

## B. Wind Energy Conversion Systems

### 1. Purpose

a. It is the purpose of this section to:

- 1) Assure the protection of health, safety, welfare, and property values for all DeKalb County residents and landowners.
- 2) Assure that any development and production of wind-generated electricity in DeKalb County is safe and effective.
- 3) Facilitate economic opportunities for local residents.
- 4) Promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.

**2. Definitions:** The following words and terms when used in the interpretation and administration of this section shall have the meaning set forth herein except where otherwise specifically indicated:

Applicant: The entity who submits to the County an application a CWF Permit application for the establishment and operation of a CWF or substation. All references to Applicant in this Section shall include Applicant's successor's-in-interest and assigns.

Commercial Operation Date: The calendar date on which the CWF produces power for commercial sale, not including test power.

Commercial Wind Energy Facility (CWF): 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.

CWF Permit: The zoning entitlement allowing for the establishment and operation of a CWF on a property, including any supporting facilities. This permit shall also be required for the alteration of an existing CWF that represents a significant departure from what was originally approved, but does not include routine maintenance, repair, or replacement of CWF components. The CWF Permit shall be considered the equivalent of a Special Use Permit.

CWF Permittee: An Applicant who applies for and receives a CWF Permit for the establishment and operation of a CWF. All references to Permittee in this Section shall include Permittee's successor's-in-interest and assigns

Facility Owner: (i) A person with a direct ownership interest in a CWF, 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.

Financial Assurance: Shall mean reasonable assurance from a credit-worthy party; examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit.

Operator: Shall mean the entity responsible for the day-to-day operation and maintenance of the WECS and substations, including any third-party subcontractors.

Meteorological Tower: Towers which are erected primarily to measure wind speed and direction plus other data relevant to siting and operation of a CWF 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

Nonparticipating Property: Real property that is not a participating property.

Nonparticipating Residence: A residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the CWF 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 CWF is filed with the County: a school; place of worship; day care facility; public library; or community center.

Participating Property: Real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease,

or license to use the real property for the purpose of constructing a CWF or supporting facility. Participating property also includes real property that is owned by a facility owner for the purpose of constructing a CWF or supporting facilities.

Participating Residence: A residence that is located on participating property and that is occupied on the date that an application for a permit to develop the CWF is filed with the County

Professional Engineer: Shall mean a qualified individual who is licensed as a professional structural engineer in the State of Illinois.

Property Line: Shall mean the boundary line of the area over which the entity applying for a CWF has legal control for the purposes of installation of a CWF. This control may be obtained through fee title ownership, lease, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

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

Primary Structure: Shall mean, for each property, the structure that one or more persons occupy the majority of the time on that property for either business or personal reasons. Primary structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary structure excludes such structures as hunting sheds, storage sheds, pool houses, unattached garages, and barns.

Public Conservation Lands: Land owned in fee title by County, State, or Federal agencies and managed specifically for conservation purposes, including but not limited to County, state and federal parks, state and federal wildlife management areas, state scientific and natural areas, and federal wildliferefuges and waterfowl protection areas. Public conservation lands do not include private lands upon which conservation easements have been sold to government agencies or non-profit conservation organizations. Public conservation lands also do not include private lands for which the owners have entered into contractual relationships with government or non-profit conservation organizations for conservation purposes.

Substation: shall mean the apparatus that connects the electrical collection system of the WECS and increases the voltage for connection with the utility's transmission lines.

Supporting Facilities: Shall mean the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the CWF.

Wind Energy Conversion Systems (WECS): Shall mean all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS tower to the substation.

WECS Tower Height: Shall mean the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

Wind Tower: Shall mean the wind turbine, nacelle, and blades.

**3. Municipal CWF:** CWF that are proposed to be located on lands within the 1.5-mile radius of an incorporated municipality's zoning jurisdiction shall seek zoning and building approval from said municipality.

a. Prior to the start of any construction or ground work, the facility owner must either:

- 1) Present documentation that the proposed site is the subject of an approved pre-annexation agreement, and facilitate the creation of an Intergovernmental Agreement between the municipality and the County identifying that the municipality will be taking full jurisdiction over the project site and affected properties for the life of the project; or
- 2) Present documentation that the proposed site has been the subject of an annexation into the municipality.

