ZONING RESOLUTION OF KNOX COUNTY

APPENDIX E

KNOX COUNTY COMMERCIAL WIND ENERGY CONVERSION SYSTEMS SITING ORDINANCE

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Effective June 28, 2023

As amended to August 26, 2026

COMMERCIAL WIND ENERGY FACILITY ORDINANCE

I. **TITLE.** This ordinance shall be known as the Knox County Commercial Wind Energy Conversion Systems Siting Ordinance Appendix E.

II. **DEFINITIONS.**

A. "Applicant" means the entity who submits to the county a conditional use permit application for a commercial wind energy facility. All references to "applicant" in this ordinance shall include applicant's successors-in-interest and assigns, including the owner.

B. "Commercial operation date" means the calendar date on which the commercial wind energy facility produces power for commercial sale, not including test power.

C. "Commercial wind energy facility" means a wind energy conversion facility of equal or greater than 500 kilowatts in total nameplate generating capacity. "Commercial wind energy facility" includes a wind energy conversion facility seeking an extension of a permit to construct granted by a county or municipality before January 27, 2023 (the effective date of Public Act 102-1123).

D. "Facility owner" means (i) 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, and (ii) at the time the facility is being developed, 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. All references to "owner" in this ordinance shall mean facility owner.

E. "Financial assurance" means assurance from a credit worthy party, examples of which include a surety bond (e.g., performance and payment bond), trust instrument, cash escrow, or irrevocable letter of credit.

F. "Meteorological Tower" or "Met Towers" means those temporary towers which are erected primarily to measure wind speed and direction plus other data relevant to siting and operation of a WECS Project. For purposes of this ordinance Meteorological Towers do not include towers and equipment used by airports, the Illinois Department of Transportation, or other similar applications or government agencies to monitor weather conditions.

G. "Nonparticipating property" means real property that is not a participating property.

H. "Nonparticipating residence" means a residence that is located on nonparticipating property and that is existing and occupied on the date that a conditional use permit application for the commercial wind energy facility is filed with the county.

I. "Occupied community building" means any one or more of the following buildings that is existing and occupied on the date that a conditional use permit application for the commercial

wind energy facility is filed with the county: a school, place of worship, day care facility, public library, or community center.

J. "Operator" means the person or entity responsible for the day-to-day operation and maintenance of the commercial wind energy facility, including any third-party subcontractors, successors-in-interest and assigns.

K. "Participating property" means real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a commercial wind energy facility or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a commercial wind energy facility or supporting facilities.

L. "Participating residence" means a residence that is located on participating property and that is existing and occupied on the date that a conditional use permit application for the commercial wind energy facility is filed with the county.

M. "Professional engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.

N. "Project" means the commercial wind energy facility and supporting facilities.

O. "Protected lands" means real property that is: (i) subject to a permanent conservation right consistent with the Illinois Real Property Conservation Rights Act; or (ii) registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

P. "Supporting facilities" means the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the commercial wind energy facility. "Supporting facilities" includes energy storage systems capable of absorbing energy and storing it for use at a later time, including, but not limited to, batteries and other electrochemical and electromechanical technologies or systems.

Q. "Wind tower" includes the wind turbine tower, nacelle, and blades.

R. "Wind tower height" means the height of the wind tower as measured from the surface of the earth to maximum blade tip height.

III. APPLICABILITY.

This ordinance governs commercial wind energy facilities that generate electricity to be sold to wholesale or retail markets. This ordinance shall apply to the unincorporated areas of the county that are outside of the zoning jurisdiction of a municipality.

IV. PROHIBITION.

No commercial wind energy facility or supporting facilities governed by this ordinance shall be constructed, erected, installed, or located within the county without a conditional use permit and building permit granted by the county. Commercial wind energy facilities and supporting facilities are only allowed by conditional use permit and building permit upon agricultural or industrial zoned properties. Unless otherwise allowed by the county, all projects shall conform to the representations made within the conditional use permit application, representations during the public hearing process, and representations contained within the building permit application.

V. CONDITIONAL USE PERMIT APPLICATION.

A. To obtain a conditional use permit for a commercial wind energy facility and/or its supporting facilities, and for each wind data collection tower, the applicant must first submit a complete conditional use permit application to the county for review of completeness and scheduling of a public hearing on the application.

