

An Ordinance Governing Wind Energy Conversion Systems In The Unincorporated Areas of Coles County, Illinois

The County of Coles, Illinois hereby establishes this Wind Energy Conversion Systems Ordinance pursuant to IL State Statute 55 ILCS 5/5-12020 to institute regulations for siting Wind Energy Conversion Systems or WECS, outside the 1.5 mile zoning extraterritorial jurisdiction of Coles County Illinois municipalities.

The purpose of said regulations is to provide a uniform and comprehensive set of standards for the installation of wind energy conversion systems designed for commercial energy production.

The intent of these regulations is to protect the public health, safety and community welfare while allowing development of wind energy resources for commercial purposes.

I. DEFINITIONS

- a. “Applicant” means the entity of person who submits to the county an application for the siting of any WECS or Substation.
- b. “Financial Assurance” means reasonable assurance from a credit worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter or credit.
- c. “Operator” means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.
- d. “Owner” means the entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) at the earliest practicable date.
- e. “Professional Engineer” means a qualified individual who is licensed as a professional engineer in any state in the United States.
- f. “Primary Structure” means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.
- g. “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.

- h. “Wind Energy Conversion System” (WECS”) means all necessary devices that together convert wind into electricity, including the rotor, nacelle (i.e. generator and related components enclosure), generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower to the Substation(s) and which has a rated capacity of over 100 kw.

Wind Energy Test Towers whose sole purpose is to collect wind tower energy “feasibility data” are exempted from these Ordinance Provisions with the exception that Wind Energy Test Towers must be dismantled within three (3) years of their installation.

- i. “WECS Project” means the collection of WECS and Substations as specified in the siting approval application of this Ordinance.
- j. “WECS System Height” means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.
- k. “WECS Tower” means the support structure to which the nacelle and rotor are attached.
- l. “WECS Tower Height” means the distance from the WECS Tower at its highest point to the top of the WECS foundation. The minimum WECS tower height shall be 100 feet. The tower height shall meet FAA requirements.

II. Construction of Wind Energy Systems

- a. No person shall construct or operate a wind energy conversion system (WECS) without having fully complied with the provisions of this Ordinance. For purposes of this Ordinance, WECS refers solely to each combined wind turbine and tower. All WECS equipment shall be in compliance with all applicable state and federal regulatory standards including the Uniform Building Code as adopted by the State of Illinois, the National Electrical Code as adopted by the State of Illinois, FAA requirements, EPA regulations (hazardous waste, construction, storm water; etc.” and any other statutory or regulatory requirements.
- b. Facility equipment shall conform to applicable industry standards including the American Wind Energy Association standards for win turbine design and related standards adopted by the American Standards Institute (ANSI). Applicants shall submit certificates from equipment manufacturers that the equipment is manufactured in compliance with industry standards.

III. Permits Required

- a. A WECS permit shall be obtained from the Coles County Regional Planning & Development Commission for the construction of all WECS.
- b. The permit application fee to be charged at the time of the permit application shall be as follows: A wind energy conversion system as defined herein shall be assessed a permit application fee of \$25.00 per foot of tower height per tower. The County reserves the right to adjust said fee from time to time to insure County WECS policy and regulation compliance

IV. Application Requirements

An application for a WECS permit to build a wind energy system shall include the following:

- a. A WECS Project summary, including, to the extent available: (1) a general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), number of WECS(s), and name plate generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS(s) rotor(s); the general location of the project; and (2) a description of the Applicant, Owner, and Operator, including their respective business structures.
- b. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), if known.
- c. Petitioner will provide a graphic Site Plan Exhibit including the easement boundaries and legal descriptions for each site to the Coles County Regional Planning & Development Commission for approval before construction begins. Petitioner will furnish the Coles County Regional Planning & Development Commission with certified "as built" site plans and easement drawings showing the location of wind turbines, roads, transmission lines and all other improvements. A topographic map of the project site shall include the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed project site.
- d. Location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed WECS.
- e. Location of all underground utility lines associated with the WECS site.
- f. Dimensional representation of the structural components of the tower construction including the base and footings.
- g. Schematic of electrical systems associated with the WECS including all existing and proposed electrical connections.

- h. Manufacturer's specifications and installation and operation instructions or specific WECS design information.
- i. Certification by a registered professional engineer that the tower design is sufficient to withstand wind load requirements for structure as defined by BOCA.
- j. All turbines shall be new equipment commercially available; no used, experimental or proto-type equipment still in testing shall be approved by the County Board.
- k. Obtaining necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted to the Coles County Regional Planning & Development Commission.
- l. No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the County Board.

