

CHAPTER 153: WIND ENERGY

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§ 153.01 WIND ENERGY CONVERSION SYSTEMS PURPOSE.

- A. To assure that any development and production of wind-generated electricity in the county is safe and effective.
- B. To facilitate economic opportunities for local municipalities, residents, and the county as a whole.
- C. To assure the protection of health, safety, welfare, and property rights and values of landowners and residents in Tazewell County.
- D. To protect the County's ecological environment.
- E. To promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.

§ 153.02 DEFINITIONS.

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABOVE GROUND CABLE. Electrical power lines installed above grade to be utilized for conveyance of power from the wind turbines to the wind facility substation.

AGRICULTURAL IMPACT MITIGATION AGREEMENT (AIMA). The agreement between the commercial wind energy facility owner and the Illinois Department of Agriculture.

AGRICULTURAL LAND. Land used for cropland, hay land, pasture land, managed woodlands, truck gardens, farmsteads, commercial ag-related facilities, feedlots, livestock confinement systems, land on which farm buildings are located and land in government set-aside programs used for purposes as set forth above.

AUTHORIZED FACTORY REPRESENTATIVE. An individual with technical training of a WECS who has received factory installation instructions and is certified in writing by the manufacturer of the WECS.

BEST EFFORTS. Diligent, good faith and commercially reasonable efforts to achieve a given objective or obligation.

COMMERCIAL OPERATION DATE. The calendar date on which the Commercial Wind Energy Facility produces power for commercial sale, not including test power. Within ten (10) calendar days of the Commercial Operation Date, the Commercial Wind Energy Facility Owner shall notify the County of the Commercial Operation date in writing.

COMMERCIAL WIND ENERGY FACILITY (FACILITY). A wind energy conversion facility equal or greater than 500 kilowatts in total nameplate generating capacity.

CONSTRUCTION. The installation, preparation for installation and/or repair of a Commercial Wind Energy Facility.

COUNTY. The County where the Commercial Wind Energy Facility is located.

CROPLAND. Land used for growing row crops, small grains, or hay; includes land which was formerly used as cropland, but is currently in a government set-aside program and pastureland comprised of Prime Farmland.

DECONSTRUCTION/DECOMMISSIONING. The removal of a commercial wind energy facility from the property of a landowner and the restoration of that property as provided in the AIMA. The term “deconstruction” and “decommissioning” have the same meaning and therefore, may be interchanged with each other.

DECONSTRUCTION/DECOMMISSIONING PLAN. A plan prepared by a Professional Engineer, at the Commercial Wind Energy Facility Owner’s expense, that includes:

- A. The estimated deconstruction cost per turbine, in current dollars at the time of filing a building permit, for the commercial wind energy facility, taking into account, among other things:
 - a. the number of wind turbines and related Commercial Wind Energy Facilities involved;
 - b. the original construction cost of the commercial wind energy facilities;
 - c. the size and capacity of the wind turbines;
 - d. the salvage value of the commercial wind energy facilities;
 - e. the construction method and technique for the wind turbines and other commercial wind energy facilities; and
 - f. a comprehensive detailed description of how the “facility owner” plans to pay for the deconstruction of the “facility”.

FACILITY ABANDONMENT. Shall mean when no electricity is generated by the facility for a period of twelve (12) months and the facility owner is not undertaking reasonable efforts to repair or decommission the facility.

FACILITY OWNER: A person who is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility. Also, a person with a direct ownership interest in a commercial wind energy facility, regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the facility.

FINANCIAL ASSURANCE. A reclamation bond or other commercial available financial assurance that is acceptable to the County, with the County as primary beneficiary and the landowners as secondary beneficiaries.

IDOA. The Illinois Department of Agriculture.

NON PARTICIPATING PROPERTY. Real property that is not a participating property in the project.

NON PARTICIPATING RESIDENCE. A residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a special use approval to develop the commercial wind energy facility is filed with the county.

OCCUPIED COMMUNITY BUILDING. Any one or more of the following buildings that is existing and occupied on the date that the application for a special use approval to develop the commercial wind energy facility is filed with the county: a school, place of worship, day care facility, public library, or community center.