B. Material changes to the conditional use permit application are not permitted once notice of public hearing on the application has been published, unless otherwise requested or permitted by the county.

C. The applicant shall submit at least eight (8) copies of the conditional use permit application to the county, and at least one (1) copy in electronic format, unless otherwise requested or permitted by the county.

D. The conditional use permit application submitted to the county shall contain the following:

1. A project summary for the commercial wind energy facility and its supporting facilities, including:

    a. A general description of the project, including:

        i. Approximate overall nameplate generating capacity;
        ii. Potential equipment manufacturers of the turbines and any energy storage system;
        iii. Number of wind towers and nameplate generating capacity of each;
        iv. Maximum height of wind towers and maximum diameter of rotors;
        v. Description of supporting facilities, including energy storage systems (if any);
        vi. Energy storage system nameplate capacity, overall acreage, and types of energy systems to be utilized for the project (if any);
        vii. Project site plan, phasing plan, construction timeline; and
        viii. General location of the project;

    b. A description of the applicant, owner, and operator, including their respective business structures;

2. The name, address, and phone number of the applicant, owner, operator, participating property owners, and documentation demonstrating land ownership or legal control of the property;

3. A site plan for the project showing the planned location of each wind tower, including parcel number and legal descriptions for each site, guy lines and anchor bases, participating and nonparticipating residences, occupied community buildings, parcel boundary lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, all supporting facilities including any energy storage systems, substations, operations and maintenance buildings, temporary and permanent meteorological towers, concrete batch plants, laydown yards, electrical cabling from the wind tower to the substations, ancillary equipment, third party transmission lines, the location of any wetlands, flood plain, drainage structures (including surface ditches and subsurface drainage lines), underground mines, scenic and natural areas within 1,500 feet of the project, the location of all known communications towers within two miles of the project, and the layout of all structures within the geographical boundaries of setbacks;

4. A topographic map depicting the project site and surrounding area;

5. A proposed decommissioning plan for the project, including cost estimations and a draft form of financial assurance for same;

6. Any "Determination of No Hazard to Air Navigation" (DNH) received from the Federal Aviation Administration (FAA) for all wind towers and other applicable structures, received on or before the filing of the special use permit application;

7. Written approval from relevant road authorities of the roads to be utilized for construction and a draft form of financial assurance for the protection of said roads;

8. Industry standard computer modeling of shadow flicker for all potential turbine manufacturers under the planned operating conditions, and all supporting data;

9. Sound modeling for all potential equipment manufacturers (including wind turbines and energy storage systems) showing the sound emissions, the relevant Illinois Pollution Control Board (IPCB) standards, the impact upon all effected properties, and all supporting data;

10. An "Agricultural Impact Mitigation Agreement" (AIMA) executed between the owner and the Illinois Department of Agriculture (IDOA);

11. Waivers from any setback requirements executed by occupied community building owners, nonparticipating property owners, and/or nonparticipating residence owners bearing a file stamp from the county recorder confirming that the waiver was recorded against the title to the affected real property;

12. Waivers from any shadow flicker requirements executed by occupied community building owners, nonparticipating property owners and/or nonparticipating residence owners bearing a file stamp from the county recorder confirming that the waiver was

recorded against the title to the affected real property. The waiver must reflect the amount of overage to be reasonably expected by the operation of the project;

13. Waivers from any noise enforcement executed by participating property owners, participating residence owners, nonparticipating property owners and/or nonparticipating residence owners bearing a file stamp confirming that the waiver was recorded against the title to the affected real property. The waiver must reflect the amount of overage to be reasonably expected by the operation of the project;

14. Results and recommendations from consultation with the Illinois Department of Natural Resources (IDNR) obtained through its "Ecological Compliance Assessment Tool" (EcoCAT) or a comparable successor tool;

15. Results and recommendations from consultation with the Illinois State Historic Preservation Office (SHPO) regarding potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act;

16. Evidence demonstrating that the project will avoid protected lands as identified by the Illinois Department of Natural Resources (IDNR) and the Illinois Nature Preserves Commission (INPC);

17. A farmland drainage plan (to include a drain tile survey) which shall be provided to the county and any impacted drainage district;