**4. Commercial Wind Energy Facility (CWF)**

a. **Applicability:**

- 1) This ordinance governs the siting of CWF, and associated supporting facilities, that generate electricity to be sold to wholesale or retail markets.

- 2) No CWF or substation governed by this ordinance shall be constructed, erected, installed, or located within unincorporated DeKalb County unless CWF Permit has been obtained for each individual CWF and substation, or for a group of CWF projects and substations under a joint CWF Permit, pursuant to this ordinance.
- b. **Standards and Requirements:**
- 1) **CWF** are allowed in the A-1, MC, and PD-I Zoning Districts, and shall require a CWF Permit.
  - 2) **Setbacks:**
    - a) All setbacks shall be measured from the center of the base of the wind tower;
    - b) The wind tower shall be setback at least 2.1 times the maximum blade tip height of the wind tower from the nearest point on the outside wall of an occupied community building; and
    - c) The wind tower shall be setback at least 1.1 times the maximum blade tip height of the wind tower from the nearest point on the outside wall of dwelling on a participating property; and
    - d) The wind tower shall be setback at least 2.1 times the maximum blade tip height of the wind tower from the nearest point on the outside wall of a dwelling on a nonparticipating property; and
    - e) The wind tower shall be setback at least 1.1 times the maximum blade tip height of the wind tower from the nearest point on the property line of a nonparticipating property; and
    - f) The wind tower shall be setback at least 1.1 times the maximum blade tip height of the wind tower from the center point of a public road right-of-way; and
    - g) The wind tower shall be setback at least 1.1 times the maximum blade tip height of the wind tower from the nearest edge of the property line, easement, or right-of-way containing an overhead communication and electric transmission line, and distribution facility (This does not include overhead utility service lines to individual houses or outbuildings); and
    - h) The wind tower shall be setback at least 2.1 times the maximum blade tip height of the wind tower from the nearest point on the property line of a fish and wildlife area or any Illinois Nature Preserve Commission protected land.
    - i) There shall be no setback from the boundary lines of a participating property.
    - j) There shall be no setback from overhead utility service lines to individual houses or outbuildings.
    - k) These setbacks may be waived if the developer of the facility can obtain and submit as part of the CWF Permit application, written, signed, and notarized statements from the owners of each affected nonparticipating property agreeing to waive these setbacks. Any waiver of any of the above setback requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property.
    - l) A “spot” survey will be required, at time of installation, verifying that all elements of the facility meet the minimum setbacks. It will be the responsibility of the developer to relocate any component of the facility failing to meet these setbacks in a timely fashion. Failure to do so will constitute a violation of the Permit.
    - m) This Section does not exempt or excuse compliance with electric facility clearances approved or required by the National Electrical Code, The National Electrical Safety Code, The National Fire Protection Association, Illinois Commerce Commission, Federal Energy Regulatory Commission, and their designees or successors.
  - 3) **Shadow Flicker:** Wind towers in a CWF shall be sited so that industry standard computer modeling indicates that any occupied community building or nonparticipating residence will not experience more than thirty (30) hours per year of shadow flicker under planned operating conditions.
    - a) This requirement may be waived if the developer of the facility can obtain and submit as part of the CWF Permit application, written, signed, and notarized statements from the

owners of each affected nonparticipating property agreeing to waive this requirement. The waiver of the above requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property.

