

LAND USE COMMITTEE MINUTES

DATE OF MEETING: April 10, 2023 at 5:00 p.m. County Building

MEMBERS PRESENT: Claro Carter – chair, Joe Witte, and Pat Ryan. Also present, Dee Rentmeister – County Administrator/Interim Zoning Administrator.

MEMBERS ABSENT: Megan Myers and Melonie Tilley

SUMMARY OF DISCUSSION:

- No one wanted to address the committee.
- Motion by Witte, 2nd by Ryan to approve last month's minutes. Voice vote, motion carried.
- Motion by Witte, 2nd by Ryan to approve the claims. Voice vote, motion carried.
- Committee continued review of the Wind ordinance to be compliant with the new law that was passed. General discussion on whether the LaSalle factors could still be applied as with other special use requests. After further review, motion by Witte, 2nd by Ryan to forward the draft Wind ordinance to the state's attorney for review/input. Voice vote, motion carried.
- Committee continued review of the Solar ordinance to be compliant with the new law that was passed. Motion by Ryan, 2nd by Witte to forward the draft Solar ordinance to the state's attorney for review/input. Voice vote, motion carried.
- General discussion concerning the next round of text amendments to the solar and wind ordinances. Witte indicated that the committee should start with the RPC version and insert the changes created by the new law. Could revoke the ordinance in full and start new.
- Carter informed the committee that he spoke with an Enel worker today about the wind farm and was told that they were way behind and that each tower would be tested individually and then testing of the entire "farm" before submitting paperwork to get approved for live operation. Dee stated that she received an email today from Enel indicating that all conditions had been met and was asking for signoff to go live by April 15, 2023. Dee stated that she had been in contact with the county engineer, Cummings Engineering – Terry Fountain and the state's attorney and there are still several items/conditions that have not been met; therefore she would not be signing off on the project.
- Motion by Witte, 2nd by Ryan to adjourn at 6:12 p.m. Voice vote, motion carried.

COMMITTEE ACTION:

Approve last month's minutes.

Approve the claims.

Forward the draft Wind ordinance to the state's attorney for review/input.

Forward the draft Solar ordinance to the state's attorney for review/input.

RECOMMENDATIONS TO THE FULL BOARD: None

DATE OF NEXT MEETING: May 8, 2023 at 5:00 p.m.

AGENDA FOR THE LAND USE COMMITTEE

Date and Time of Meeting: April 10, 2023 at 5:00 p.m. County Building

1. Call Meeting to Order
2. Roll Call
3. Persons Wishing to Address the Committee/ Public Comment (If requesting action, also list below in section 4)
 - A.
 - B.
4. Items for Discussion and Possible Action
 - A. Approve last month's minutes
 - B. Approve claims
 - C. Review of draft policy/procedure for enforcement of curtailment condition on CASE S250-2019
 - D. Revisions to Wind Ordinance – Chapter 153 of the DeWitt County Code of Ordinances
 - E. Revisions to Solar Ordinance – Chapter 157 of the DeWitt County Code of Ordinance
5. Items for Discussion Only (No Action Requested)
 - A. Update on zoning items
 - B.
 - C.
6. Executive Session:
 - A.

Posted: April 6, 2023 at 8:55 a.m.

By: Dee Dee Rentmeister

PERMITS ISSUED 3-1-2023 thru 3-31-2023

Permit #	Date	Est. Cost of Construction	Fee Charged	Issued For	Location	
7752	3/13/2023	\$5,000.00	\$40.00	storage shed	Texas - Banta Lakes Sub	
7753	3/13/2023	\$14,000.00	\$100.00	tool shed	Tunbridge	
7754	3/13/2023	\$14,460,980.00	\$463.85	new oxidation/clarifier tanks	Texas	
7755	3/13/2023	\$3,000.00	\$40.00	screened in porch	Tunbridge - Kenney	
7756	3/14/2023	\$50,000.00	\$0.00	ag machine shed	Barnett	
2023-013	3/20/2023	\$510.00	\$25.00	fence	Santa Anna - FC	
2023-015	3/28/2023	\$85,000.00	\$0.00	ag pole barn	Clintonia	

CHAPTER 157: SOLAR ENERGY SYSTEMS ORDINANCE

Section

General Provisions

157.01	Title
157.02	Statutory Authorization
157.03	Purpose
157.04	Intent
157.05	Definitions
157.06	Ground Mount and Roof Mount
157.07	Community Solar Garden (SES)
157.08	Commercial/Large Scale Solar Facility (SES)
157.09	Compliance with Building Permits
157.10	Indemnification
157.11	Liability Insurance
157.12	Fees charged for Building Permit Application and Special Use Permit Application

GENERAL PROVISIONS

§ 157.01 TITLE.

This chapter shall be known as, referred to or cited as the “DeWitt County Solar Energy Systems Ordinance of DeWitt County, Illinois”.
(Ord. passed 03-21-19)

§ 157.02 STATUTORY AUTHORIZATION.

These regulations are adopted under the authority of state statutes. The County Board does hereby ordain this chapter.
(Ord. passed 03-21-19)

§ 157.03 PURPOSE.

This chapter is adopted for the following purposes:

(A) To enable the use of renewable energy sources if cost effective and technically feasible; and

(B) It is in the best interests of the citizens of the county that zoning and other regulations be promulgated so as to implement restrictions on the placement and operation of solar energy systems within the county, which preserve and/or protect the public health and/or safety of all citizens residing in the county.

(Ord. passed 03-21-19)

§157.04 INTENT.

The intent of this chapter is to provide a means to regulate and restrict the locations within the county where solar energy systems and facilities can be constructed.

(Ord. passed 03-21-19)

§ 157.05 DEFINITIONS

The following terms shall apply to this chapter as written unless context indicates or requires a different meaning:

ACCESSORY As applied to a building, structure or use, on which is on the same lot with the main or principal structure or the main or principal use; either detached from or attached to the main or principal structure, and is subordinate to and used for purposes customarily incidental to the main or principal structure or the main or principal use.

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEMS A solar energy system that consists of integrating photovoltaic modules into the building structure as the roof, or façade and which does not alter the relief of the roof.

COMMERCIAL/LARGE SCALE SOLAR FACILITY A utility scale commercial facility greater than five (5) acres that converts sunlight to electricity, whether by photovoltaics, concentrating solar thermal devices, or various experimental technologies for onsite or offsite use with the primary purpose of selling wholesale or retail generated electricity.

COMMUNITY SOLAR GARDEN A community solar-electric (photovoltaic) array, of no more than 5 acres in size, that provides retail electric power (or financial proxy for retail power) to multiple households or businesses residing in or located off-site from the location of the solar energy system.

GROUND MOUNT SOLAR ENERGY SYSTEM A solar energy system that is directly installed into the ground and is not attached or affixed to an existing structure.

NON-PARTICIPATING PROPERTY All properties which are not subject to an agreement, authorization or lease with the solar facility developer.

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

Commented [JW1]: HB4412 compliance - needed due to setback requirements

Commented [JW2]: HB4412 compliance - needed due to setbacks from occupied community buildings

PHOTOVOLTAIC SYSTEM A solar energy system that produces electricity by the use of semiconductor devices called photovoltaic cells that generate electricity whenever light strikes them.

QUALIFIED SOLAR INSTALLER A trained and qualified electrical professional who has the skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved.