18. Adequate proof that the conditional use permit application has been submitted to local emergency response agencies;

19. A copy of all communication and interference studies demonstrating the potential impacts of the project on television, radio, telephone (including mobile phone communications), transportation communication devices, emergency and law enforcement communications including E911 communications, and weather radar utilized by the National Weather Service (NWS) or others to communicate weather events to the public;

20. Unless otherwise provided, information required under Section 5-12024 of the Illinois Counties Code (55 ILCS 5/5-12024) for energy storage systems (if any) utilized for the project;

21. All other required studies, reports, certifications, and approvals necessary for demonstrating compliance with the provisions of this ordinance;

22. Any other information requested by the county or its consultants necessary to evaluate the conditional use permit application and to demonstrate that the project meets the provisions of this ordinance; and

23. Any other information normally required by, or reasonably requested by, the county as part of its permitting requirements for buildings or other structures.

VI. DESIGN AND INSTALLATION.

A. Design Safety Certification.

1. The project shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI) (most recent edition), National Electric Code (NEC) (most recent edition) and requirements of the public utility. Prior to the issuance of a building permit, applicant shall submit certificates of design compliance from equipment manufacturers obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (CGL), or an equivalent third party. The project shall consist of new equipment and no used or experimental equipment shall be used in the project without approval by the county.

B. Controls and Brakes.

All wind towers shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, tilt, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

C. Aesthetics and Lighting.

1. *Coatings and Coloring:* All wind towers shall be painted white or gray or another nonreflective, unobtrusive color.

2. *Turbine Consistency:* All wind towers shall be of similar design, size, and height and shall utilize self-supporting, tubular towers; rotate in the same direction; and be consistent in color and direction with nearby facilities.

3. *Lighting:* All wind towers and any applicable supporting facilities shall utilize minimal lighting compliant with applicable Federal Aviation Administration (FAA) regulations. Applicant shall apply to the relevant federal governmental entities for the installation and use of an "Aircraft Detection Lighting System" (ADLS). If approved by the federal governmental entities, the ADLS or other similar technology shall be installed and maintained in operating condition for the life of the project.

4. *Intra-Project Power and Communication Lines:* All power lines used to collect power from wind towers and all communication lines shall be buried underground at a depth in accordance with the "Agricultural Impact Mitigation Agreement" (AIMA) until same reach the property line or a substation adjacent to the property line.
5. *Debris and Garbage:* The project area shall be kept free of debris and garbage at all times during the life of the project.

D. Warnings.

1. A visible warning sign concerning voltage must be placed at all entrances to wind towers, at the base of all pad-mounted transformers, substations, and other locations where high voltage is present and is reasonably accessible by others.

2. Visible, reflective, colored objects, such as flags, plastic sleeves, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.

E. Climb Prevention.

Wind towers must be unclimbable by design or protected by anti-climbing devices such as fences with locking portals at least six feet high or anti-climbing devices 12 feet vertically from the base of the wind tower.

F. Setback Requirements.

1. Wind towers shall be sited as follows, with setback distances measured from the center of the base of the wind tower:

    a. *Occupied Community buildings*: 2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure.

    b. *Participating Residences*: 1.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure.

    c. *Nonparticipating Residences*: 2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure.

    d. *Boundary Lines of Participating Property*: None.

    e. *Boundary Lines of Nonparticipating Property*: 1.1 times the maximum blade tip height of the wind tower to the nearest point on the property line of the nonparticipating property.

    f. *Public Road Rights-of-Way*: 1.1 times the maximum blade tip height of the wind tower to the center point of the public road right-of-way.

    g. *Overhead Communication and Electric Transmission and Distribution Facilities (Not Including Overhead Utility Service Lines to Individual Houses or Outbuildings):* 1.1 times the maximum blade tip height of the wind tower to

the nearest edge of the property line, easement, or right-of-way containing the overhead line.

h. *Overhead Utility Service Lines to Individual Houses or Outbuildings*: None.

i. *Fish and Wildlife Areas and Illinois Nature Preserves Commission Protected Lands*: 2.1 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.

2. Setback requirements for fencing in relation to public rights-of-way shall be those set forth for agricultural districts by the county's zoning code.

