification.

1. The Owner and/or Operator of the WECS, WECS Project, and Substations shall tender to the County a summary report of the operation and maintenance of each WECS, WECS Project, and substation on an annual basis.

B. Interference

1. The applicant shall provide a microwave beam path analysis and a telecommunications analysis. To the extent that the providers in this subsection demonstrate a likelihood of interference with its communications resulting from the WECS, the applicant shall take measures to mitigate such anticipated interference. If after construction of the WECS, the Owner or operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall remedy the complaint within 90 days. There may be an extension of up to 60 days if mutually agreed upon by both parties.
2. If, after construction of the WECS, the Owner or Operator receives a written complaint related to interference with local broadband service and/or local broadcast residential television the Owner or Operator shall take steps to determine if interference is due to turbine construction or operations. The owner or operator shall remedy the complaint within 90 days. There may be an extension of up to 60 days if mutually agreed upon by both parties.

C. Coordination with Local Fire Department

1. Prior to issuance of Construction Permits, the Applicant Owner or Operator shall submit to the local fire department a copy of the site plan.
2. Prior to the issuance of Construction Permits, the Owner or Operator shall cooperate with the local fire department to develop and implement a fire protection plan in coordination with local emergency response authorities to ensure that all the appropriate emergency services agencies are cognizant of actions required in the event of a fire or other emergency at the wind power facility. In addition, the owner or operator of the wind power facility shall provide training for, and the necessary equipment to, local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the wind project.
3. Prior to issuance of WECS Construction Permits, an emergency operations plan shall be submitted to the Coles County EMA director for review and approval.
4. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

D. Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation, maintenance and deconstruction of the WECS(s) and Substation 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, maintenance and deconstruction of the WECS(s) and Substation shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

E. Shadow Flicker

1. The applicant shall conduct an analysis on the potential shadow flicker onto adjacent properties as part of the approval process. The analysis shall identify the locations of the shadow flicker and the expected duration of the flicker over the course of a calendar year.
2. Shadow flicker shall not affect a primary structure in excess of 30 hours per calendar year. This limitation may be waived in writing by the owner(s) of the impacted primary structure.
3. Applicant shall provide an updated Shadow Flicker analysis at the time of Construction Permit applications for wind turbines.

IX. NOISE LEVELS

Noise levels from each WECS, WECS project and Substation shall be in compliance with applicable Illinois pollution control board (IPC) regulations. The applicant, through the use of a qualified professional as part of the Special Use Permit application process, shall appropriately demonstrate compliance with the

above noise requirements, with an emphasis on demonstrating the steps taken or to be taken to minimize the potential or demonstrated impact on the health of, and enjoyment of homes by families living near the WECS and/or Substation. The noise level from the WECS towers at the outside wall of a primary structure shall not exceed an hourly LEQ of 48 dBA. The noise level from a substation at the outside wall of a primary structure shall not exceed an hourly LEQ of 48 dBA. Noise levels shall be measured according to the procedures outlined in IPCB Part 910 Measurement Procedures.

X. WILDLIFE REQUIREMENTS

1. The applicant shall provide a pre-siting study, addressing all relevant species, submitted to the Illinois Department of Natural Resources (IDNR) and the U.S. Fish and Wildlife Service (USFWS).
2. The applicant shall implement the recommendations of the IDNR/USFWS based on pre-siting study results unless credible evidence is presented against the recommendation.
3. The applicant shall provide a post-siting study, addressing all relevant species, submitted to IDNR/USFWS.
4. The applicant shall implement the recommendations of the IDNR/USFWS based on post-siting study results-

XI. PLATTING REQUIREMENTS; PARCEL IDENTIFICATION NUMBERS

The owner of a wind energy device shall, at his or her own expense, use an Illinois registered land surveyor to prepare a plat showing the metes and bounds description, including access routes, of the area immediately surrounding the wind energy device over which that owner has exclusive control; provided that such platting does not constitute a subdivision of land subject to the provisions of the Plat Act (765 ILCS 205/). Within 60 days after completion of construction of the wind energy device, the owner of the wind energy device shall record the plat and deliver a copy of it to the chief county assessment officer and to the owner of the land surrounding the newly platted area. Upon receiving a copy of the plat, the chief county assessment officer shall issue a separate parcel identification number or numbers for the property containing the wind energy device or devices. Pursuant to 35 ILCS 200/10-620

XII. PUBLIC PARTICIPATION

Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation in the County's consideration of the WECS Special Use Permit application.

XIII. LIABILITY INSURANCE AND INDEMNIFICATION

A. Insurance

1. Commencing with the issuance of WECS Construction Permit, the Applicant, Owner, or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and

property damage with limits of at least \$10 million per occurrence and \$20 million in the aggregate. An annual certificate of insurance shall be provided to the county, with the county being added as an additional insured on the policy to the extent the County is entitled to indemnification in accordance with Section XII, section B.