ROOF MOUNT A solar energy system in which solar panels are mounted on top of a building roof as either a flush mounted system or as modules fixed to frames which can be tilted toward the south at an optical angle.

SOLAR ACCESS Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

SOLAR COLLECTOR A device, structure or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

SOLAR ENERGY Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

SOLAR ENERGY SYSTEM (SES) The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic systems, solar thermal systems and solar hot water systems.

SOLAR STORAGE BATTERY/UNIT A component of a solar energy device that is used to store solar general electricity or heat for later use.

SOLAR THERMAL SYSTEMS Solar thermal system directly heats water or other liquid using sunlight. The heated liquid is use for such purposes as space heating and cooling, domestic hot water and heating pool water.

SUBSCRIBER Households or businesses receiving the direct benefit of electric power generated by a Community Solar Garden.

§ 157.06 GROUND MOUNT AND ROOF MOUNT (SES)(PRIVATE USE)

Ground Mount and Roof Mount (SES) shall be permitted for private use in all zoning districts where there is a structure. The system shall not be designed for providing energy to off-site uses or export to the wholesale market. Net metering will be allowed if approved by the electric utility in whose service territory the system is located. A building permit shall be required for Ground Mount Only. Technical requirements are:

(A) Height

1. The combined height of the building and the roof mounted solar system shall not exceed the maximum allowed height for principal structures in any zoning district.
2. Ground mounted solar energy systems shall not exceed 10 feet in height when oriented at maximum tilt.
3. Ground mounted solar energy systems may not be placed in the front yard.

(B) Setbacks

1. Ground mounted solar energy systems shall meet the accessory structure setbacks for the zoning district in which the unit is located.
2. Ground mounted solar energy systems shall not extend beyond the side yard or rear yard setback when oriented at minimum design tilt.
3. In addition to building setbacks the collector surface and mounting devices for roof mounted systems shall not extend beyond the exterior perimeter of the building on which the systems is mounted or built, unless the collector or mounting system has been engineered to safely extend beyond the edge, and setback requirements are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

(C) Reflection Angles

Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties.

(D) Visibility

Solar energy systems shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the North while still providing adequate solar access for collectors.

(E) Safety

1. All solar energy systems shall be installed by a qualified solar installer.
2. Any connection to the public utility grid shall be inspected and approved by the appropriate public utility.
3. All solar energy systems shall be maintained and kept in good working order. If it is determined by the Zoning Administrator that a solar energy system is not being maintained, kept in good working order, or is no longer being utilized to perform its intended function for 6 consecutive months, the property owner shall be given 30 day notice for removal of unit and all equipment. If the solar energy system is not removed within 30 days, the Zoning Administrator will forward violation onto the DeWitt County State's Attorney for prosecution on the violation.

(F) Approved Solar Components

Electric Solar energy system components shall have a UL listing or approved equivalent and solar hot water systems shall have a Solar Rating & Certification Corporation (SRCC) rating.

§ 157.07 COMMUNITY SOLAR GARDENS (SES)

Development of Community Solar Gardens is permitted by Special Use as a principal use in all zoning districts subject to the following requirements:

- (A) Rooftop Gardens. Rooftop gardens are permitted in all zoning districts. A building permit will not be required.
- (B) Ground Mount Gardens. Ground mount community solar energy systems must be no more than five (5) acres in total size, and require a Special Use in all districts. Ground-mount solar developments covering more than five (5) acres shall be considered a Commercial/Large Scale Solar Facility (SES). A building permit shall be required.
- (C) Interconnection. An interconnection agreement must be completed with the electric utility in whose service territory the system is located, and included with the Special Use Application.
- (D) Dimension Standards
All solar garden related structures in newly platted and existing platted subdivisions shall comply with the principal structure setback, height, and coverage limitations for the district in which the system is located.
- (E) A minimum separation distance of 2 miles between each community solar garden.

(F) Aviation Protection

The applicant shall complete and provide the results of the Solar Glaze Hazard Analysis Tool (SGHAT) for the final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federal Obligated Airports, or most recent version adopted by the FAA for solar energy systems located within one half (1/2) mile of the approach zones of:

1. a restricted landing area as defined in 14.105 of Title 92 of the IL Administrative Code
2. a private-use airport as defined in Section 157.2 of Title 14 of the Code of Federal Regulations and for which:
 - (a) a notice to the Federal Aviation Administration (FAA) has been filed under Section 157.3 of Title 14 of the Code of Federal Regulations prior to the submission of the Special Use Application, and
 - (b) an airport determination has been issued by the FAA with a determination of no objection or a conditional determination or the airport determination remains pending.

(G) Other standards.

All solar gardens shall comply with all other State and Local requirements.

§ 157.08 COMMERCIAL/LARGESCALE SOLAR FACILITY (SES).

Ground Mount solar energy systems that are greater than five acres designed for providing energy to off-site uses or export to the wholesale market require a Special Use and only allowed in the General Industrial (I) and Agricultural (A) Districts.

(A) Design standards for the Commercial/Large Scale Solar Facility (SES). The design standards and bulk regulations listed in the General Industrial (I) and Agricultural (A) Districts for setbacks, lot size, lot coverage, lot area, height, fencing, and signage shall be suspended for all commercial/large scale solar facilities and the following regulations shall apply instead. All other design standards and bulk regulations of the district shall apply.

1. Structure: The foundation and design of the solar structures shall be designed and sealed by an Illinois licensed professional engineer. The design shall conform to applicable codes, standards and local soil and climate conditions.
2. Standards and codes. All solar facilities shall be in compliance with any applicable local, state, and federal regulatory standards, and the National Electric Code as amended.
3. Power and communication lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground.
4. Minimum lot size. No commercial/large scale solar facility shall be erected on any lot of five acres or less in size.

Commented [JW3]: HB4412 – must allow in all districts zoned for agricultural use.

Commented [JW4]: HB4412 – must allow in all districts zoned for agricultural use.

5. Height. Systems, equipment and structures shall not exceed 20 feet in height when ground mounted. Excluded from this height requirement, however, are electric transmission lines and utility poles.
6. Setbacks. Ground mounted solar energy systems as part of a solar facility shall have a setback for all equipment excluding fences a minimum of ~~100 feet on the front and~~ 50 feet from all ~~other~~ non-participating property lines and public road rights-of-way, and a minimum of 150 feet from all occupied community buildings and dwellings on non-participating properties. These setback requirements may be waived in writing by the affected non-participating property owner. ~~with the exception of residential property lines, in which the solar energy system shall be setback 750 feet from existing residential properties and platted subdivisions. Setbacks for inverters and transformers shall be no less than 1500 feet from any residential property line.~~
7. Fencing
 - a. Unless otherwise provided in this section, security fencing having a minimum height of ~~eight (8)~~ six (6) feet and a maximum of twenty-five (25) feet shall be installed, maintained, and secured around the solar panels and all energy producing and storage equipment of the SES and required to comply with the National Electric Code requirements for fencing.
 - b. Fencing shall contain appropriate warning signage that is in accordance with NESC and ANSI Z535 safety sign standards and OSHA regulations.
 - c. The required fence shall be maintained by the applicant to prevent growth of wood vegetation or noxious weeds within and along the fence.
 - d. Fencing is not required between participating parcels.
 - e. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.
8. Screening. In an effort to help minimize the visual impacts of an SES on adjacent, nonparticipating residences, from a single-story viewpoint, screening shall be provided as follows:
 - a. Platted subdivisions. A platted subdivision shall have a visual screen designed, installed, maintained, and ultimately removed by the applicant at the time of decommissioning. The visual screen will be installed on property being leased by the SES, immediately adjacent to the property line. This provides for the most effective screening and minimizes the potential of drain tile damages.
 - b. A visual screening option shall be provided by the applicant to the owner of any adjacent nonparticipating residence, excluding platted subdivisions, subject to the provisions of this paragraph.
 1. The visual screening option shall provide the following options:
 - a. The owner of any adjacent, nonparticipating residence, at their discretion, may elect to receive a one-time payment from the applicant

Commented [JW5]: HB4412 – no setbacks for participating property. Adjust setbacks for non-participating properties to comply. Must allow setbacks to be waived in writing.