- 4) **Sound:** Noise levels from CWF shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. The Applicant shall submit manufacturer's sound power level characteristics and other relevant data regarding noise characteristics 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 CWF Permit application.
- 5) **Stormwater:** CWF are subject to DeKalb County's Stormwater Management regulations, erosion and sediment control CWF provisions. The facility owner will have to submit and receive approval of a Site Development Permit to demonstrate that these requirements will be met.
- 6) **Drainage Systems:** The Applicant, at its expense, will 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 operation phases of the CWF in accordance with the Agricultural Impact Mitigation Agreement.
- 7) **Supporting facilities:** Supporting facilities constructed in conjunction with the CWF are subject to all of the same siting requirements as the CWF, and must be fully detailed and presented as part of the CWF Permit application. Additionally, large-scale supporting facilities which require the permanent removal and/or destruction of the farm soils of the land on which the facility is to be placed, such as substations, shall be located so as to minimize, to the greatest extent possible, the impact of said facilities.
- 8) **Compliance with the Federal Aviation Administration (FAA):** The applicant for the WECS shall comply with all applicable FAA requirements.
- 9) **Height:** CWF shall not have a height greater than that allowed under a Determination of No Hazard to Air Navigation by the Federal Aviation Administration.
- 10) **Standards and Codes:** All CWF shall be in compliance with all applicable local, state and federal regulatory codes, including, but not limited to: the State of Illinois Plumbing Code; The State of Illinois Electric Code; The State of Illinois Energy Code; the State of Illinois Uniform Building Code, as amended; the National Electric Code, as amended; and, all DeKalb County Health Department requirements.
- 11) **Electrical Components:** All electrical components of the CWF shall conform to applicable local, state, and national codes, and relevant national and international standards e.g., ANSI and International Electrical Commission.
- 12) **Climb Prevention:** All WECS towers must be un-climbable by design or protected by anti-climbing devices including, but not limited to:
  - a) Fences with locking portals at least six (6) feet in height, but no greater than seven (7) feet in height; or
  - b) Anti-climbing devices twelve (12) feet vertically from the base of the CWF tower.
- 13) **Design Safety Certification:**
  - a) CWF shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third-party.
  - b) Following the granting of CWF Use Permit under this Ordinance, a professional structural engineer shall certify, as part of the Building Permit application, that the foundation and tower design of the CWF is within accepted professional standards, given local soil and climate conditions.

- 14) Controls and Brakes:** All CWF shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a failsafe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.
- 15) Aesthetics and Lighting -** The following items are recommended standards to mitigate visual impact:
- a) **Coatings and Coloring:** Towers and blades should be painted white or gray or another non-reflective, unobtrusive color.
  - b) **Turbine Consistency:** To the extent feasible, the WECS Project should consist of turbines of similar design and size, including tower height. Further, all turbines should rotate in the same direction. Turbines should also be consistent in color and direction with nearby facilities.
  - c) **Lighting:** WECS Projects should utilize minimal lighting that is compliant with the applicable FAA regulations, as amended by the FAA. To the extent that such tower lighting is available, and is approved by the FAA for a CWF Project, the Applicant shall install Aircraft Detection Lighting Systems ("ADLS") or other similar technology to reduce light pollution and visual impacts caused by the CWF Towers.
  - d) **Intra-project Power and Communication Lines:** All power lines used to collect power from individual turbines and all communication lines should be buried underground at a depth in accordance with the Agricultural Impact Mitigation Agreement until same reach the property line or a substation adjacent to the property line.
- 16) Warnings:**
- a) A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
  - b) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of fifteen (15) feet from the ground.
- 17) Compliance with Additional Regulations:** Nothing in this ordinance is intended to preempt other applicable state or federal laws and regulations.
- 5. Pre-Application Meeting:** A pre-application meeting shall be held with representatives from the Community Development Departments, the County Highway Department, the impacted township(s), the DeKalb County Soil and Water Conservation District and all other applicable departments and agencies as determined by the Community Development Department.
- 6. Content of a CWF Permit Application:** A CWF Permit application shall require the following:
- a. For CWF Permit applications involving multiple towers, only one application is required. However, although processed as one CWF Permit, each tower within a CWF shall be charged the established CWF Permit fee.
  - b. The application shall include two (2) printed copies and one electronic copy of the entire application (including: the application forms and any attachments or other submittals included therein).
  - c. **A completed "Application for Zoning Action" form.**
  - d. **Initial Deposit towards the WCF Permit:** An initial deposit of \$850.00 is due at the time of submission. The applicant is responsible for all costs (staff review, publication costs, hearing officer fees, etc.) associated with processing the permit. The total fee will not be known until all of the final costs have been received (typically, about 2 -3 weeks after the public hearing). At which time, the initial deposit will be applied towards the total fee, and the applicant invoiced for the remainder of fee.
  - e. **Facility Contacts:** The names, company names, addresses, emails, and phone numbers of the Applicant, the Facility Owner, and Operator of the CWF, if known.