2. Insurance coverage shall be maintained without interruption from the date of permitting through the decommissioning/deconstruction of all WECS(s) and Substations. Certificates of insurance acceptable to the county and compliance with this section shall be filed with the county prior to the commencement of any work on the WECS and thereafter upon renewal or replacement of each required policy of insurance. The certificates and the insurance policies required under this section shall contain a provision that coverages afforded under the policies shall not be cancelled or allowed to expire until at least 60 days written notice has been given to the county.
- B.** Applicant, Owner or Operators shall defend, indemnify and hold harmless the County and its officials, employees and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees, except to the extent arising in whole or in part out of the negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of Applicant' s, Owner's or Operator's selection, construction, operation, upgrade, and removal of the WECS, Substation and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limiting or qualifying the County' s other indemnification rights available under the law.
- C.** The applicant shall maintain "third party sudden and accidental environmental - pollution liability" coverage with a limit of not less than \$5,000,000.

XIV. DECOMMISSIONING/DECONSTRUCTION PLAN AND CESSATION OF OPERATIONS

The WECS Special Use Permit Applicant must provide a decommissioning/deconstruction plan to ensure that the WECS and Substation is removed, and land is restored prior to approval of the application. The plan shall include:

- A. If any Wind Energy Conversion System has not been in operation and producing electricity for at least 270 consecutive days, it shall be removed/deconstructed. The Coles County Regional Planning & Development Commission shall notify the Owner to remove the system. Within thirty days, the Owner shall either submit evidence showing that the system has been operating and producing electricity or remove it. If the Owner fails to or refuses to remove the WECS, the violation shall be referred to the Coles County State's Attorney for enforcement.

- B. Provisions for the removal/deconstruction of WECS, towers, structures, substations, debris, and cabling on the surface and at least 60 inches below the surface unless otherwise negotiated with the land owner. Under no circumstances shall the removal/deconstruction of WECS, towers, structures, substations, debris, and cabling be less than 48 inches below the surface.
- C. Provisions for the restoration of the soil and vegetation that are, at a minimum, in compliance with the AIMA included in the Special Use Permit application as required by Section V, Paragraph C, subparagraph 6. The current soil type at each WECS tower location, as listed in the United States Department of Agriculture Soil Survey of Coles County, Illinois, shall be listed in the application.
- D. An estimate of the decommissioning/deconstruction costs certified by a professional engineer in current dollars and shall be updated and submitted to the Coles County Regional Planning & Development Commission every 5 years. The financial assurance shall be the estimated decommissioning/deconstruction cost of the entire project.
- E. A financial plan approved by Coles County to ensure funds will be available for decommissioning, deconstruction, and land restoration.
- F. A provision that the terms of the decommissioning/deconstruction plan shall be binding upon the Owner(s) and/or Operator(s) and any of their successors, assigns, or heirs; and
- G. A provision that Coles County shall have access to the site and to the funds outlined above to effect or complete decommissioning one year after cessation of operations.

XV. REMEDIES

- A. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Ordinance. Approval of the special use for a WECS shall be deemed conclusive evidence that the Applicant, Owner, or Operator has complied with the above provisions with respect to application for and approval of such special use.
- B. Prior to implementation of the existing County procedures for the resolution of such default(s), the County Board shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).
- C. If after the 60 day period: (i) the Applicant, Owner, or Operator has not cured the alleged default, or (ii) the County Board determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County ordinance provisions addressing the resolution of such default(s) shall govern.

XVI. PENALTIES

A failure to obtain applicable permit(s) for the construction of a Wind Energy Conversion System or failure to comply with the requirements of a permit or the provisions of this Ordinance shall be deemed a violation of this ordinance and a default. The State's Attorney may bring an action to enforce compliance of the requirements of this Ordinance by filing an action before the Coles County Planning & Development Committee or by filing an action in the Circuit Court for an injunction requiring conformance with this ordinance or seek such other order from the court as the State's Attorney deems necessary to secure compliance with this ordinance. Any person who violates this ordinance shall be fined not less than five hundred dollars or more than five thousand dollars. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. Nothing herein shall prevent the County from seeking such other legal remedies available to prevent or remedy any violations of this ordinance.

PRESENTED, APPROVED, AND ADOPTED this 11th day of October, 2022.

AYES _____ NAYS _____

COLES COUNTY BOARD
COLES COUNTY, ILLINOIS

ATTEST:

BY

Julie Coe
Coles County Clerk

Brandon Bell
County Board Chair