V. Public Hearing

At least one (1) public hearing shall be held no earlier than thirty (30) calendar days but no later than twenty-one (21) days prior to the Wind Energy Conversion System or Wind Energy Conversion System Project siting decision by the County Board. A legal notice of said public hearing shall be published in a newspaper of general circulation no later than fourteen (14) calendar days prior to the date of said public hearing.

VI. Setback Requirements

- a. No WECS shall be constructed in any setback, dedicated public easement or dedicated public right-of-way without prior written authorization from the landowner, township and county.
- b. Installation of any WECS may not be nearer than three hundred fifty (350) feet or 1.1 times the height of the WECS, whichever is greatest, to any property lines, dedicated roadway, railroad right-of-way or overhead electrical transmission or distribution lines. Distance shall be measured from the foundation at the base of the turbine. New structures built adjacent to wind power facilities shall maintain these same minimum setback requirements. Participating landowners within the area comprising the wind energy conversion system may waive property line setbacks with written approval from all landowners sharing such property line.
- c. Except as provided herein the setback distance for turbines with a rated capacity of 1.0 MW or less shall be 1,000 feet or more from any existing or occupied residence and turbines with a greater rated capacity shall be set back 1,400 feet or more from any existing or occupied residence or from the boundary of any

to which as of the date of approval of the WECS is in a platted subdivision and shall be setback from a property line 1.1 times the height of the turbine with the blade tip at its highest point. Distance shall be measured at the time of application for building permit from the foundation at the base of the turbine. A turbine with a capacity of 1.0 MW or less may be placed as near as 600 feet from an occupied residence with the prior written approval of the owner. The setback distance will be followed except in specific instances allowed by the County Board.

- d. The setback distance for the turbines will be 1500 feet from any platted community which enforces its own government. Distance shall be measured from the foundation at the base of the turbine to the closest Corporate Limit boundary line which will include the 1.5 mile extraterritorial jurisdiction boundary in municipalities having zoning authority.

VII. Safety Requirements

- a. Blade Clearance: The minimum distance between the ground and any protruding blade(s) utilized on a WECS shall be fifteen (15) feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.
- b. Climbing Towers. Tower Access: Access to lattice towers shall be controlled by fences six (6) feet in height around the tower and anti-climbing devices. Fences will not be required for tubular towers with an internal ladder and locked door. Existing local regulations shall cover wind systems as well.
- c. SIGNAGE: Signage regulations are to be consistent with ANSI and AWEA standards. Signs warning of high voltage shall be posted on the tower and at the entrances of the facility.
- d. NOISE and VIBRATION: Noise and vibration levels shall be in compliance with all County and Illinois Pollution Control agency (IPCA) regulations.
- e. ELECTRICAL COLLECTION CABLES: All WECS electrical collection cables between each WECS shall be located underground unless they are located on public or utility rights-of-way or with prior County approval. All communication lines that are buried should be at a depth consistent with local utility and telecommunication underground lines standards until the same reach the property line or a substation adjacent to the property line.

- f. TOWER CONSTRUCTION: Tower construction shall be in accordance with all applicable sections of the Illinois Statutes, if any.
- g. UTILITY INTERCONNECTION: The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility's then-current service regulations applicable to WECS.
- h. WASTE MANAGEMENT: All SOLID WASTE whether generated from supplies, equipment, parts, packaging, or operation or maintenance of the facility, including old parts and equipment, shall be removed from the site in a timely manner consistent with industry standards. All HAZARDOUS WASTE generated by the operation and maintenance of the facility, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state and federal rules and regulations.
- i. LIGHTING: Projects shall utilize minimal lighting. No tower lighting other than normal security lighting shall be permitted except as may be required by the FAA.

VIII. Public Services

- a. Roads: Any proposed access roads that will be used for construction purposes shall be identified and approved by the Township Road Commissioner and the County Engineer prior to issuance of the building permit. Township Road Commissioner and County Engineer shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.
- b. Any road damage repairs caused by the transport of the facility's equipment, the installation of same, or the removal of same, must be completed to the satisfaction of the Township Road Commissioner and the County Engineer. The Township Road Commissioner and County Engineer may choose to require either remediation of road repair upon completion of the project or are authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by the Township Road Commissioner or the County Engineer may be required by the Township Road Commissioner or the County Engineer to insure the township or the county that future repairs are completed to the satisfaction of the unit of local government.
- c. Dust Control: Reasonable dust control measures will be required by the County during construction of the WECS.
- d. Sewer and Water: Any facility shall comply with existing septic and well regulation as required by the Coles County Health

Department and the State of Illinois Department of Public Health.