- f. If the applicant is not the owner of the property, the applicant shall also include a signed & dated statement (or similar document) from the property owner(s) acknowledging that the applicant has their approval to seek the requested CWF Permit.
- g. **Narrative Statement:** A written document providing to the extent available:
  - 1) A detailed description of the project, including (i) its approximate overall name plate generating capacity, (ii) the potential equipment manufacturer(s), (iii) type(s) of WECS, (iv) number of WECS and name plate generating capacity of each WECS, (v) the maximum height of the tower(s), (vi) the maximum diameter of the rotors, (vii) project phasing plan and project construction timeline plan, (viii) the general location of the project, and (ix) the number of substations;
  - 2) A description of the Applicant, Owner and Operator, including their respective business structures;
  - 3) A general business plan outlining all major CWF related events that will take place over the useful life of the project; and,
  - 4) The names, addresses, and phone numbers of all property owners included in the application.
- h. A plat of survey, or property boundary plat, of the subject properties.
- i. **Site Plan:** A site plan for the installation of the WECS showing the planned location of each WECS tower; guy lines and anchor bases (if any); associated supporting facilities; property lines, including identification of adjoining properties; public access roads and turnout locations; substations; electrical cabling from the tower to the substations; permanent meteorological towers; third party transmission lines; floodplains; wetlands and other protected natural resources; topography; underground mines; location of all known communication towers within two (2) miles of the proposed CWF; and, drainage structures, including surface drainage ditches and subsurface drainage lines. The Site Plan must also identify all setback lines, occupied community structures, participating residences, nonparticipating property lines, and residences on nonparticipating properties within a distance of 2.5 times the maximum blade tip height of the wind tower, and their distance from them to the tower.
- j. **Setback Waivers:** Copies of any setback waivers to be submitted, along with verification that they have been properly recorded.
- k. **Noise Analysis:** The Applicant shall submit manufacturer's sound power level characteristics and other relevant data regarding noise characteristics necessary for a competent noise analysis, and through the use of a qualified professional, shall appropriately demonstrate compliance with the applicable noise requirements.
- l. Drawings, elevations, or pictures of any structures to be altered, built, or included as part of the proposed project.
- m. The CWF developer shall provide confirmation that the blade tip height of the wind tower(s) will comply with a Determination of No Hazard to Air Navigation by the FAA.
- n. A CWF developer shall be required to initiate a natural resource review consultation with the Illinois 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 will be borne by the developer. The results of this consultation shall be included as part of the CSES Permit application.
- o. A CWF developer shall be required to initiate a consultation with the Illinois Historic Preservation Agency (IHPA) to assess potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act. The cost of this consultation shall be at the developer's expense. The results of this consultation shall be included as part of the CWF Permit application.
- p. A CWF developer shall be required to include as part of the CWF Permit application demonstration of the avoidance of protected lands as identified by the IDNR and the Illinois Nature Preserve Commission. The facility owner shall abide by the recommendations of the IDNR for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission.