PARTICIPATING PROPERTY. 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 commercial wind energy facility, or supporting facilities.

PARTICIPATING RESIDENCE. A residence that is located on participating property and that is existing and occupied on the date that an application for a special use approval to develop the commercial wind energy facility is filed with the county.

PRIME FARMLAND. Agricultural land comprised of soils that are defined by the USDA Natural Resources Conservation Services (NRCS) as being “prime” soils (generally considered the most productive soils with the least input of nutrients and management).

PROFESSIONAL ENGINEER. An engineer licensed to practice engineering in the State of Illinois, and who is determined to be qualified to perform the work described herein by mutual agreement of the County and the “facility owner”.

PROTECTED LANDS. 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.

SUPPORTING FACILITIES. The transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the commercial wind energy facility.

SOIL AND WATER CONSERVATION DISTRICT (SWCD). A local unit of government that provides technical and financial assistance to eligible landowners for the conservation of soil and water resources.

TENANT. Any person lawfully residing or leasing/renting land that is subject to an underlying agreement.

TOWER HEIGHT - *The height measured from the top of a wind tower’s foundation to the tip of the blade at its highest point.*

UNDERLYING AGREEMENT. The written agreement with a landowner(s) including, but not limited to, an easement, option, lease, or license under the terms of which another person had constructed, constructs or intends to construct a Commercial Wind Energy Facility on the property of the landowner.

UNDERGROUND CABLE. Electrical power lines installed below grade to be utilized for conveyance of power from the wind turbines to the substation.

USEFUL LIFE. A “facility” will be presumed to have no remaining “useful life” if: no electricity is generated for a period of twelve (12) months and the facility owner is not undertaking reasonable efforts to repair or decommission the facility or the “facility owner” fails, for a period of six (6) consecutive months, to pay the landowner amounts owed in accordance with the underlying agreement.

WIND TOWER. The wind turbine tower, nacelle, and blades.

§ 153.03 PUBLIC PARTICIPATION

Nothing in this Ordinance is meant to augment or diminish existing opportunities for public participation.

The County shall hold at minimum one public hearing, allowing the public the opportunity to present evidence and cross examine the petitioner. Said hearing shall take place no more than 45 days following the filing of the application and decision shall be rendered in not more than 30 days following the public hearing.

§153.04 SPECIAL USE REQUIREMENTS

The facility owner shall follow the requirements for a Class A Special Use request, as specified in the Tazewell County Zoning Code. All other requirements found herein are not required prior to a request for special use but encouraged if available, however must be submitted and approved prior to issuance of siting permit for all WECS.

WECS and related substations are permitted only in the A-1,-A-2, CONS, I-1 and I-2 zoning districts by special use upon approval by the Tazewell County Board.

Prior to the public hearing, the facility owner must have entered into the Agricultural Impact Mitigation Agreement required by 55 ILCS 5/5-12020(c). The facility owner's compliance with the AIMA shall be a condition of the special use.

A request for special use permit for a commercial wind energy facility or modification of an approved special use permit, shall be approved if the request is in compliance with the standards and conditions imposed in Public Act 102-1123 and conditions imposed under any other State and/or federal statutes and regulations in addition to those specified herein, including consideration of the substantive due process requirements of the Illinois Constitution, sometimes referred to as the *LaSalle/Sinclair* factors, as follows:

- (1) The existing uses and zoning of nearby property;
- (2) The extent to which property values are diminished by the particular zoning restrictions;
- (3) The extent to which the destruction of property values of plaintiff promotes the health, safety, morals or general welfare of the public;
- (4) The relative gain to the public as compared to the hardship imposed upon the individual property owner;
- (5) The suitability of the subject property for the zoned purposes;
- (6) The length of time the property has been vacant as zoned considered in the context of the land development in the area in the vicinity of the subject property;
- (7) Whether a comprehensive zoning plan for land use and development existing, and whether the ordinance is in harmony with it; and
- (8) Whether the community needs the proposed use.

For Special Use Permit applications involving multiple WECS towers, only one application is required for the overall project.