3. Setback requirements may be waived by the written consent of the property owner of each affected nonparticipating property. Any waiver of the above setback requirements shall run with the land and shall be recorded with the county recorder prior to the issuance of any building permit for project.

G. Compliance with Additional Regulations.

Nothing in this ordinance is intended to preempt any other applicable state and federal laws regulations.

H. Use of Public Roads.

1. An applicant proposing to use any county, municipality, township or village roads, for the purpose of transporting commercial wind energy facility or supporting facility equipment for construction, operation, or maintenance shall:

   a. Identify all such public roads;
   b. Conduct a preconstruction baseline survey to determine existing road conditions for assessing potential future damage;

2. Enter into a road use agreement with the county and each affected road district that includes the following provisions, at a minimum:

   a. Project layout map;
   b. Transportation impact analysis;
   c. Notification procedures for road closures and/or lane restrictions;
   d. Preconstruction plans;
   e. Project traffic map;
   f. Project scope of repairs;
   g. Post-construction repairs;
   h. Insurance; and
   i. Financial assurance in forms and amounts acceptable to the county.

3. The road use agreement shall require applicant to be responsible for the reasonable cost of improving roads used to construct the project and the cost of repairing roads used by the facility owner during construction of the project. Roadways improved in

preparation for and during the construction of the project shall be repaired and restored to the improved condition at the cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.

4. All repairs and improvements to county public roads and roadway appurtenances shall be subject to the prior approval of the county before being made and shall also be subject to inspection and acceptance by the county after such repairs and improvements are completed. The county's road use agreement, and any further agreements contemplated therein, regarding the maintenance and repair of county public roads and highways, must be approved by the county board prior to the approval of any building permit applications related to the construction of the project.

I. Site Assessment.

To ensure that the subsurface conditions of the site will provide proper support for the wind towers and soil restoration, the applicant, at its expense, shall provide soil and geotechnical boring reports to the county with respect to each wind tower location and applicable supporting facilities as part of its building permit application. The applicant shall follow the guidelines for conservation practices impact mitigation submitted by the county's soil and water conservation district (or equivalent regulatory agency). The applicant shall submit grading plans for the project for review and comment by the county's soil and water conservation district (or equivalent regulatory agency) and shall submit said plans to the county prior to the issuance of any building permit.

J. Communications Analysis; Interference.

1. The applicant shall, at its own expense, retain a third-party qualified professional to conduct a television reception analysis within a 1.5-mile radius of the project footprint. The analysis shall document all television stations received in the area and shall serve as the baseline conditions prior to construction. This study shall be submitted as part of the conditional use permit application for the project.

2. The applicant shall, at its own expense, retain a qualified third-party professional to conduct a communications study demonstrating that E911, other emergency communications, and official county or municipal communications will not be negatively impacted by the project. This study shall be submitted as part of the conditional use permit application for the project.

3. The owner/operator shall, at its own expense, immediately mitigate and eliminate any interference any interference the project causes with electromagnetic communications, including radio, telephone, microwave, or television signals, especially those affecting government public safety communications (police, fire, emergency management services, and 911 dispatch.

    a. The applicant shall provide microwave transmission providers and local emergency service providers with a copy of the project summary and site plan. If these providers demonstrate a likelihood of interference, the owner/operator shall take all necessary measures to minimize and mitigate

the anticipated interference. For any interference affecting public safety communications, the owner/operator shall immediately implement all necessary and commercially available measures to eliminate the interference.

b. If the owner/operator receives a written interference complaint after construction, it shall respond immediately. For public safety communications complaints, the owner/operator must immediately take all necessary and commercially available steps to eliminate the interference.

4. If, after construction of the project, the owner/operator receives a written complaint related to interference with local residential television or radio reception, the owner/operator shall take commercially reasonable steps to investigate and respond. A summary of the complaint and subsequent response from owner/operator shall be forwarded to the county for review. The owner/operator shall have 30 calendar days to verify the complaint, and 15 calendar days to respond. Said response shall be addressed and forwarded to both the county and the complainant. Such response shall include, but not be limited to, an acknowledgment that a complaint was made and evaluated by the owner/operator; and if considered valid by the owner/operator, an explanation, including a timeline, as to what the owner/operator intends to do about the complaint. In no event shall valid television reception issues persist beyond 60 calendar days from the date the complaint is validated. If considered invalid by the owner/operator, an explanation, including supporting documentation and expert opinions as to why the applicant believes the complaint is not valid shall be provided to the county and the complainant.