- q. A CWF developer shall be required to include as part of the CWF Permit application the results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with the any applicable United States Fish and Wildlife Service solar wildlife guidelines that have been subject to public review.
- r. **Avian and Wildlife Impact Study:** The Applicant, at its expense, shall have a third party, qualified professional (after submission of resume and relevant work experience) conduct an avian and wildlife impact study and submit said study to the County as part of the CWF Permit application. Each CWF or CWF Project should be located, designed, constructed, and operated so as to avoid and if necessary mitigate the impacts to wildlife
- s. **Communications Analysis:** No wind turbine generator should be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. Nor should a wind turbine generator be installed in a location along the major axis of existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
  - 1) The Applicant, at its expense, shall have a third party, qualified professional (after submission of resume and relevant work experience) conduct an appropriate analysis of the television reception documenting the television stations that are received within one and one-half (1 ½) miles of the footprint of the CWF Project. The results of said study shall be public record and will serve as a baseline reading for television reception conditions prior to the construction of the CWF Project and shall be submitted as part of the CWF Permit application.
  - 2) The Applicant, at its expense, shall have a third party, qualified professional (after submission of resume and relevant work experience), conduct a communications analysis that indicates that the E911 communications, emergency communications or official County and local municipal communications reception shall not be negatively impacted or influenced by the proposed CWF. Said communication analysis shall be a public record and shall be submitted as part of the CWF Permit application.
  - 3) The Applicant and the Operator, at the Applicant's expense, shall take immediate actions to minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves or television signals and to eliminate any such interference that impacts local government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, caused by the operation of the WECS. The Applicant shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the CWF Project Summary and Site Plan. To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s), the Applicant and the Operator, at Applicant's expense, shall take reasonable measures to minimize and mitigate such anticipated interference and with regard to interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant and the Operator, at Applicant's expense, shall take all necessary and available commercial measures to eliminate any such interference.
- t. **Natural Resources Inventory Report (NRI):** All CWF projects that will result in property being taken out of agricultural production is required to obtain an NRI from the DeKalb County Soil and Water Conservation District, and include it as part of the application.
- u. **Legal Descriptions:** Two (2) legal descriptions shall be submitted: the first will be of the subject property(s) on which the facility will be located, which will be used for the public notice; and, the second will be of the specific leased/purchased area(s) to be occupied by the CWF.

- v. **AIMA:** The facility owner must include signed & completed copies of the Agricultural Impact Mitigation Agreement(s) (AIMA) that they entered with the Department of Agriculture.
  - w. **Decommissioning and Site Reclamation Plan:** The Applicant (or Owner, if different from the Applicant) must submit a Decommissioning and Site Reclamation Plan with cost estimation to the County as part of the CWF Permit application, and shall be prepared to provide testimony supporting the calculation of costs provided in said plan during the public hearing
- 7. CWF Permit Application Process**
- a. The hearing officer shall hold a public hearing on the application, and shall have the authority to determine whether the CWF Permit application meets the regulations as set forth for CWF in this Ordinance. The hearing officer shall make a finding of fact and determination of compliance based upon those regulations herein prescribed.
  - b. A complete application for a CWF Permit shall be filed with the Community Development Department. The Department will then arrange for a public hearing to be held on the application, no more than 45 days after the filing of the application. Notice of the hearing shall be published at least once, not more than 30 days or less than 15 days before the hearing, in a newspaper of general circulation in the County. Supplemental or additional notices may be published or distributed as the hearing officer may, by rule, prescribe from time to time. Additionally, a copy of such notice shall be mailed to: owner(s) of record of all properties adjacent to the parcel(s) included in the application; to those properties adjacent to the aforesaid properties; and, any municipality whose boundaries are within 1-1/2 miles of any part of the property proposed as a CWF. The County may also provide notice of such hearing by erection of a sign on the subject property, posted in a conspicuous place on the subject property allowing unobstructed public viewing.
  - c. Interested parties to a CWF Permit shall be allowed an opportunity to present evidence and to cross-examine witnesses at the hearing; however, the Hearing Officer may impose reasonable restrictions on the public hearing, including reasonable time limitations on the presentation of evidence and the cross-examination of witnesses. Public comment shall also be allowed at the public hearing in accordance with the Open Meetings Act.
  - d. **AIMA:** If copies of the signed AIMA(s) were not included as part of the CWF application, then the petitioner must be prepared to submit at the hearing two (2) signed & completed copies of the AIMA, one to the Hearing Officer and one to DeKalb County Community Development staff, dated prior to the date of the public hearing. If no AIMA is submitted, the application shall be considered incomplete and denied.
  - e. **Findings of fact and Determination of Compliance of the hearing officer:** Within 30 days after the close of the hearing on a proposed CWF, the hearing officer shall make written findings of fact and shall submit same together with his Determination of Compliance to the Community Development Department. The hearing officer shall make findings based upon the evidence presented to him in each specific case.
  - f. **Resolution of the CWF Permit Application:** A copy of the Hearing Officer's Findings of Fact and Determination of Compliance shall be forwarded to the applicant, along with the final invoice for the total fee amount.
- 8. Post CWF Permit Approval:** Following the approval of the CWF Permit, the facility owner shall submit and obtain approval of the following:
- a. **Conformance with Approved Application and Plans:** The Applicant shall construct and operate the CWF in substantial conformance with the plans and materials contained in the CWF Permit application and presented at the public hearing. Nothing contained herein shall be deemed to preclude the agricultural, commercial, or industrial use of the balance of the subject property not occupied by the CWF Project. Said agricultural use will be considered as being the principal use of the subject property notwithstanding adoption of a CWF Permit and the construction and operation of one or more CWF on a given lot or parcel of land, at locations approved by the County pursuant to CWF Permit.