§ 153.05 DESIGN AND INSTALLATION

Color, towers and blades.

Any non-reflective, unobtrusive color such as gray or white and no visible advertisements shall be permitted on the blades or tower which will assist in mitigating the visual impact of the structure is allowable.

Lighting.

Lighting for the towers and all supporting structures shall be constructed only in accordance with the requirements and standards of the FAA compliant with §157.056 and any other required regulatory authority in an effort to minimize the visual impact of the structures.

To the extent that FAA regulations require lighting of the project, the Applicant shall seek FAA approval for Aircraft Detection Lighting Systems ("ADLS") or other similar technology to reduce light pollution and visual impacts caused by the WECS Towers. If available and approved, the Applicant shall install ADLS or similar technology. Otherwise, the Applicant shall utilize the minimum available lighting that is compliant with the applicable FAA regulations.

Compliance with Federal Aviation Administration (FAA)

It shall be the responsibility of the Facility Owner to complete the proper FAA applications and obtain the proper permits or a determination of no significant impact to air navigation from the FAA.

Warnings.

A visible warning sign of "high voltage" must be placed at the base of all WECS towers, at the entrance to the access road of the applicable tower and every substation located in the project area. The sign must have at a minimum six-inch letters.

Participating Property.

The participating property leased for the purpose of siting WECS shall be separated from a larger tract as described in the lease agreement and assigned a new parcel identification number by the Tazewell County Supervisor of Assessments. The new tract of land shall also be assigned a separate 911 address by the Community Development Department. The new tract will not be considered to have new parcel boundary lines for setback purposes and shall remain in the name of the participating property owner. The purpose of the separation is to create a separate annual property tax bill, to be the responsibility of the facility owner, and alleviate any potential future hardship for the property owner, should the facility owner default.

Setbacks.

Participating Residences – All WECS towers shall be set back not less than one and one-tenth times the tower height to the nearest point on the outside wall of the structure.

Occupied Community Building – All WECS towers shall be set back not less than two and one-tenth times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure.

Communication and Electric Overhead Transmission Lines - All WECS towers shall be set back a distance of not less than one and one-tenth times the WECS tower height, measured to the center point of the easement containing the overhead line, from overhead communication and electrical transmission lines (not including overhead utility service lines to individual houses or outbuildings).

Public Road Rights-of-Way - All WECS towers shall be set back a distance of not less than one and one-tenth times the WECS tower height from public road rights-of-way.

Nonparticipating Properties - All WECS towers shall be set back a distance of not less than one and one-tenth times the WECS tower height to the nearest point on the property line of the nonparticipating property.

Nonparticipating Residences – All WECS towers shall be setback a distance of not less than two and one-tenth time the WECS tower height to the nearest point on the on the outside wall of the structure.

Fish and Wildlife Areas and Illinois Nature Preserve Commission – All WECS shall be set back a distance not less than two and one tenth times the maximum blade tip height of the wind tower to the nearest point on the property line of the fish and wildlife area or protected land.

Height.

The tower height must comply with all FAA regulations and may not exceed the height allowed under a Determination of No Hazard to Air Navigation by the Federal Aviation Administration under 14 CFR Part 77.

Compliance with additional regulations.

It shall be the responsibility of the Facility Owner to contact the FCC and FAA regarding additional permits necessary or any other applicable federal or state regulations for the installation of a WECS project prior to permit issuance.

The facility Owner shall provide the results and recommendations from consultation with the Illinois Department of Natural Resources that are obtained through the Ecological Compliance Assessment Tool (EcoCAT).

The Facility Owner shall provide 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 (i) the "U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines"

The Facility Owner shall demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Nature Preserve Commission or consider the recommendations of the Illinois Department of Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission.

The Facility Owner shall provide evidence of consultation with the Illinois State Historic Preservation Office to assess potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act.

Installation certification.

Each stage of construction shall be inspected and approved by a professional engineer or authorized personal as assigned by the Facility Owner that construction and installation of the WECS project meets or exceeds the manufacturer's construction and installation standards. The submission of written approval upon final inspection shall initiate the Certificate of Occupancy and/or Use if all other permit requirements have been verified by the Department.