K. Noise Levels.

Noise levels from the project shall comply with applicable Illinois Pollution Control Board (IPCB) regulations. The applicant shall submit manufacturer sound power level characteristics and other relevant data for all project equipment necessary for a competent noise analysis. The applicant, through the use of a qualified professional, shall appropriately demonstrate compliance with the applicable noise requirements in its conditional use permit application. Any waivers as to noise obtained after the filing of the conditional use permit application shall be provided to the county prior to the issuance of the building permit. Any such waivers shall reflect the amount of overage modeled for the operation of the project and shall be recorded with the county recorder of deeds.

L. Agricultural Impact Mitigation.

Pursuant to Section 147/15 of the Illinois Renewable Energy Facilities Agricultural Impact Mitigation Act (505 ILCS 147/15), the facility owner shall enter into an "Agricultural Impact Mitigation Agreement" (AIMA) with the Illinois Department of Agriculture (IDOA). All impacted agricultural land, whether impacted during construction, operation, or decommissioning activities, must, at a minimum, be remediated by the applicant pursuant to the terms of the AIMA. The applicant shall submit a copy of the fully executed AIMA to the county as part of its conditional use permit application.

M. Avian and Wildlife Impact Study.

The applicant, at its expense, shall have a third-party, qualified professional conduct an avian and wildlife impact study and submit said study to the county as part of the conditional use permit application. Wind towers and supporting facilities shall be located, designed, constructed, and operated so as to avoid and mitigate impacts to wildlife.

N. As-Built Map and Plans.

Within 60 calendar days of completion of construction of the project, the owner or operator shall deliver to the county "as-built" maps, a final site plan and engineering plans that have been signed and stamped by a professional engineer and surveyor licensed in the State of Illinois.

O. Engineer's Certificate.

Prior to the issuance of a building permit, applicant must submit a certification from a structural engineer registered in the State of Illinois that the wind tower and foundation design is compatible with and appropriate for each location given the specific soil, subsurface and climate conditions. The engineer's certificate shall be submitted as part of the building permit application.

P. Conformance with Approved Application and Plans.

The owner shall construct and operate the project in conformance with the conditional use permit and any conditions, building permit requirements, this ordinance and all applicable state, federal and local laws, regulations, and permits.

Q. Additional Terms and Conditions.

1. All technical submissions, as defined by the Illinois Professional Engineering Practice Act of 1989 (225 ILCS 325/4(w)), contained in the conditional use permit application and the building permit application shall be prepared and signed by a professional engineer for the relevant discipline.

2. The county may retain a qualified, independent code inspector or professional engineer both to make inspections of the project during and after construction and to consult with the county to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the project is performed in compliance with applicable ordinance, conditions, electrical and building codes, state and federal law and regulation. The cost and fees so incurred by the county in retaining said inspector or engineer shall be promptly reimbursed by the applicant.

3. The owner shall install a locked metal gate or locked chain at the access road entrances of all the wind turbine generator locations. An exception may be made when the landowner has filed a written statement with the county which states that the owner does not want a locked metal gate installed and has provided a signed liability waiver to the county.

4. The conditional use permit granted to the applicant shall bind and inure to the benefit of the applicant, its successors-in-interest and assigns. If any provision in this ordinance or conditions of approval are held invalid, such invalidity shall not affect any other provision of this ordinance or conditions that can be given effect without the invalid provision and, to this end, the provisions in this ordinance and any conditions are severable.

5. The applicant of the commercial wind energy facility shall use two methods to detect icing conditions on turbine blades: (1) sensors that detect when blades become imbalanced or create vibration due to ice accumulation; and (2) meteorological data from on-site meteorological towers, on-site anemometers, and other relevant weather sources used to determine if ice accumulation is occurring. These control systems shall automatically shut down turbines in icing conditions or the owner/operator shall manually shut down turbines if such conditions are identified.

