STATE OF ILLINOIS)
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COUNTY OF DEKALB)

ORDINANCE 2026-007

AN ORDINANCE AMENDING SECTIONS 14-A-2, 53-E-6, AND 53-E-12 OF THE DEKALB COUNTY CODE TO AMEND THE REGULATIONS FOR SUSTAINABLE ENERGY SYSTEMS.

WHEREAS, Sections 14-A-2, 53-E-6, and 53-E-12 of the DeKalb County Code contains regulations related to the establishment and operation sustainable energy systems within the unincorporated portions of DeKalb County; and

WHEREAS, on January 8, 2026, the State of Illinois adopted updates to the statewide standards for commercial solar and wind facilities and established statewide standards for energy storage systems; and,

WHEREAS, counties in the State were required to bring their existing ordinances into compliance with said statewide standards by June 1, 2026 and,

WHEREAS, a text amendment has been developed by DeKalb County Community Development Department which would update the regulations governing solar, wind, and energy storage systems within the unincorporated portions of DeKalb County to bring them into compliance with said statewide standards; and

WHERAS, the DeKalb County Community Development Department has submitted an application containing the proposed text amendments to Sections 14-A-2, 53-E-6, and 53-E-12; and

WHEREAS, following due and proper notice by publication in the Daily Chronicle not less than fifteen (15) nor more than thirty (30) days prior thereto, the DeKalb County Hearing Officer conducted a public hearing on April 2, 2026, regarding the proposed Text Amendment; and

WHEREAS, based on the testimony given at the public hearings, the Hearing Officer has forwarded to the Planning, Zoning, and Development Committee findings and a recommendation that the amendments be approved, as set forth in the Findings of Fact and Recommendation of the DeKalb County Hearing Officer; and

WHEREAS, the Planning, Zoning, and Development Committee of the DeKalb County Board has reviewed the testimony and exhibits presented at the public hearing, and having considered the Findings and Recommendation of the Hearing Officer, has forwarded a recommendation to the DeKalb County Board that the amended proposed text be adopted, as set forth in Exhibit “A” (attached); and

WHEREAS, the DeKalb County Board has determined that it is in the best interests of the citizens of the County to amend the DeKalb County Zoning Ordinance in accordance with the amended proposed text;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF DEKALB COUNTY, ILLINOIS, as follows:

SECTION ONE: The Findings of Fact and Recommendation of the DeKalb County Hearing Officer, Exhibit "B", attached hereto, is hereby adopted as the findings of fact and conclusions of the DeKalb County Board; and

SECTION TWO: Sections 14-A-2, 53-E-6, and 53-E-12 of the DeKalb County Code, are hereby amended as shown in Exhibit "A":

SECTION THREE: This Ordinance shall be in full force and effect upon its adoption by the County Board of DeKalb County, Illinois.

PASSED BY THE COUNTY BOARD THIS 20TH DAY OF MAY, 2026, A.D.

ATTEST:

Tasha Sims
DeKalb County Clerk

SIGNED:

John Frieders, Chair
DeKalb County Board

Exhibit "A"

Replace in its entirety Section 14-A-2.3.e with the following language:

e. **Commercial Renewable Energy Systems**

1. Commercial Wind Energy Conversion Systems and Commercial Solar Energy Conversion Systems:

a. The facility owner or developer 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. The Building Permit fee is due at the time of submission.

b. 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.

c. Modifications to an existing, commercial wind energy conversion system or solar energy conversion system, such as routine maintenance, repair, or replacement of components … $5,000
(Modifications that result in a significant departure from what was originally approved for the facility, such as, but not limited to: an increase in the height of a turbine, an increase in the number of solar panels, new accessory structures, or an increase in nameplate wattage of the facility shall require an amendment to the Special Use Ordinance governing the facility.)

d. 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.

2. Energy Storage Systems

a. The facility owner or developer must deposit a building permit fee equating to $5,000 per megawatt of nameplate capacity, up to a maximum fee of $50,000. Nameplate capacity shall be calculated in terms of direct current nameplate capacity. The Building Permit fee is due at the time of submission.

b. 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.

c. Modifications to an existing energy storage system: $5,000. (A facility owner may undertake periodic augmentation to maintain the approximate original capacity of the ESS. Periodic augmentation shall not include adding additional properties or parcels to the energy storage system, or expanding the footprint of the energy storage system approved pursuant to the special use permit process.)