Roads.

An Applicant proposing to use any county, municipal or township 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 enter into a Road Use Agreement that includes the following provisions, at a minimum:

1. A Haul Route Map for review and approval by the respective Road District Commissioner and the County Engineer prior to the granting of the Siting Approval Permit. Traffic for construction purposes shall be limited to these roads.
2. A pre-construction road surface scan shall be conducted to determine existing road conditions for assessing potential future damage. This study is to be conducted by an outside civil engineer firm agreed upon by both the road districts and the facility owner or their respective designee.
3. Required roadways improvements; pre-construction, road upgrades needed prior to commencement of the construction of the wind farm to ensure the existing roads are capable of withstanding the proposed traffic and loading, and post construction.
4. The applicant shall obtain a weight or size permit from all appropriate government agencies, to include; IDOT, the County, townships and municipalities prior to construction.
5. Any road damage caused by the transport of the facility's equipment, the installation, maintenance or removal must be completely repaired to the satisfaction of the Road District Commissioner and the County Engineer. The Road District Commissioner and the County Engineer may choose to require either remediation of the road repair upon completion of the WECS Project or are authorized to collect fees for necessary remediation.
6. Financial assurance in the amount agreed upon by the Road District Commissioner and County Engineer to ensure future repairs are completed to their satisfaction shall be provided.

All repairs and improvements to 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 Agreement, and any further agreements contemplated therein, regarding the maintenance and repair of public roads and highways, must be approved by the Tazewell County Board, to include financial assurance prior the approval of any WECS Building Permit applications related to the construction of the proposed WECS project.

Drainage Tile.

Notwithstanding any other provision of law, a facility owner with siting approval to construct a commercial wind energy facility is authorized to cross or impact a drainage system, including, but not limited to, drainage tiles, open drainage districts, culverts, and water gathering vaults, owned or under the control of a drainage district under the Illinois Drainage Code without obtaining prior agreement or approval from the drainage district, except that the facility owner shall repair or pay for the repair of any damage to the drainage system, in a manner that assures the tile line's proper operation at the point of repair, caused by the facility owner or their designee due to the construction maintenance and/or deconstruction of the commercial wind energy facility within a reasonable time following completion of such activity.

The following shall apply to the tile line repair:

1. The Facility Owner or their designee(s) will work with the Landowner to identify the tile lines traversing the property included within the Underlying Agreement which will be crossed or disturbed by the construction of the Facility. All tile lines identified in this manner will be shown on the Construction and Decommissioning Plans and staked or flagged in the locations where expected crossing or disturbance is anticipated prior to construction or decommissioning to alert construction and decommissioning crews to the possible need for tile line repairs.
2. Tile lines that are damaged, cut, or removed shall be staked or flagged placed in such a manner they will remain visible until the permanent repairs are completed. In addition, the location of damaged drain tile lines will be recorded using Global Positioning Systems (GPS) technology.
3. Temporary repairs shall be made by the Facility Owner, their designee or the property owner until such time any of the aforementioned parties can make permanent repairs. If the tile lines are dry and water is not flowing, temporary repairs are not required if the permanent repairs can be made by any of those parties previously mentioned 14 days (weather and soil conditions permitting) of the time damage occurred; however, the exposed tile lines will be screened or otherwise protected to prevent the entry of foreign materials or animals into the tile lines.
4. Where tile lines are severed, repairs shall be made using the IDOA Drain Tile Repairs or as to agree to with the landowner.
5. If there is any dispute between the Landowner and the Facility Owner on the method of permanent tile line repair, the appropriate Soil and Water Conservation District's opinion shall be considered by the Facility Owner and the Landowner.
6. To the extent practicable, there will be a minimum of one foot of separation between the tile line and the Underground Cable whether the Underground Cable passes over or under the tile line. If the tile line was damaged as part of the excavation for installation of the Underground Cable, the Underground Cable will be installed with a minimum one foot clearance under or over the tile line to be repaired or otherwise to the extent practicable.
7. The original tile line alignment and gradient shall be maintained. A laser transit shall be used to ensure the proper gradient is maintained. A laser operated tiling machine shall be used to install or replace tiling segments of 100 linear feet or more unless otherwise agreed to with the landowner.
8. During Construction stage, all permanent tile line repairs must be made within fourteen (14) days of identification or notification of the damage, weather and soil conditions permitting. At other times, such repairs must be made at a time mutually agreed upon by the Facility Owner and the Landowner.
9. Following Construction, Maintenance and/or Decommissioning activities, the Facility Owner will utilize best practices to restore the drainage in the area to the condition it was before the commencement of the Construction/Decommissioning activities or those methods agreed to between the Landowner and Facility Owner. If the Landowner and Facility Owner cannot agree upon a reasonable method to complete this restoration, the Facility Owner may – but is not required to - implement the recommendations of the appropriate County SWCD and such implementation would resolve the dispute.
10. Following completion of the work, the Facility Owner will be responsible for correcting or paying for the correction of all tile line repairs that fail due to Construction, Maintenance and/or Decommissioning, provided any such failure was identified by the Landowner within twenty four (24) months after Construction or Decommissioning. The Facility Owner will not be responsible for tile line repairs that the Facility Owner pays the Landowner to perform.