Commented [JW6]: HB4412 – fencing height minimum and maximum per HB4412

equal to the cost of design, installation, maintenance, and removal of a visual screen in lieu of the actual visual screen. This option shall be detailed in writing by the applicant, including a proposed design and budgetary estimate for the design, installation, maintenance, and removal of the visual screen, as prepared by an Illinois Registered

Landscape Architect. This one-time payment allows for the owner of the adjacent nonparticipating residence to install the visual screen on their own property if and as they desire subject to the current zoning requirements. This one-time payment shall be paid prior to the issuance of any building permit, and proof of payment shall be provided to the zoning administrator.

b. The owner of any adjacent, nonparticipating residence, at their discretion, may request a visual screen be designed, installed, maintained, and ultimately removed by the applicant at the time of decommissioning. If this option is chosen, the visual screen will be installed on the property being leased by the SES, immediately adjacent to the property line. This provides for the most effective screening and minimizes the potential of drain tile damage.

c. If the owner of any adjacent, nonparticipating residence does not elect one of the two options above, no visual screen will be installed, and a one-time payment will be provided as described in the first option.

c. A minimum of thirty (30) days prior to the issuance of any building permit, the applicant shall provide a signed copy of a Memorandum of Understanding to the zoning administrator, outlining the terms of the visual screening option as agreed upon by the applicant and owner of any adjacent, nonparticipating residence.

d. Standards for a visual screen are as follows:

1. A visual screen shall be in the form of vegetative landscaping, opaque fencing, or approved combination thereof, as agreed upon by the nonparticipating landowner and the applicant.
2. All visual screens shall be designed and prepared by an Illinois Registered Landscape Architect.
3. All fences used as, or part of a visual screen must be built in accordance with §157.08 of the DeWitt County Code.
4. All vegetative landscaping shall be planted at a minimum of three (3) feet tall with an expected minimum height of eight (8) feet.
5. All visual screens that are installed by the applicant shall be maintained in good condition by the applicant at all times.
6. The visual screen shall be installed as early as possible in construction phase of the SES.

7. An alternative buffer may also be considered. Earth berms other topographical features and existing wooded areas may be accepted by a non participating land owner in lieu or in combination of the above requirements, if they conceal the use from public view and are maintained.
 9. Lighting. If lighting is provided at the site, lighting shall be inward facing and not higher than twenty-five (25) feet. When adjacent to residential areas, the filament or light source shall be shielded with opaque material in such a way that they will not be visible at ground level or above.
 10. Signage. An appropriate warning sign shall be provided at the entrance to the facility and along the perimeter to the solar facility project. The sign at the entrance to the facility shall include the facilities 911 address and a 24-hour emergency contact number.
 11. Outdoor storage. Only the outdoor storage of materials, vehicles and equipment that directly support the operation and maintenance of the solar facility shall be allowed. In any event all outdoor storage areas shall be either fenced or screened to prevent viewing from adjoining properties and uses.
 12. Storm Water Management. Existing drainage patterns shall be maintained. The applicant shall coordinate their drainage design with the local Soil and Water Conservation District and submit the results of that coordination with their Special Use Permit application.
 13. Noise. Noise levels measured at the property line shall not exceed ~~40 db(A) Lmax from 10pm to 7am, 42 db(A) Lmax from 7am to 10pm, or~~ the Illinois Pollution Control Board standards, ~~whichever is less,~~ when located adjacent to a residence or residential district.
 14. Glare. Solar collectors shall be designed such that concentrated solar glare does not project onto nearby structures, roadways, or other areas accessible to the public. After construction of the SES, the zoning administrator shall notify the solar operator to take reasonable steps within 30 days to mitigate the glare such as the installation of additional screening.
 15. Battery Storage - Utility-scale battery storage systems are not permitted under chapter 157 Solar Energy Systems Ordinance.
 16. Any Commercial/Large Scale Solar Energy System (SES) proposed within 1.5 miles of the corporate limits of an incorporated village or municipality shall be subject to the approval of said incorporated village or municipality before a special use permit shall be granted for said proposed SES.
- (B) The following information shall be submitted as part of the Special Use application.

1. A site plan with existing conditions showing the following:

Commented [DR7]: Deleted land use 4-10-

- a. Existing property lines and property lines extending one hundred feet from the property boundaries including the names of adjacent property owners and the current use of the properties.
- b. Existing public and private roads, showing widths of the road and any associated easements.
- c. Location and size of any abandoned wells, sewage treatment systems.
- d. Existing building and impervious surfaces.
- e. A contour map showing topography at one-foot intervals. A contour map of adjacent properties is also required.
- f. Existing vegetation (list type and percent of coverage: i.e. cropland/plowed fields, grassland, wooded areas, etc.).
- g. Waterways, watercourses, lakes and public water wetlands.
- h. Any delineated wetland boundaries.
- i. A copy of the current FEMA FIRM map that shows the subject property. And, the 100-year flood elevation and any regulated flood protection elevation, if available.
- j. Floodway, flood fringe and/or general floodplain district boundary. If applicable, and not provided on the copy of the current FEMA FIRM map.
- k. Mapped soils according to the DeWitt County Soil Survey.
- l. Surface water drainage patterns.
- m. The location of any subsurface drainage tiles and surface drains.
- n. Existing structures.
- o. Existing substations.
- p. Radiation monitoring stations.
- q. Any other significant features.

2. A site plan of proposed conditions:

- a. Location and spacing of solar panels.
- b. Location of access roads and access points.
- c. Planned location of underground or overhead electric lines connecting the solar facility to a building, substation or other electric load.
- d. New electrical equipment.
- e. Sketch elevation of the premises accurately depicting proposed solar energy conversion system and its relationship to structures on adjacent land.
- f. Fencing and Weed grass control – The applicant shall submit an acceptable weed/grass control plan for property inside and out the fenced area for the entire property. The weed/grass control plan must address the effect of storm water runoff on neighboring properties. The operating company or successor during the operation of the solar facility must maintain the fence and adhere to the weed/grass control plan. If the zoning administrator determines that the owner/operator is not compliant, a fine of \$1,500 per day will be assessed until the violation is brought back into compliance.
- g. Storm Water Managements Plan including documentation of coordination with the local Soil and Water Conservation District and ability to perform needed maintenance.
- h. Setbacks

3. Manufacturer's Specifications

The manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles and racks.

4. Connection and Interconnection

- a. A description of the method of connecting the SOLAR array to a substation.
- b. Utility interconnection details and a copy of written notification to the utility company requesting the proposed interconnection.