- b. **Tile Investigation Report.** The facility owner must submit a Tile Investigation Report, as part of the Site Development Permit application, for the entire area of the CWF, identifying all drain tiles located therein. The CWF developer shall maintain and protect all drain tiles located within the project area, and shall repair or replace any drain tiles damaged as a consequence of the installation or removal of the CWF.
- c. **NPDES Permit:** CWF are subject to the requirements of a NPDES Permit from the Illinois Environmental Protection Agency. The facility owner shall submit copies of documentation that the facility will meet these requirements as part of the Site Development Permit application.
- d. **Site Assessment:** To ensure that the subsurface conditions of the site will provide proper support for the CWF Towers and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports to the County Engineer with respect to each CWF Tower location, as part of its Site Development Permit.
- e. **Site Development Permit:** The facility owner shall submit a complete application for a Site Development Permit for each tower and substation, and receive approval thereof prior to the submittal of the Building Permit for the CWF.
- f. **Road Use Agreements:** Road Use Agreements shall be established with all appropriate road authorities prior to the submittal of the Building Permit for the CWF. The Applicant shall provide a copy of an executed road use agreement between the Applicant and the appropriate governing road and highway jurisdictions or the Illinois Department of Transportation, to the County showing approved entrances prior to the submittal of any CWF Building Permit.
- g. **Interconnection Agreement:** A copy of the Interconnection Agreement application submitted to electrical utility needs to be submitted prior to submittal of the Building Permit. The CWF shall comply with the interconnection requirements of the electric utility.
- h. **Decommissioning and Site Reclamation Plan:** The Applicant or Owner shall provide a Decommissioning Agreement and post the required Financial Assurances for the benefit of the County, prior to the submittal of the Building Permit for the CWF. The Decommissioning Agreement and Financial Assurances shall comply with 55 ILCS 5/5-12020.
- i. **Building Permit:** The facility owner shall submit a separate Building Permit application to the DeKalb County Community Development Department for review and approval for each tower in the CWF.
  - 1) **Plan Approval Required:** All wind energy systems shall require administrative plan approval by the DeKalb County Building official via the review of the application for a building permit.
    - a) **Plan Applications.** Plan applications for wind energy systems shall be accompanied by horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the property, including the property lines.
    - b) **Plan Approvals.** Applications that meet the design requirements of this ordinance, and do not require an administrative variance, shall be granted administrative approval by the Director of Community Development and shall not require Planning and Zoning Committee review. Plan approval does not indicate compliance with Building Code or Electric Code.
  - 2) The County may retain a qualified, independent code inspector or professional engineer both to make appropriate inspections of the CWF during and after construction and to consult with the County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the CWF is performed in compliance with applicable electrical and building codes. The cost and fees so incurred by the County in retaining said inspector or engineer shall be promptly reimbursed by the Applicant of the CWF.
- j. **As-Built Map and Plans:** Within sixty (60) calendar days of completion of construction of the CWF, the Applicant or Operator shall deliver "as-built" maps, site plan and engineering plans

for the CWF that have been signed and stamped by a Professional Engineer and a licensed surveyor.

- k. The Siting Approval 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 is held invalid, such invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions in this Ordinance are severable.