§ 153.06 OPERATION AND MAINTENANCE.

Facility Owner.

Prior to any transfer of ownership, the County shall be made aware, in writing, and provided with up to date contact information.

Facility Operation Manager.

The Facility shall have a local contact for operations and maintenance and it is the responsibility of the Facility Owner to ensure the County, at all times, has on file the up to date name and contact information of the Facility Operations Manager. Additionally, contact information shall be located at the point of access for each site.

Annual Inspection Report.

On an annual basis, following the commencement of commercial operation, the facility owner or their designee shall annually submit to Community Development an inspection report, prepared by a factory representative or technician with specialized training in wind farm operation, certifying that each WECS is in good working condition and not a hazard to the public. The report shall contain the name of the inspector, the inspection date, and the outcome of the inspection. If the outcome includes a recommendation for maintenance, the report should also describe any corrective action taken, or expected to be taken.

Interference.

If the authorized factory representative, or study prepared by a reputable third party, determines that the WECS project causes severe interference with microwave transmissions, residential television interference, or radio reception, the Facility Owner must take commercially reasonable steps to correct the problem.

Fire risk.

All WECS projects must adhere to all applicable electrical codes and standards and must remove fuel sources, such as vegetation, from the immediate vicinity of electrical gear and connections. The facility owner shall also coordinate with the local fire districts by:

1. Submitting to the local fire department(s) a copy of the project site plan;
2. Working cooperatively with the fire district(s) having jurisdiction to develop the fire emergency response plan. The Facility Owner shall cover the expense of any additional training agreed upon to be necessary by the Facility Owner and fire district. The Facility Owner shall, upon approval and prior to permit issuance, submit the Emergency Response Plan and the contact information of the representative of the fire district(s) who has approved the plan.
3. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

Shadow Flicker.

Shall not affect any nonparticipating residence or occupied community building in excess of 30 hours per year.

Noise Levels.

Noise levels shall be regulated by the Illinois Pollution Control Board rules and regulations and the applicant shall certify that applicant's facility is in compliance with the same.

Waste

All solid wastes, whether generated from supplies, equipment parts, packaging, operation or maintenance of the WECS, including old parts and equipment, shall be removed from the site immediately and disposed of in an appropriate manner. All hazardous waste generated by the operation and maintenance of the WECS including, -but not limited to, lubricating materials, shall be removed from the site immediately and disposed of in a manner consistent with all local, state, and federal rules and regulations.

§ 153.07 NONCONFORMING USE AND STRUCTURES.