5. A fire protection plan for the construction and the operation of the facility, and emergency access of the site.

6. Aviation Protection

The applicant shall complete and provide the results of the Solar Glaze Hazard Analysis Tool (SGHAT) for the final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federal Obligated Airports, or most recent version adopted by the FAA for solar energy systems located within one half (1/2) mile of the approach zones of:

- a. a restricted landing area as defined in 14.105 of Title 92 of the IL Administrative Code
- b. a private-use airport as defined in Section 157.2 of Title 14 of the Code of Federal Regulations and for which:
 1. a notice to the Federal Aviation Administration (FAA) has been filed under Section 157.3 of Title 14 of the Code of Federal Regulations prior to the submission of the Special Use Application, and
 2. an airport determination has been issued by the FAA with a determination of no objection or a conditional determination or the airport determination remains pending.

7. Endangered Species and Wetlands

Solar facility developers shall be required to initiate a natural resource review consultation with the IL Department of Natural Resources (IDNR) through the Department's online EcoCat Program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation shall be borne by the developer. All recommendations shall be executed.

8. At the time of special use application, the applicant shall submit:

- a. An executed agreement between the solar power plant owner/operator and all road district authorities with infrastructure affected by the solar power plant to the county. This agreement shall include at a minimum:
 1. A final map identifying the routes that will be used.
 2. A plan for maintaining and/or repairing the affected roads.
- b. A description of the method of connecting the array to a substation.

c. A written demonstration shall be provided that the applicant is in the queue to acquire an interconnect agreement. Then pre-operation of the project, a copy of an interconnect agreement with the appropriate electric utility, or a written explanation outlining why an interconnection agreement is not necessary should be provided to the county.

d. Shall, at their expense, locate all mutual tile drain systems that drain farms that are affected by the solar energy system. The applicant shall be responsible for any damage to these tiles and repairs made at the applicant's expense.

e. ~~Shall, at their expense, have a court ratified agreement with all drainage districts affected by the solar energy development.~~

f. ~~Provide properly executed agreements with all incorporated municipalities within 1.5 miles of the SES.~~

Commented [JW8]: HB4412 – cannot require prior approval or agreement with drainage districts.

9. Decommissioning plan

At the time of Special Use application, an estimate of the decommissioning costs in current dollars shall be prepared under seal of an Illinois licensed professional engineer. ~~Salvage value of materials and equipment shall not be included in the calculated cost.~~

Commented [JW9]: HB4412 – must allow salvage value to be deducted from cost.

(C) Decommissioning Plan

1. Before a building permit can be granted, the applicant must present a decommission plan to ensure that SES facilities are removed after their useful life. Decommissioning of solar panels must occur in the event they are not producing power for twelve (12) consecutive months. The last day of this twelve (12) month period shall be considered the termination date. The operating company and/or landowner shall complete decommissioning of the SES within twelve (12) months of the termination date, or the County may perform decommissioning at the operating company's expense. The decommission plan shall include provisions and the estimated costs for removal of all structures and modifications including equipment, fencing, roads, and foundations, including but not limited to the restoration of soil and vegetation necessary to return the land to the condition in which it existed at the time the application for special use was first filed. The plan must also describe the particular financial security the applicant proposes to offer to guarantee completion of the applicant's decommissioning obligations on the site. ~~The issuance of a building permit for any SES shall be made contingent upon the applicant's prior filing of proof of its fulfillment of the decommissioning security obligation for the entire site, and in no instance shall the financial security be less than five thousand dollars (\$5000) per acre and cannot be reduced over the life of the SES.~~ A bond, letter of credit or other form of security shall be the applicant's deposit of the determined monetary amount in the COUNTY ESCROW ACCOUNT as designated by the County Treasurer, unless the County Board in its sole discretion, agrees to accept alternative security, or a portion thereof, in the form of a security bond approved by the County. An update to the decommissioning plan shall be prepared by the applicant or its successors and submitted to the Zoning Administrator ~~every three (3) years measured from the anniversary date of the building permit.~~

Commented [JW10]: HB4412 – cannot make decommissioning financial assurances that are more restrictive than what is outlined in AIMA. AIMA does not require the first 10% until the first anniversary.

Commented [DR11]: Deleted LU 4-10 per AIMA schedule

2. Prior to construction, the facility owner or operator of the SES shall submit an engineer's estimate of cost of decommissioning the SES and restoring site in accordance with the approved decommissioning plan. Upon review and approval of the estimate, the facility owner or operator shall obtain a bond, letter of credit, or other form of security acceptable to the county to be held by the County Treasurer, with payments deposited at intervals and in the amounts as outlined in the AIMA agreement. After the tenth anniversary of commercial operation and every five years thereafter, the County may, at the owner or operator's expense, reevaluate the estimated cost using an independent third party IL licensed professional engineer, and require changes in the level of Financial Assurance from the Facility Owner. ~~in the amount of one hundred fifty percent (150%) of the estimate, so as to cover the cost of decommissioning as well as inflation cost in future years. The value of the security shall not be reduced based on the salvage value of any materials or equipment. If the facility owner or operator has a separate surety under the terms of an Agricultural Impact Mitigation Agreement (AIMA) the sum total of all sureties are not required to exceed one hundred fifty percent (150%) of the estimate.~~

3. The decommissioning plan shall provide for the removal of all of the following within ~~eighteen~~ ~~twelve (12)~~ months of the termination of the SES operation:

- a. All solar collectors and component's, above ground improvements, and outside storage.
- b. Foundations, pads, and underground electrical wires so as to reclaim all sites to the depth of five (5) feet below the surface of the ground. This shall include vertical/horizontal receptor wires. Horizontal lines five (5) feet or deeper do not need to be removed.
- c. Hazardous materials shall be disposed of in accordance with State and Federal laws.
- d. Any earth disturbances resulting from the removal of the ground mounted solar panels must be put back to the previous condition.

(D) OPERATION

1. The applicant of the SES must submit, on or before the first anniversary of the Commercial Operation Date, a summary of operation and maintenance reports to the zoning administrator and any other operation and maintenance reports as the zoning administrator reasonably requests.
2. Any physical modification to the SES that increases the number of solar conversion devices or structures and/or the land area occupied by the SES shall require a new special use permit. Like for like replacement of all SES components including but not limited to solar panels, transformers, inverters, cabling, shall not require recertification provided replacement is done in an equivalent fashion to the original installation.
3. The application shall explain methods and materials used to clean the SES equipment including an estimation of the daily and annual gallons of water used and the source of the water and management of wastewater. The applicant will comply with the Illinois State Water Survey and the IEPA.

Commented [JW12]: HB4412 – reevaluation of costs after 10th anniversary and every 5 years thereafter, as allowed in AIMA.

Commented [JW13]: HB4412 – Payment shall be limited to the cost identified in the decommissioning plan, minus salvage value. Percentage of payment cannot be more financially restrictive than the schedule outlined in the AIMA agreement.

Commented [JW14]: HB4412 – Must allow salvage value to be deducted from the cost.

Commented [JW15]: HB4412 – Payment shall be limited to the cost identified in the decommissioning plan, minus salvage value.