VII. OPERATION.

A. Maintenance.

1. *Annual Report*: The applicant must submit, on an annual basis on the anniversary date of the conditional use permit approval, an operation and maintenance report to the county. The report shall contain the following information: (i) a general description of any physical repairs, replacements or modifications to the project; (ii) complaints pertaining to setbacks, noise, shadow flicker, appearance, safety, lighting and use of any public roads received by the applicant concerning the project and the resolution of such complaints; (iii) calls for emergency services; (iv) the number of days the ADLS was operating as planned; (v) relevant certificates of insurance; and (vi) a general summary of service calls to the project. Failure to provide the annual report shall be considered a material violation of this ordinance.

2. *Repower/Modifications*: Any modification to an existing project or a project that has received a conditional use permit that increases the nameplate capacity, adds additional properties or parcels, increases the height of towers, increases the sound impacts to nonparticipating properties or nonparticipating residences, increases the shadow flicker impacts upon nonparticipating properties or nonparticipating residences, moves a wind tower greater than 100 feet in any direction, or moves any above ground supporting facilities greater than 100 feet in any direction shall submit to the county an application for an amendment to the conditional use permit which shall be subject to a public hearing and all procedural requirements of a conditional use permit request under the Illinois Counties Code.

B. Coordination with Emergency Responders.

1. The applicant shall submit to all local emergency responders a copy of the site plan and standard operating procedures and guidelines for the project so that the local law enforcement, fire protection district and rescue units, emergency medical service providers and emergency management service providers having jurisdiction over the project may evaluate and coordinate emergency response plans with the applicant.

Such materials shall be provided prior to the filing of the conditional use permit application.

2. The owner, at its own expense, shall provide annual training for, and the necessary equipment to, the operator and local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the project.

3. The owner and operator shall cooperate with all local emergency responders to develop an emergency response plan. The plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the owner and the operator, at least three designated facility representatives (a primary representative with two alternate representatives, that are on-call 24 hours per day/7 days per week/365 days per year. Any change in the designated facility representative and contact information shall be promptly communicated to the county. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed and updated on an annual basis.

4. Nothing in this section shall alleviate the need to comply with all other applicable life safety, fire and emergency laws and regulations.

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

1. All solid wastes related to the construction, operation and maintenance of the project shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws and regulations.

2. All hazardous materials related to the construction, operation and maintenance of the project shall be handled, stored, transported and disposed of in accordance with all applicable federal, state and local laws and regulations.

3. The project shall comply with existing septic and well regulations as required by the county health department and the Illinois Department of Public Health (IDPH).

D. Shadow Flicker.

The project must be operated such that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions, unless waived by the impacted property owner.

The applicant must present to the county a study on potential shadow flicker, which shall demonstrate through industry standard modeling that no occupied community building or nonparticipating residence will experience more than 30 hours of shadow flicker under planned operating conditions. An occupied community building owner or nonparticipating residence owner may waive this shadow flicker requirement; any shadow flicker waiver shall be set forth in a written waiver executed by the property owner and shall filed with the county recorder of deeds against title to the affected real property.

Any waivers as to shadow flicker obtained after the filing of the conditional use permit application shall be provided to the county prior to the issuance of the building permit. Any such waivers shall reflect the amount of overage modeled for the operation of the project and shall be recorded with the county recorder of deeds.

E. Drainage Systems.

The applicant, at its expense, shall repair, in a prompt and timely manner, all waterways, drainage ditches, agricultural drainage systems, field tiles, or any other private and public infrastructure improvements damaged during construction, maintenance and/or operation of the project in accordance with the "Agricultural Impact Mitigation Agreement" (AIMA), the Illinois Drainage Code and any agreements related to drainage.

F. Complaint Resolution.

The applicant shall, at its expense and in coordination with the county, develop a system for logging and investigating complaints related to the project. The applicant shall resolve such non-emergency complaints on a case-by-case basis and shall provide written confirmation to the county. All costs and fees incurred by the county in attempting to or resolving complaints shall be reimbursed by the applicant of the project. The applicant shall also designate and maintain for the duration of the project either a local telephone number or a toll-free telephone number and email address as its public information/inquiry/complaint hotline which shall be answered by a customer service representative on a 24/7 basis. The applicant shall post the telephone number and email address for the customer service representative in a prominent, easy to find location on their websites and at the project site on signage.