**9. Use of Public Roads**

- a. An Applicant proposing to use any County, municipality, township or village road(s), for the purpose of transporting WECS or Substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) or Substation(s), shall:
  - 1) Road Agreement: A road agreement that includes all effected jurisdictions (municipal, township, county, state, etc.) must be agreed upon by all parties and recorded with the DeKalb County Recorder's Office. A signed agreement must be recorded prior to the issuance of the first Building Permit. The agreement shall include, but not be limited to:
    - a) Identify all such public roads; and
    - b) Obtain applicable weight and size permits from the relevant government agencies prior to construction.
  - 2) To the extent an applicant, owner, or operator must obtain a weight or size permit from the County, municipality, or township, the applicant, owner, or operator shall:
    - a) Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
    - b) Any proposed public roads that will be used for construction purposes shall be identified and approved in writing by the respective Road District Commissioner and the County Engineer prior to the granting of the CWF Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from the respective highway authority. Any road damage caused by the transport of the facility's equipment, the installation, maintenance, or removal, must be completely repaired to the reasonable satisfaction of the Road District Commissioner and the County Engineer. The Road District Commissioner and County Engineer may choose to require either remediation of road repair upon completion of the CWF Project or are authorized to collect fees for overweight and/or oversized load permits. Further, financial assurance in an amount to be fixed by the Road District Commissioner to ensure the Road District or the County that future repairs are completed to their reasonable satisfaction shall be provided. Applicant shall submit a draft form of said financial assurance with application for CWF Permit.
    - c) Enter into a road use agreement with the County and each affected Road District that includes the following provisions, at a minimum:
      - i. Project layout map;
      - ii. Transportation impact analysis;
      - iii. Pre-construction plans;
      - iv. Project traffic map;
      - v. Project scope of repairs;
      - vi. Post-construction repairs;
      - vii. Insurance;
      - viii. Financial Security in forms and amounts acceptable to the County;

The road use agreement shall require Applicant to be responsible for the reasonable cost of improving roads used to construct CWF and the reasonable cost of repairing roads used by the facility owner during construction of the CWF so that those roads are in a condition

that is safe for the driving public after the completion of the CWF construction. Roadways improved in preparation for and during the construction of the CWF shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.

- 3) 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 prior to the approval of any Building Permit applications related to the construction of the proposed CWF Project.

## 10. Operation

### a. Maintenance:

- 1) **Annual Report.** The Applicant (CWF Permittee) must submit, on an annual basis on the anniversary date of the siting approval application, 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 modification(s) to the CWF and/or its infrastructure; (ii) complaints pertaining to setbacks, noise, shadow flicker, appearance, safety, lighting and use of any public roads received by the Applicant concerning the CWF and the resolution of such complaints; (iii) calls for emergency services; (iv) status of liability insurance; and (v) a general summary of service calls to the CWF. Failure to provide the annual report shall be considered a material violation of this Ordinance and the Remedies outlined in this Ordinance. In addition to the above annual summary, the owner or operator must furnish such operation and maintenance reports as the County reasonably requests.
- 2) **Re-Certification:** Any physical modification to the CWF that alters the mechanical load, mechanical load path, or major electrical components shall require recertification. Like-kind replacements and modifications that are made in the ordinary course of operations shall not require recertification, but shall require a Building Permit. Prior to making any physical modification (other than like-kind replacements and modifications that are made in the ordinary course of operations) the owner or operator shall confer with a third-party certifying entity to determine whether the physical modification requires recertification.
- 3) Upon request from the DeKalb County Community Development Department, an owner of a CWF must provide documentation, within thirty (30) days, that the CWF is still in use. If it is not, the owner of the System will have 180 days, after notification from the Community Development Department, to remove the CWF from the property.
- 4) The Applicant of the CWF shall use two (2) 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 that will be used to determine if ice accumulation is occurring. These control systems will either automatically shut down the turbines(s) in icing conditions or the Applicant will manually shut down the turbine(s) if icing conditions are identified.
- 5) **Communication Interference:**
  - a) If, after construction of the CWF, the Applicant (CWF Permittee) or Operator receives a written complaint related to the above-mentioned interference, the Applicant (CWF Permittee) shall take commercially reasonable steps to respond to the complaint, except in the case of a complaint of interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications. In the case of local, government public safety

communications, the Applicant (CWF Permittee) and the Operator, at the Applicant's expense, shall immediately take all necessary and available commercial measures to eliminate any such interference.