Commented [DR16]: Revised land us 4-10

(E) MATERIALS HANDLING, STORAGE AND DISPOSAL

1. All solid waste related to the construction, operation and maintenance of the SES shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.
2. All hazardous materials related to the construction, operation, and maintenance of the SES shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal laws.

(F) POINT OF CONTACT. The applicant of the SES shall maintain with the zoning administrator and DeWitt County Sheriff's department a primary and two (2) secondary points of contact. This information shall be kept current at all times, and changes shall be reported immediately or as soon as is possible.

§ 157.09 COMPLIANCE WITH BUILDING PERMITS

The County shall retain, at the applicant's expense, the services of an independent engineering consultant to assist with permitting application and observe construction of the SES. The consultant shall be approved by the County Board prior to beginning any work on the SES. The consultant shall be an Illinois state licensed professional engineer. The consultant shall visit the site at intervals appropriate to the stage of construction, or as otherwise directed by the county, in order to observe the progress and quality of work completed by the contractor. The consultant shall prepare reports for each visit to the site detailing observations of the work performed and forward those reports to the Zoning Administrator within five business days following the date of the site visit. The consultant shall submit invoices for services to the Applicant and the Zoning Administrator bi-monthly. The Applicant shall process and submit payment directly to the consultant within 15 business days of receipt of invoice. The consultant shall file a certification of a final inspection to the County indicating the structure(s) meet compliance with the International Building Code, International Existing Building Code; International Property Maintenance Code, and the 2008 or later edition of the National Electrical Code (NFPA 70) - National Fire Protection Association

§ 157.10 INDEMNIFICATION.

(A)The applicant shall defend, indemnify and hold harmless the county and its officials, employees and agents 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 (the liabilities together known as "liability") arising out of the applicant's selection, construction, operation and removal of the solar panels and affiliated equipment including, without limitation, liability for property or personal injury (including death), whether the liability is premised on contract or on tort (including, without limitation, strict liability or negligence).

(B)This general indemnification shall not be construed as limiting or qualifying the county's other indemnification rights available under the law.

(C) All costs incurred by the County shall be paid by the Applicant, Owner or Operator. Cost incurred under this provision shall include, but not be limited to, the cost of experts and/or attorneys that may be used at any stage of the project, including the application review, hearing process, consideration of the application by the County (including County Board or Zoning Board of Appeals), permitting, operations phase and/or decommissioning phase. In addition, costs of any appeal or litigation resulting from any project, application, action, permit or work undertaken or performed by the County shall be paid by the Applicant, Owner or Operator, including, but not limited to, the cost of experts and attorney's fees.

§ 157.11 LIABILITY INSURANCE

The owner operator of the solar commercial/large scale facility shall maintain a current general liability policy covering bodily injury and property damage and name DeWitt County as an additional insured with limits of at least two million dollars (\$2,000,000.00) per occurrence and five million dollars (\$5,000,000.00) in the aggregate with a deductible of no more than five thousand dollars (\$5,000.00).

§ 157.12 FEES CHARGED FOR BUILDING PERMIT APPLICATION AND SPECIAL USE PERMIT APPLICATION

(A) Special Use Permit Fees – These fees shall apply only to SES projects and shall supersede any other fee calculation for special use permits.

1. Community Solar Garden is \$5000 per application
2. Commercial/Large Scale Solar Facility is \$5,000.00 plus \$35.00 per acre
3. This fee shall be used to cover the County's costs incurred during the special use application review process, public hearings, and board approval of the SES including, but not limited to, internal expenses, hiring external technical experts, attorneys, or other professionals to assist with the review, meeting venues for public hearings, and all other expenses incurred by the county to ensure the application meets the requirements of this chapter. Should the actual costs to the County exceed the fee amount, the applicant shall be responsible for those costs and shall remit additional funds within 15 days written notice from the County.

(B) Building Permit Fee:

1. RESIDENTIAL/COMMUNITY SOLAR GARDEN

0-4 kilowatts (kW-dc)	\$75.00
5-15 kilowatts (kW – dc)	\$150.00
16-50 kilowatts (kW-dc)	\$300.00
51-100 kilowatts (kW-dc)	\$500.00

101-500 kilowatts (kW-dc)	\$1000.00
501-1000 kilowatts (kW-dc)	\$3000.00
1001-2000 kilowatts (kW-dc)	\$5000.00

2. The building permit fee for Commercial/Large Scale Solar Facility is \$5,000.00 for the first 2 megawatts (MW) and \$1,000.00 for each additional megawatt (MW).

DRAFT

CHAPTER 153: COMMERCIAL WIND ENERGY CONVERSION

Section

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GENERAL PROVISIONS

§ 153.01 TITLE.

This chapter shall be known as, referred to or cited as the "DeWitt County Commercial Wind Energy Conversion Ordinance of DeWitt County, Illinois".

(Ord. passed 4-23-2009)

§ 153.02 STATUTORY AUTHORIZATION.

These regulations are adopted under the authority of state statutes. The County Board does hereby ordain this chapter.

(Ord. passed 4-23-2009)

§ 153.03 PURPOSE.

This chapter is adopted for the following purposes:

(A) To promote the use of renewable energy sources if cost effective and technically feasible; and

(B) It is in the best interests of the citizens of the county that zoning and other regulations be promulgated so as to implement restrictions on the placement and operation of wind energy conversion systems within the county, which preserve and/or protect the public health and/or safety of all citizens residing in the county.

(Ord. passed 4-23-2009)

§ 153.04 INTENT.

The intent of this chapter is to provide a means to regulate and restrict the locations within the county where wind energy systems and facilities can be constructed.

(Ord. passed 4-23-2009)

§ 153.05 DEFINITIONS.

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

APPLICANT. A person or entity applying for a special use permit to construct a wind energy conversion system or facility in the county.

GOOD UTILITY PRACTICE. Any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. **GOOD UTILITY PRACTICE** is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the region, including those practices required by Federal Power Act § 215(a)(4), being 18 C.F.R. § 215.

NON-PARTICIPATING PROPERTY. All properties which are not subject to an agreement, authorization or lease with the wind energy system facility developer.

NON-PARTICIPATING RESIDENCE. All residences which are not subject to an agreement, authorization or lease with the wind energy system facility developer, located on nonparticipating property, and existing and occupied on the date that an application for a permit 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 permit 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. All properties which are subject to an agreement, authorization or lease with the wind energy system facility developer.

PARTICIPATING RESIDENCE. All residences ~~which are subject to an agreement, authorization or lease with the wind energy system facility developer, located on participating property, and existing and occupied on the date that an application for a permit to develop the commercial wind energy facility is filed with the county.~~

PROTECTED LANDS. Real property that is (1) subject to a permanent conservation right consistent with the Real Property Conservation Rights Act; or (2) registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

WIND ENERGY CONVERSION SYSTEMS (WECS). Equipment that converts and then stores or transfers energy from the wind into usable forms of energy.

WIND ENERGY SYSTEM FACILITY (WESF). All land and equipment used by the wind energy system and its support facilities including the wind turbine, tower, access roads, control facilities and all power collection and transmission systems.

WIND TURBINE. A mechanical device, which captures kinetic energy of the wind and converts it into electricity. The primary components of a **WIND TURBINE** are the blade assembly, electrical generator and tower.

TOWER HEIGHT. The distance from the tip of the rotor blade at its highest point to the top surface of the WECS foundation. For the purposes of this chapter, **TOTAL TOWER HEIGHT** and **TOTAL HEIGHT** shall be considered the same dimension as **TOWER HEIGHT**.