G. Determinations of No Hazard

A "Determination of No Hazard to Air Navigation" (DNH) for each wind tower and all other structures subject to Federal Aviation Administration (FAA) review and approval shall be provided to the county prior to the issuance of any building permit.

VIII. LIABILITY INSURANCE AND INDEMNIFICATION.

A. Commencing with the issuance of a building permit, the owner/operator shall maintain a current general comprehensive liability policy, pollution liability and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least $20,000,000 per occurrence and $40,000,000 in the aggregate during the life of the project. The applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a building permit, and at each subsequent renewal, at least annually thereafter.

B. The owner shall defend, indemnify and hold harmless the county and its officers, appointed and elected officials, employees, attorneys, engineers and agents (collectively and individually, the indemnified parties) from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relating to or arising out of the issuance of the conditional use permit or the construction, operation, maintenance and removal of the and affiliated equipment including,

without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of the owner or the operator under this ordinance or the conditional use permit, except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the negligence or intentional acts of such indemnified parties. This general indemnification shall not be construed as limiting or qualifying the county's other indemnification rights available under the law.

IX. DECOMMISSIONING AND SITE RECLAMATION PLAN.

A. Applicant must submit a decommissioning plan with cost estimation to the county as part of the conditional use permit application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the conditional use permit application.

B. Prior to receiving any building permit for the project, the owner shall enter into an agreed upon decommissioning agreement with the county to be approved by the county board.

C. The owner shall periodically submit an updated decommissioning plan, decommissioning cost estimate and updated financial assurances based on the agreed upon schedule with the county.

X. REMEDIES.

A. An owner/operator's failure to materially comply with any of the provisions under the conditional use permit, any conditions imposed on the project, building permit, and/or failure to comply with any other law, regulation or permit shall be a default and shall be grounds for revocation of the conditional use permit and/or building permit.

B. Prior to implementation of applicable county procedures for resolution of defaults, the county must first provide written notice to the owner, setting forth the alleged default(s) and provide an opportunity for the owner to cure the default(s) within a 30-calendar day period from the date of the notice. Should the owner commence the cure within that 30-day cure period, and diligently pursues a cure, the owner shall receive an additional 60 days to continue to pursue the cure before the county pursues procedures for the resolution of default. If the default relates to a life, health, or safety issue or interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the owner shall take all necessary and available commercial measures to immediately cure the default. If the owner cannot cure the default(s) or resolve the alleged default(s) within the cure period, then the county may pursue all remedies available at law.

XI. FEE SCHEDULE AND PERMITTING PROCESSES.

A. Conditional Use Permit Application Fees.

1. Prior to processing any conditional use permit application for a commercial wind energy facility and supporting facilities, the applicant must submit payment to the

county equal to $5,000 per megawatt of nameplate capacity, up to a maximum fee of $125,000. Nameplate capacity shall include any energy storage system capacity. Nameplate capacity shall be calculated in terms of direct current nameplate capacity.

2. Should the actual costs to the county exceed the conditional use permit application fee paid, the applicant shall be responsible for those additional costs and shall remit additional funds to the county within 15 days of receipt of a request from the county. No hearings on an application shall be conducted nor decisions rendered on any items related to the conditional use or decisions on any agreements with the county if outstanding fees remain due to the county.

3. $.70 per word for Legal Notice, per 55 ILCS 5/5-12009.

B. Building Permit Application Fees.

1. Prior to the issuance of a building permit, the owner must deposit a building permit fee equating to $5,000 per megawatt of nameplate capacity, up to a maximum fee of $75,000. Nameplate capacity shall include any energy storage system capacity. Nameplate capacity shall be calculated in terms of direct current nameplate capacity.

2. Should the actual costs to the county exceed the building permit application fee paid, the applicant shall be responsible for the additional costs and shall remit additional funds to the county within 15 days of receipt of a request from the county. No building permit shall be issued upon outstanding fees remaining due to the county.