- b) If, after construction of the CWF, the Applicant (CWF Permittee) or Operator receives a written complaint related to interference with local broadcast residential television, the Applicant (CWF Permittee) shall take commercially reasonable steps to respond to the complaint. A summary of complaint and subsequent response from Applicant shall be forwarded to the DeKalb County Community Development Department for review. Once the construction is complete and a television reception complaint is received by the DeKalb County Community Development Department, who will have thirty (30) calendar days to verify the complaint, the Applicant (CWF Permittee) will be given fifteen (15) calendar days to respond, in writing (validation date). Said response shall be addressed and forwarded to both the DeKalb County Community Development Department and the complainant. Such response shall include but not be limited to the following: an acknowledgment that a complaint was made and evaluated by the Applicant (CWF Permittee). If considered valid by the Applicant (CWF Permittee): an explanation, including a timeline, as to what the Applicant (CWF Permittee) intends to do about the complaint. The Applicant (CWF Permittee) of the wind power facility will be given an additional fifteen (15) calendar days from the validation date to resolve said TV reception issue. If considered invalid by the Applicant (CWF Permittee), an explanation, including supporting documentation and expert opinions, as to why the Applicant (CWF Permittee) believes the complaint is not valid. Television reception complaints must be filed within six (6) months from the date each wind turbine generator goes online.

b. **Coordination with Local Fire Departments:**

- 1) The Applicant shall submit to the local emergency responders a copy of the Site Plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), and any amendments to such documents, for the CWF so that the local law enforcement, fire protection district and rescue units, emergency medical service providers and emergency management service providers that have jurisdiction over each site may evaluate and coordinate their emergency response plans with the Applicant of the CWF.
- 2) The Applicant, at its 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 CWF.
- 3) The Applicant and the 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 Applicant and the Operator and at least three (3) designated CWF representatives (a primary representative with two (2) alternate representatives, each of whom are on-call "24 hours per day / 7 days per week / 365 days per year"). Any change in the designated CWF representative or his/her 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 annually basis.
- 4) Nothing in this section shall alleviate the need to comply with all other applicable life, safety, fire/emergency laws and regulations.

c. **Materials Handling, Storage, and Disposal:**

- 1) All solid wastes related to the construction, operation, and maintenance of the CWF 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 CWF shall be handled, stored, transported, and disposed of in accordance with all federal, state, and local laws.

3) The WECS Project shall comply with existing septic and well regulations as required by the County Health Department and the State of Illinois Department of Public Health.

**11. 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 CWF 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 CWF Project. The Applicant shall also designate and maintain for the duration of the CWF Project either a local telephone number or a toll-free telephone number and an email address as its public information / inquiry / and complaint "hotline" which shall be answered by a customer service representative 24/7 basis. The Applicant shall post the telephone number(s) and email address(es) for the customer service representative(s) in an prominent, easy to find location on their websites and at the CWF Project site on signage.

**12. Remedies:**

- a. The Applicant's failure to materially comply with any of the provisions under the CWF Permit granted herein shall be a default and shall be grounds for revocation of the CWF Permit by the County Board.
  - b. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate county body shall first provide written notice to the owner and operator, setting forth the alleged default(s). Such written notice shall provide the owner and operator a reasonable time period, not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s). If the default relates to a life safety issue or interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant or the Operator shall take all necessary and available commercial measures to immediately cure the default.
  - c. If the County determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing county ordinance provisions addressing the resolution of such default(s) shall govern.
- 13. Future Operators:** Future operators, successors, assignees, or heirs shall agree in writing to accept and to conform to all provisions of the Special Use Permit. Prior notice to the County of the intent to sell or transfer ownership shall be done in a timely manner. Such agreement shall be filed with and accepted by the County before the transfer to a new operator, successor, assignees, or heirs shall be effective