This Ordinance has established specific requirement for WECS which must be satisfied before the County Board may approve a WECS Special Use. However, it is understood and anticipated that the circumstances beyond the control of the Applicant or Operator may cause the WECS to become noncompliant with the provisions of this Ordinance. Recognizing both the legitimate interest of those who lawfully established such a nonconformity and the need to protect the public health, safety, comfort and general welfare, the provisions of this section is intended to provide for the regulation of nonconforming uses, lots and structures within the following:

1. It is the intent of this section to permit nonconforming uses to continue until they are removed or until they become a risk to public safety and/health;
2. It is the intent of this section that nonconforming structures shall not be enlarged upon, expanded or extended, unless they are brought into compliance with the current regulations, subject to reasonable exceptions listed below;
3. Any nonconforming structure which received a Siting Approval Permit from the County prior to becoming nonconforming, may be continued only in accordance with the following:

No nonconforming structures shall be:

- a. Added to or enlarged in any manner that increases the nonconformity, except as allowed under the exceptions below;
- b. Moved or relocated, in whole or in part, that increases the nonconformity, except as allowed under the exceptions below; or
- c. Renewed if abandoned for a period of twelve (12) continuous months. The term "abandoned" does not apply to any structure that is not in use or operation due to on-going construction, maintenance, repair or replacement work.

Nonconforming Use of a Structure:

- a. Used for its intended uses and operation, subject to the provisions of this subsection;
- b. Damage: Restoration or Reconstruction;
- c. A nonconforming structure may be: Restored or reconstructed to its original size, height and dimensions, if damaged or destroyed, subject to compliance with applicable then current state or federal laws governing the construction and operation of WECS. Said restoration or reconstruction shall be upon (a) the original foundation, if feasible, or (b) the location of the original foundation, or (c) a new location that does not increase the nonconformity;
- d. A WECS Tower may be restored or reconstructed at its original location where it existed prior to construction of any primary structure following the initial approval and construction of the original tower, participant or non-participant.

Exceptions:

- a. Structural alterations or repairs of a nonconforming structure required by law shall be permitted;
- b. No nonconforming structure shall be structurally altered or enlarged in such a manner that would further increase the nonconformity, *except* that structural alterations or operations components related with normal maintenance, repairs and replacements may be permitted where there is no increase in the existing encroachments;

- c. Provided that the result is to change the status of a structure or use from nonconforming to conforming, such structure or use may be: Structurally altered, added to or enlarged, moved or relocated, in whole or part, expanded or extended, changed or, restored or reconstructed.

§ 153.08 COMPLAINTS.

All complaints should be made directly to the Operation Facility Manager or their designee. Contact information for the Facility should be publicly accessible via a facility website and at the point of access to each tower site.

The Operation Facility Representative or their designee shall make the County aware of the complaint and remedies to the complaint in writing as soon as it is feasible to do so but no more than seventy-two (72) hours following receipt of the complaint. Both the Operator and the County shall keep a log of all complaints related to the project.

Should a complaint be validated that violates any of the criteria of approval, the turbine shall not be made operational until the violation has been resolved. Should it be necessary and safe to do so, the turbine may be made operational for the purpose of determining compliance.

The cost of investigation into any non-compliance of the approved special use or the permitted equipment throughout the life of the project shall be on the burden of the Facility Owner and all costs of said investigation shall be incurred by the Facility Owner. Operations of any wind tower or related equipment shall cease and remain nonoperational until said investigations have been completed and compliance requirements have been satisfied.

If a validated complaint cannot be mitigated, the owner/operator may seek a variance for the deviation of compliance to allow the continued operation of the turbine identified to be non-compliant. If the variance is not approved, the turbine shall remain nonoperational until which time a feasible and agreeable solution can be determined.

§ 153.09 LIABILITY INSURANCE.

The owner or operator of the WECS shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$ 10,000,000.00 per occurrence and \$30,000,000.00 in the aggregate, with an annual Certificate of Insurance being provided to the County, with the County being added as an additional insured, with the designation of primary and noncontributory. Provide certificate of insurance and include the County as an additional insured.

The applicant, owner or operator shall promptly increase such liability insurance if such amount is increased in the WECS Ordinance and the applicant, owner or operator is notified in writing of same by the County. The applicant shall provide evidence of such increased insurance to the Community Development Administrator.