3. A Temporary Meteorological Tower is exempt from building Permit fees, but a construction permit application is still required which includes a $25.00 application fee. [Effective since 27, April 22]

4. The Building Permit shall be valid for 24 months.

C. All Costs Paid by Applicant or Owner.

The applicant or owner shall pay all costs incurred by the county, those costs associated with all offices, boards and commissions of the county, and third-party costs incurred by the county, including but not limited to, direct or indirect costs associated with the hearing, permitting, operations, inspections, decommissioning, litigation, disputes, and/or negotiations.

XII. HEARING FACILITATOR.

A. The county may engage the services of a hearing facilitator. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the county but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence and the propriety of any arguments.

B. The hearing facilitator shall be an attorney, licensed to practice in the State of Illinois. The applicant shall reimburse the county for the fees and costs charged by the facilitator.

XIII. HEARING FACTORS.

The county board may approve a conditional use permit application for a commercial wind energy facility any supporting facilities if it finds the evidence complies with state, federal and local law and regulations, and with the standards of this ordinance including the factors listed below. The factors listed below shall be applied as a balancing test rather than individual requirements to be met.

1. The establishment, maintenance or operation of the commercial wind energy facility will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;

2. The commercial wind energy facility will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values of surrounding properties;

3. The establishment of the commercial wind energy facility will not impede the normal and orderly development and improvement of the surrounding properties;

4. Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;

5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

6. The commercial wind energy facility is not contrary to the objectives of the current comprehensive plan of the county (if any); and

7. The commercial wind energy facility will, in all other respects, conform to the applicable regulations of this ordinance and the zoning district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the county board.

XIV. CONDITIONAL USE PERMIT CONDITIONS AND RESTRICTIONS.

A. Conditions.

As part of its approval of a conditional use permit, the county board may stipulate conditions, guarantees, and restrictions upon the establishment, location, construction, maintenance, and operation of the facility as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this ordinance.

B. Revocation.

1. In any case where a conditional use permit has been approved for a commercial wind energy facility, the applicant shall apply for a building permit from the county, and all other permits required by other government or regulatory agencies to commence

construction and commence and actively pursue construction of facility within five years from the date of the granting of the conditional use permit. If the applicant fails to apply for a building permit from the county and all other permits required by other government or regulatory agencies prior to construction and/or fails to commence and actively pursue construction of the facility within this five-year period, then without further action by the county, the conditional use permit for the facility shall be automatically terminated, revoked and void. Upon written request supported by evidence that the applicant has diligently pursued issuance of all necessary permits for the facility required to commence construction and that any delay in commencement of construction of the facility is due to conditions out of its control, the county may allow for a reasonable extension of time.

2. A conditional use permit shall be automatically terminated, revoked and void if the applicant dissolves or ceases to do business, abandons the facility, or the facility ceases to operate for more than 12 consecutive months.

3. Subject to the provisions of this section, a conditional use permit may be revoked by the county if the facility is not constructed, installed and/or operated in substantial conformance with the county-approved plans, the regulations of this ordinance and the conditional use permit, conditions and restrictions, or failure to comply with any county, state or federal permits, laws or regulations.

C. Transferability.

Owner shall provide written notification to the county at least 30 days prior to a change in ownership of the project. A change in ownership shall include any assignment, sale, lease, transfer or other conveyance of ownership or operating control of the applicant, the project or any portion thereof. The owner or successors-in-interest or assignees of the conditional use permit shall remain liable for compliance with all conditions, restrictions and obligations contained in the conditional use permit and any conditions, building permit, the provisions of this ordinance and applicable county, state and federal permits, laws and regulations.

D. Permit Effective Date.

A conditional use permit granted under this ordinance shall become effective upon the date of approval of the conditional use permit by the county board.

XV. SEVERABILITY.

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

XVI. EFFECTIVE DATE.

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

Reviewed and determined consistent with the Knox County Zoning Ordinances and recommended for approval by the Zoning Board of Appeals.

_____ **Dated:** _____
Chairperson

Reviewed and approved by the Knox County State's Attorney

_____ **Dated:** _____
Knox County State's Attorney

Approved by the Knox County Board

_____ **Dated:** _____
Chairperson

_____ **Dated:** _____
County Clerk

Rejected by the Knox County Board

_____ **Dated:** _____
Chairperson

_____ **Dated:** _____
County Clerk