- e. Drainage Repair: All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS, must be completely repaired to neat original condition.

IX. Engineer's Certificate

The engineer's certificate shall be completed by a structural engineer registered in the State of Illinois and shall certify that the tower and foundation are compatible with and appropriate for the turbine to be installed and that the specific soils at the site can support the apparatus. All commercially installed wind turbines must utilize self-supporting tubular tower.

X. Certificate of Contracts

Certificate shall verify that power purchase contracts, power transmission contracts, and other legal rights are in place.

XI. Decommissioning Plan

- a. Petitioner shall ensure that the facilities are properly decommissioned upon the end of the project life or facility abandonment. Petitioner's obligations with respect to decommissioning shall include removal of all physical material pertaining to the project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the project improvements to as near as practicable to the same condition that existed immediately before construction of such improvements. Prior to issuance of a building permit, Petitioner shall provide a contractor cost estimate for demolition and removal of the WECS facility and will provide a bond in an amount at least equal to said demolition and removal contractor cost estimate, letter of credit or other security acceptable to the County, for the cost of decommissioning each tower to be constructed under that building permit, which security shall be released when such tower is properly decommissioned as determined by the Coles County Regional Planning & Development Commission and the Coles County Board. Petitioner will provide an affidavit to the Coles County Regional Planning & Development Commission representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within twelve (12) months of expiration or earlier termination of the project.

XII. Required Safety Features

- a. All WECS shall be designed with an automatic over speed control to render the system inoperable when winds are blowing in excess of the speeds for which the machine is designed.
- b. All WECS shall have a manually operable method to render the system inoperable in the event of a structural or mechanical failure of any part of the system including the automatic overspeed control.
- c. All WECS shall be designed with an automatic control to render the system inoperable in case of lost utility power to prevent the WECS from supplying power to a de-energized electrical distribution system.
- d. Any WECS thereof declared to be unsafe by the Coles County Regional Planning & Development Commission by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the County Ordinances governing the removal of Nuisances.

XIII. Maintenance

The Coles County Regional Planning & Development Commission staff shall have the right, at any reasonable time, to enter, in the company of the owner, operator or his agent, the premises on which a WECS has been constructed to inspect all parts of said WECS installation and require that repairs or alterations be made within thirty (30) days if, in his judgment, there exists a deficiency in the structural stability of the system.

XIV. Inspections

Inspections at a fee to be determined from time to time by the County Board and paid by the applicant may be made by the Coles County Regional Planning & Development Commission, or by a qualified inspector for equipment of this type selected by him, no more than once annually to certify the safety and maintenance of the WECS and accessory structures. Total annual inspection fees shall not exceed \$100.00 per WECS per year, with in escalation equal to the change in the Consumer Price Index as reported by the Federal Government.

XV. Arbitration

In the event a dispute arises as to satisfaction of the forgoing conditions to this special ordinance, such dispute may be resolved judicially or may at the request of the petitioner, county, or the aggrieved party, be resolved pursuant to binding arbitration in accordance with the procedures of the American Arbitration Association by an independent arbitrator acceptable to petitioner and the County or aggrieved party, as applicable. If petitioner and the County or the aggrieved parties, as applicable, are unable to agree on an arbitrator, then each such party shall choose an independent arbitrator and their respective choices shall then choose an arbitrator. This condition shall not bind an aggrieved party, other than the County or petitioner, to submit to arbitration.

XVI. Further application after completion of project construction.

Construction of a wind farm shall begin within 12 months from the date of permit issuance. After construction is complete, the “as built” drawing showing the location of wind turbines, roads, transmission lines and all other improvements related to the wind turbine installation shall be delivered to the Coles County Regional Planning & Development Commission. Only the land as described in the permit application shall be designated & utilized for a wind turbine and related improvements. Additional wind turbines to be placed on that same parcel of land shall require another petition for recommendation by the Coles County Regional Planning & Development Commission and approval from the County Board.

XVII. Amendments

This Ordinance may be amended when deemed necessary by the County Board.

Duly presented, adopted and passed this ____ day of _____, 2008

County Board Chairman

ATTEST:

Coles County Clerk