(Ord. passed 4-23-2009)

§ 153.06 INTERPRETATION.

The provisions of this chapter shall be interpreted and applied as minimum requirements; shall be liberally construed in favor of the county; and shall not be deemed a limitation or repeal of any other power granted by state statutes.

(Ord. passed 4-23-2009)

§ 153.07 JURISDICTION.

The jurisdiction of this chapter shall include all lands and waters within the county and within those municipalities not having in force their own wind energy conversion ordinance.

(Ord. passed 4-23-2009)

Commented [JW1]: HB4412 – referenced in setback requirements

Commented [JW2]: HB4412 compliance – update definition to match State

Commented [JW3]: HB4412 compliance - needed due to setbacks from protected lands

§ 153.08 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate, annul or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(Ord. passed 4-23-2009)

§ 153.09 INDEMNIFICATION.

(A) The applicant shall defend, indemnify and hold harmless the county and its officials, employees and agents 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 (the liabilities together known as "liability") arising out of the applicant's selection, construction, operation and removal of the wind turbines and affiliated equipment including, without limitation, liability for property or personal injury (including death), whether the liability is premised on contract or on tort (including, without limitation, strict liability or negligence).

(B) This general indemnification shall not be construed as limiting or qualifying the county's other indemnification rights available under the law.

(C) All costs incurred by the county shall be paid by the applicant, owner or operator. Cost incurred under this provision shall include, but not be limited to, the cost of experts and/or attorneys that may be used at any stage of the project, including the application review, hearing process, consideration of the application by the county (including County Board or Zoning Board of Appeals), permitting, operations phase and/or decommissioning phase. In addition, costs of any appeal or litigation resulting from any project, application, action, permit, or work undertaken or performed by the county shall be paid by the applicant, owner or operator, including, but not limited to, the cost of experts and attorney's fees.

(Ord. passed 4-23-2009; Res. 2021-05, passed 1-21-2021)

§ 153.10 FEES CHARGED FOR BUILDING PERMIT.

(A) A special use permit is required prior to obtaining a building permit.

(B) A building permit is required for the installment of each tower located within the unincorporated lands within the boundaries of DeWitt county. The building permit must be submitted to the county Zoning Administrator on the approved application form.

(C) All WECS building/construction plans shall include a certification by an Illinois Licensed Structural Engineer that the foundation and tower design on the WECS is within accepted professional standards, given local soil and climate conditions.

(D) Site plan with all of the following items to the extent that items mentioned below are identifiable by landowner of ALTA survey:

- (1) Electrical cabling from the WECS Tower to the substation;
- (2) Ancillary equipment;

- (3) Third party transmission lines;
- (4) Wells;
- (5) Septic fields;
- (6) Field tile location;
- (7) Existing easements;
- (8) Floodplain location and elevation, if applicable; and
- (9) Wetland location, if any.

(E) Letter from the FAA stating the project is in compliance with FAA height and lighting requirements.

(F) A building permit fee is required ~~as stated in 155.126(C)(I) -Structures other than buildings. amount of \$2,000 per tower constructed or erected; and building permit fee for conventional structures in accordance with county ordinances.~~

(G) The owner or operator of the WECS must submit, on a yearly basis, a summary of:

- (1) The operation and maintenance reports;
- (2) Any physical modifications to the WECS; and
- (3) Complaints pertaining to setbacks, noise, appearance, safety, lighting, use of roads, shadow flickers, etc.

(Ord. passed 4-23-2009; Ord. passed 4-20-2017)

§ 153.11 PROPOSALS FOR ERECTED STRUCTURES.

Any wind tower or electric-generating wind device proposed to be erected within 1.5 miles of the corporate limits of an incorporated village or municipality shall be subject to the approval of said incorporated village or municipality before a special use permit shall be granted for said proposed wind tower or electric-generating device.

(Res. 2018-02, passed 4-19-2018)

§ 153.12 EFFECTIVE DATE.

This chapter shall immediately take effect upon passage as provided by law.

(Ord. passed 4-23-2009)

SPECIAL USE REGULATIONS

§ 153.25 SITING APPROVAL APPLICATION.

Wind energy system facilities and parts thereof shall meet the following requirements:

(A) Comply with application procedures required by [Chapter 155](#) of this code of ordinances;

Commented [JW4]: HB4412 Consideration:

A county may not require permit application fees for a commercial wind energy facility or commercial solar energy facility that are unreasonable. All application fees imposed by the county shall be consistent with fees for projects in the county with similar capital value and cost.

See 155.126 Permits Required:

Commercial Building Permit Fees -

(I) Structures other than buildings: \$0.001 x total estimated cost/min: \$25.

Commented [DR5R4]: Refer to chapter 155.126(C)(I)

(B) Provide properly executed agreements:

(1) "Road upgrade and maintenance agreement" with each highway authority having jurisdiction over potentially impacted highways, roads and streets by the development of the WESF;

~~(2) All drainage districts potentially impacted by the development of the WESF;~~

Commented [JW6]: HB4412 compliance—strikeout as agreements with drainage districts cannot be required at SUP.

(C) (1) Submit a site plan for the installation of WESFs showing:

(a) Boundaries of the project;

(b) Location of each WECS tower, guy lines and anchor bases (if any);

(c) All WECS structures including, but not limited to, the project substations; interconnect substation; location and voltage of any buried and overhead transmission lines;

(d) Property lines (including identification of adjoining properties and owners);

(e) Setback lines;

(f) Public access roads and turnout locations;

(g) Location of all existing structures with principal residential structures identified; and

(h) Land use, zoning, public roads and structures indicating the required setbacks for the WECS site.

(2) The site plan shall include a legal description and plat of the WESF to be prepared by a licensed surveyor. The plat of survey to be furnished shall be a certified copy in recordable form.

(D) Submit all required federal, state and local regulatory agencies' studies, reports, certifications and approvals demonstrating compliance with the provisions of this chapter and other county ordinances;

(E) (1) Wind energy system facilities shall comply with all Federal Aviation Administration (FAA) and Federal Communication Commission (FCC) requirements. In addition, the WESF shall be required to use an FAA approved Aircraft Lighting Mitigation System to reduce the impacts of nighttime lighting on county residents and wildlife. The location of WESF components shall be modified or adjusted as necessary for an application to be accepted by FAA.

(2) If approved by the FAA the most effective system approved shall be utilized. In determining which system is more effective, sole discretion shall be vested with the DeWitt County Board, and shall be decided by majority vote. The County Board may grant a grace period in its discretion for the installation of lighting mitigation equipment by majority vote not to exceed a year upon the structure being constructed. No extensions may be granted beyond one year for any reason.

(3) If other multi-level structures excluding structures built and intended for family occupancy are built within 2,000 feet of existing WECS towers, a study shall be conducted as a pre-requisite to the issuing of a permit. Said study must show that there shall be no interference with existing lighting mitigation on currently standing WECS towers. If a study concludes that interference exists, then the builder of the structure must present proof that the interference is rectified prior to the issuance of a permit. Said study shall be conducted by an entity approved by the County Board of DeWitt County by majority vote, and the costs of said study shall be paid by the builder and/or owner of the proposed structure. The above requirements shall be a condition of any permit granted.