Insurance coverage shall be maintained without interruption from the date of permitting through the decommissioning of all wind turbines. Certificates of Insurance acceptable to the County and in 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. These 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.

Applicant shall also, to the fullest extent permitted by law, indemnify, and hold the County, its employees, board members and agents harmless for any action due to or arising out of the construction, maintenance, decommissioning, deconstruction and/or operation of the WECS.

§ 153.10 DECOMMISSIONING PLAN.

Decommissioning of a Facility shall include the removal of the following equipment/facilities utilized for operation of the Facility and located on Landowner property:

1. Wind Turbine towers and blades;

2. Wind Turbine generators;
3. Wind Turbine foundations (to a depth of 5 feet);
4. Transformers;
5. Collection/interconnection substation (components, cable, and steel foundations), provided, however, that electrical collection cables at a depth of 5 feet or greater may be left in place;
6. Overhead collection system;
7. Operations/maintenance buildings, spare parts buildings and substation/ switching gear buildings unless otherwise agreed to by the Landowner;
8. Access Road(s) (unless Landowner requests in writing and a copy of which must be submitted to Community Development that the access road is to remain);
9. Operation, maintenance, yard/staging area unless otherwise agreed to by the Landowner; and debris and litter generated by deconstruction and deconstruction crews;
10. The Facility Owner shall, at its expense, complete decommissioning of a commercial wind energy facility twelve (12) months after the end of the useful life of the facility;
11. Prior to issuance of the County building permit, the facility owner shall have the approval of the Decommissioning Plan, to include the end of life cost estimate of decommissioning. The cost estimate shall be phased over the life of the project and increases at the inflation rate of the higher of either 2.5% or the average inflation rate of CPI-U of the three prior calendar years, at the time of approval. The base estimate should not be more than 12 months old at the time of consideration.

Financial Assurance to cover the estimated costs of end of life decommissioning of the Commercial Wind Energy Facility shall be at ten percent (10%) of the cost estimate submitted and approved by the County on or before the first anniversary of the Commercial Operation Date of the Facility. Financial assurance shall be made in the form of a surety or like bond and on or before the sixth anniversary of the Commercial Operation Date, the Financial Assurance shall increase to fifty percent (50%) of the end of life decommissioning cost included in the approved Plan. Following the tenth anniversary of the Commercial Operation Date, and every five years thereafter, the County may re-evaluate the Plan and associated cost estimate. On or before the eleventh anniversary of the Commercial Operation Date, and every five years thereafter, the Financial Assurance shall be increased to one hundred percent (100%) of the end of life decommissioning cost, based upon the most recently re-evaluated version of the Plan. All bond issuers must maintain an A+ rating by AM Best for viability and consideration of the County Board. Said revaluation must be certified by an independent third party Professional Engineer licensed in the State of Illinois and provided for review by the County. Should the County find reason to disagree with the revaluation, the County shall retain the services of an additional State of Illinois Licensed Professional Engineer, at the cost of the Facility Owner. After all available decommissioning funds have been utilized the property owner of record is responsible for any remaining cost to complete the decommissioning plan.

Any areas of decommissioning not specifically addressed herein or conflicting with the Department of Agriculture's Agricultural Impact Mitigation Agreement shall adhere to the "Agreement" filed with the State of Illinois.

The financial assurance shall not release the surety from liability until the financial assurance is replaced. The salvage value of the Facility may only be used to reduce the estimated costs of decommissioning in the Plan if the County agrees that all interests in the salvage value are subordinate or have been subordinated to that of the County if abandonment occurs.

The County shall require the revaluation of the estimated costs of decommissioning of any Commercial Wind Energy Facility following the fourth year of operation and every four years following, for the operational life of the Facility.

Upon abandonment, a period of twelve (12) months following the facility's end of life usefulness, the County may take all appropriate actions for decommissioning, including, drawing upon the financial assurance.

§ 153.11 FEES CHARGED FOR BUILDING PERMIT.

The fees for processing of the building permit applications for a WECS shall be collected by the Community Development Administrator who shall be accountable to the County for such fees. Each turbine: \$20 per foot of total **tower** height.