(4) The applicant shall prepare a shadow flicker study including the potential effects of each proposed WECS on all ~~principal residential structures non-participating residences~~. The results will identify the locations and expected duration of shadow flicker over the course of a calendar year. This study shall be submitted as part of the special use permit application. ~~Shadow flicker shall not affect a non-participating residence at any time. Under no circumstances shall a WECS or testing facility produce shadow flicker or strobe effect on a non-participating residence in excess of 30 hours per calendar year.~~ Non-participating ~~residence~~ property owners may waive these requirements in writing.

(F) WESFs are permitted only in the ~~Agricultural (A), Industrial (I) and Rural Development-1 (RD-1)~~ Zoning Districts by special use permit;

(G) (1) A special use permit is required for towers constructed or erected as part of the WESF with a special use application fee of:

- (a) Two hundred dollars if two acres or less;
- (b) Two hundred and fifty dollars if greater than two acres, but less than ten acres;
- (c) Three hundred dollars if ten acres or greater, but less than 26 acres; and
- (d) Twenty-six acres and over \$100 plus \$10 per acre.

(2) A single special use application may be submitted for multiple towers.

(3) This fee calculation shall supersede any other fee calculation for special use permits.

(H) All work on the approved WESF must be completed within three years of the date work begins on the first tower foundation of the permitted phase; and

(I) The Zoning Administrator and other agents, as designated by the County Board, shall have access to the WESF at all times during construction and maintenance to conduct inspections of the work being performed.

(Ord. passed 4-23-2009; Ord. passed 4-20-2017; Res. 2018-08, passed 8-22-2018; Res. 2021-01, passed 1-21-2021; Res. 2021-04, passed 1-21-2021; Res. 2021-06, passed 1-21-2021)

Commented [JW7]: HB4412 – use language from definitions.

Commented [JW8]: HB4412 – Must allow 30 hours per year, and update waiver language to reflect the owner who would be the one waiving the requirement (not residence).

Commented [JW9]: HB4412 compliance – must allow in districts “zoned to allow agricultural or Industrial uses”.

Question - Can we strike RD-1 since it is not zoned for agricultural use, or would doing so require a text amendment?

Cross reference:

For road upgrade and maintenance agreement adopted pursuant to § [153.25](#), see [T.S.O. I](#)

§ 153.26 STANDARDS.

(A) *Construction standards.* WESF shall be constructed in compliance with good utility practice for WESF. The applicant shall provide, as part of the building permit application, engineering drawings of the proposed foundation and tower design sealed by a licensed professional structural engineer.

(B) *Construction observation.* The applicant shall retain, at the applicant's expense, the services of an independent engineering consultant to observe construction of the WESF. The consultant shall be approved by the County Board prior to beginning any work on the WESF. The consultant shall be a state licensed professional engineering firm pre-qualified with the State Department of Transportation in the following categories: structures (typical), highways (roads and streets), special services (land survey) and construction inspection. The consultant shall visit the site at intervals appropriate to the stage of construction, or as otherwise directed by the county, in order to observe the progress and quality of work completed by the contractor. The consultant shall prepare reports for each visit to the site detailing observations of the work performed and forward those reports to the Zoning Administrator within three business days following the date of the site visit.

(C) *Compliance.* If the county concludes that any part of the WESF was not constructed in compliance with the details of the permit application, good utility practice or constitutes a danger to persons or property, then upon notice being provided by the County Board, the applicant shall have 90 days to bring the non-compliant WESF(s) into compliance with the standards specified herein. If 90 days is insufficient time to cure the non-compliance, the applicant shall present a plan to the county describing the reason for the delay and the time frame for the cure to be put in place. Failure to bring the non-compliant WESF(s) into compliance or failure to provide a plan for compliance within 90 days shall constitute grounds for the county to demand removal of the WESF(s) at the applicant's expense and all construction work on the WESF(s) shall cease until the non-compliances are resolved to the satisfaction of the County Board. The following minimum safety standards shall apply to the construction of the WESF.

- (1) All wiring between the wind turbines shall be underground.
- (2) The outside of the WECS shall not be climbable.
- (3) All access doors to the turbines and electrical equipment shall be locked.

(D) *Performance standards.* Any wind energy conversion system or wind energy system facility shall be operated and maintained consistent with good utility practice for comparable facilities.

(E) *State and federal standards.* Construction of WESF(s) shall meet or exceed current standards and regulations, if any, of any other agency of the state or federal government with the authority to regulate wind powered generators. If the standards

and regulations are changed and retroactive application is required for the change, then the applicant shall bring the WESF(s) into compliance with the applicable revised standards and regulations within six months of the effective date of the standards and regulations, unless a different compliance schedule is permitted by the controlling state or federal agency or approved by the county. A determination of "no hazard" for each wind turbine must be obtained from the FAA as a condition precedent for the installation of each turbine.

(Ord. passed 4-23-2009)

§ 153.27 TECHNICAL REQUIREMENTS.

(A) *Height.* There shall be no restriction on the height of any WESF, provided all other requirements of this chapter are met.

(B) *Setback.*

~~(1) Wind turbine towers shall be set back a distance of 1,000 feet from the nearest property line or 1.3 times the height of the tower, whichever is greater.~~

~~(2) WECS tower shall be set back a distance of 2,000 feet from any residence, nonparticipating residence, school, hospital, day care, church or commercial building. This setback distance shall be measured from the edge of the foundation closest to the WECS tower to the center of the WECS tower. The owner may waive these setback requirements in writing, but in no case shall the WECS tower be set back no less than 1.1 times the tower height of the WECS.~~

~~(3) Wind turbine towers shall be set back a distance of no less than their total height from the nearest above-ground public electric power line or telephone line, unless waived in writing by the affected property owner and utility company.~~

(1) Wind turbine towers shall be set back a distance of 1.1 times the maximum blade tip height from participating residences, boundary lines of non-participating properties, public road rights-of-way, and overhead communication and electric transmission and distribution facilities (not including overhead utility service lines to individual residences or structures).

(2) Wind turbine towers shall be set back a distance of 2.1 times the maximum blade tip height from non-participating residences, occupied community buildings, and Protected Lands.

(3) Non-participating property owners may waive setback requirements in writing.

Commented [JW10]: HB4412 – rework setbacks to match State requirements.

(C) *Noise.* ~~The noise design limit for each wind energy system shall not exceed 50 dBA measured as the average dBA at the location of the nearest non-participating residence from the relevant wind energy conversion system. The dBA level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms. The WESF shall comply with State Pollution Control Board noise regulations at all times.~~

Commented [JW11]: HB4412 – County cannot have more restrictive noise requirements than IPCB.

(D) *Color.* Excerpt as may be required by the FAA, the coloration of the exterior components and each wind turbine tower shall be off-white, light gray or other neutral

color, including the blades. The finish shall be flat or matte. The applicant shall maintain the required coloration and finish throughout the term of this permit.

(E) *Signage.*

(1) The applicant shall provide reasonable signage at the WESF, identifying the premises as being part of the WESF and providing appropriate safety notices and warnings against trespassing. The no trespassing signs shall be posted around the entire premises at an appropriate distance for posting, but no less than two conspicuous places for every 40 acres within the facility.

(2) No advertising material or signage other than warning, equipment information or indicia of ownership shall be allowed on the wind turbines. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.

(F) *Public records.* The applicant shall, prior to the initiation of construction and use of public roads for hauling materials and equipment, consult with the County Engineer, the Highway Authority (Township Road Commissioner), the State Police and the County Sheriff's Office for load paths and restrictions on their respective impacted roads or bridges. The applicant shall obtain, at the applicant's expense, all necessary permits including the "road maintenance and upgrade agreement" from all applicable highway authorities and from the County Engineer.

(G) *Reporting and complaint resolution.* The applicant shall report to the county as follows.

(1) *Extraordinary events.* Within 24 hours of any extraordinary event, Applicant shall notify the County Sheriff's Office. **EXTRAORDINARY EVENTS** shall include tower collapse, catastrophic turbine failure, unauthorized entry to the tower base, thrown blade or hub, or other event that, in the applicant's opinion, reasonably impacts the public health and safety of the county.

(2) *Complaints.* The applicant of the WESF shall, at the applicant's expense and in coordination with the county, develop a system for logging and investigating all complaints related to the operational standards set forth in this chapter. If the county determines it is reasonable and necessary, it may undertake an investigation of the alleged operation violation by a qualified individual mutually acceptable to the county and the owner of the wind energy system facility. The reasonable cost and fees incurred by the county in retaining the qualified individual shall be reimbursed by the owner of the wind energy system facility. After the investigation, if the County Board reasonably concludes the operation violations are shown to be caused by the wind energy system facility, the applicant shall use reasonable efforts to mitigate the problems on a case by case basis.

(H) *Proximity to existing power transmission lines.* The WESF shall be sited near existing power transmission lines capable of accepting the power generated by the facility. The applicant shall provide the following:

(1) A report detailing the excess capacity available in the power transmission lines the WESF will use to connect to the power grid; and

(2) A map exhibit showing the location of the existing power transmissions lines relative to the proposed WESF site, the proposed route of connection to the existing power transmission lines and all affected landowners.

(Ord. passed 4-23-2009; Ord. passed 4-20-2017; Res. 2018-03A, passed 4-19-2018; Res. 2021-02, passed 1-21-2021)

§ 153.28 OPERATION.

(A) *Startup.* The applicant shall not begin producing energy for commercial sale prior to receiving written approval to start operation by the Zoning Administrator. The applicant shall make the request to the Zoning Administrator in writing. The applicant shall certify the WESF has been constructed in accordance with this chapter.

(B) *Electromagnetic interference.* Applicant shall not operate the facility so as to cause microwave, television, radio, radar systems or navigation interference. Any complaints received by the county shall be handled in accordance with § 153.27(G)(2).

(C) *Modification.* Any modification that alters the mechanical load, mechanical load path or major electrical components shall require it to be re-permitted under the terms and conditions of this chapter. Prior to making any physical modification (other than like-kind replacement), the owner or operator of the WESF shall hire an independent licensed professional civil, mechanical or electrical engineer to determine whether the physical modification requires re-permitting. Like-kind replacements shall not require re-permitting.

(D) *Damages.* Between initial construction and decommissioning, the WESF owner shall, at his, her or their expense, repair or replace, all soil compaction, drainage tile, utilities, public and private property damaged as part of on-going maintenance or other activities related to operation of the WESF.

(Ord. passed 4-23-2009; Res. 2021-03, passed 1-21-2021)

§ 153.29 INSURANCE.

All applicants shall maintain the following insurance coverages commencing upon construction of the facility.

(A) The dollar amounts listed herein are based on 2008 dollars. These sums shall be adjusted by the County Board for inflation in accordance with the Consumer Price Index as published by the United States Department of Labor, Bureau of Labor Statistics, to reflect the present value at the time of construction and shall be subject to re-evaluation by the County Board every three years thereafter.

(B) The applicant shall, at its expense, maintain a current broad form comprehensive general liability coverage insurance policy insuring the applicant and participating landowners against loss or liability caused by the applicant's occupation and use of the property under the lease, in an amount not less than \$10,000,000 of combined single-limit liability coverage per occurrence, accident or incident. All policies other than

workers' compensation shall be written on an occurrence and not a claim-made basis. The county and participating landowners shall be named as an additional insured on the policy on a primary and non-contributory form.

(C) Workers' compensation coverage in an amount required by state law. The applicant shall require subcontractors and others not protected under its insurance to obtain and maintain workers' compensation and employer's liability insurance at \$1,000,000/\$1,000,000/\$1,000,000 limits. The policy shall contain "waiver of subrogation" in favor of the county and participating landowners.

(D) Certificates of insurance evidencing compliance with these requirements shall be provided upon request of the county. The insurer will provide notice to the county in the event there is a lapse in coverage exceeding 30 days. All policies other than workers' compensation shall be written on an occurrence and not on a claim made basis. The WESF owner shall provide certificates of insurance to the Zoning Administrator on an annual basis.

(E) The applicant shall maintain "environmental - pollution liability" coverage with a limit of not less than \$5,000,000.

(Ord. passed 4-23-2009)

§ 153.30 DECOMMISSIONING PLAN.

(A) The application for a WESF project must contain a decommissioning plan to ensure the WESF will be properly decommissioned upon the end of the project life or facility abandonment.

(B) The decommissioning plan shall include:

(1) Removal of all structures (including transmission equipment and fencing) and debris to ~~a depths as required by the signed Agricultural Impact Mitigation Agreement; of four feet~~

(2) Restoration of the soil and restoration of vegetation within ~~eighteen~~ six months of the end of project life or facility abandonment;

(3) An estimated cost of decommissioning provided by a mutually agreed upon licensed professional engineer (at the expense of the applicant);

(4) The financial resources to be used to accomplish decommissioning;

(5) The financial agent with which the resources shall be deposited;

(6) An agreement between the applicant and the county that:

(a) The financial resources for decommissioning shall be in the form of a reclamation bond, an irrevocable letter of credit or shall be deposited in an escrow account with an escrow agent acceptable to the Zoning Enforcement Officer, Final approval on the form of the financial resource shall rest solely with the County Board or its designee. ~~The financial resource shall be deposited with the chosen financial agent at the intervals and in the amounts as outlined in the AIMA agreement. The financial~~

Commented [JW12]: HB4412 Remove specific depth and reference AIMA. Electrical wires at 5' do not need to be removed per AIMA.

Commented [JW13]: HB4412 – Clarify that the resource is deposited per the AIMA schedule.

~~resource shall be reviewed and adjusted accordingly every three years based on the engineering's estimated cost.~~

(b) A written financial agreement will be prepared establishing upon what conditions the funds will be disbursed;

(c) The county shall have access to the financial account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within six months of the end of project life or facility abandonment;

(d) The county is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning; and

(e) The county is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the county's right to seek reimbursement from the applicant or applicant's successor for decommissioning costs in excess of the amount deposited in financial account and to file a lien against any real estate owned by the applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce the lien.

(7) Financial provisions shall not be so onerous as to make wind power projects unfeasible.

(Ord. passed 4-23-2009; Am. Res. 2018-04, passed 4-19-2018)

Commented [JW14]: HB4412 Clarification

Question – Is this referencing adjustments for inflation? Does this need to be removed? The AIMA agreement allows for a re-evaluation of costs (at the owner's expense) by an independent third party engineer, but not until the after the tenth anniversary and every 5 years thereafter.

Commented [DR15R14]: Removed - land use 4-10