Amend Section 53-E-6 to add the following new subsection G:

G. Private Energy Storage System: An assembly of one or more devices capable of absorbing energy and storing it for use at a later time, including, but not limited to, electrochemical and electromechanical technologies, having an aggregate energy capacity less than or equal to 1,000-kWh. (These systems do not include technologies that require combustion.)

1. A private energy storage system shall be permitted as an accessory use in all zoning districts and shall be subject to the regulations for accessory uses.
2. If a private energy storage system is located in a room or enclosed area, it shall consist of only a single energy storage system technology.
3. Private energy storage systems incorporated into the primary structure or building shall be considered an addition/alteration to said structure, and subject to all regulations governing said structure.

4. Intermodal storage containers may not serve as the structure for private energy storage systems in a residential district.

Replace in its entirety Sections 53-E-12.A, 53-E-12.B, and 53-E-12.C with the following language:

Sec. 53-E-12 Sustainable Energy Systems

A. Solar Energy Systems (SES)

1. **Purpose:** The purpose of this Section is to provide regulations for the construction, installation, and operation Solar Energy Systems (SES) in unincorporated DeKalb County, if the County Board finds the evidence complies with state and federal law and regulations, and with the standards of this zoning code including the factors listed below. These requirements ensure the health, safety, and welfare of the residents of DeKalb County by promoting the safe, effective, and efficient use of solar energy to reduce on-site consumption of fossil fuels or utility-supplied electrical energy. Also, to avoid adverse impact to important areas such as agricultural land, endangered species habitats, conservation land, and other sensitive lands. DeKalb County encourages the development of Commercial Solar Energy Systems (CSES) where such systems present few land use conflicts with current and future development patterns. This ordinance shall not be deemed to nullify any provision of local, state, or federal law. The contents of this Section shall apply to all solar energy installations in unincorporated DeKalb County.
2. **Definitions:** The following words, terms, and phrases, when uses in this Section, shall have the meanings ascribed to this Section except when the context clearly indicates a different meaning:

Active Solar Energy System: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.
Applicant: The entity who submits to the County an CSES Permit application for the establishment and operation of a CSES or substation. All references to Applicant in this Section shall include Applicant's successor's-in-interest and assigns, including the owner.
Building-integrated Solar Energy Systems: An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.
Commercial Operation Date: The calendar date on which the CSES produces power for commercial sale, not including test power.
CSES Permit: The zoning entitlement allowing for the establishment and operation of a CSES on a property, including any supporting facilities. This permit shall also be required for the alteration of an existing CSES that represents a significant departure from what was originally approved, but does not include routine maintenance, repair, or replacement of CSES components. The CSES Permit shall be considered the equivalent of a Special Use Permit.
CSES Permitee: An Applicant who applies for and receives a CSES Permit for the establishment and operation of a CSES. All references to Permitee in this Section shall include Permitee's successor's-in-interest and assigns.
CSES Zoning Lot: A CSES zoning lot shall mean all contiguous participating properties within a CSES, located wholly within the boundaries of the County and on one side of a street.
Commercial Solar Energy Facility (CSES): Any device or assembly of devices that (i) is ground mounted and (ii) uses solar energy from the sun for generating electricity for the primary purpose of wholesale or retail sale and not primarily for consumption on the property on which the device or devices reside, including all associated supporting facilities. "Commercial solar energy facility" does not mean a utility-scale solar energy facility being constructed at a site that was eligible to participate in a procurement event conducted by the Illinois Power Agency pursuant to subsection (c-5) of Section 1-75 of the Illinois Power Agency Act. The CSES shall be the primary use of the lot(s) on which it is located.

Facility Owner: (i) A person with a direct ownership interest in a CSES, 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" or "Financial Security" or "Decommission Security": Shall mean 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.

Interconnection Point: The interconnection point shall refer to the system/method used to connect CSES to the electrical grid. Typically, this takes the form of a series of utility poles, some controlled by the local utility and some controlled by the CSES, holding the various lines and equipment necessary to connect the CSES to the electrical grid.

Grid-intertie Solar Energy System: A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

Ground Mount: A solar energy system mounted on a rack or pole that rests on or is attached to the ground.

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 CSES 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 CSES is filed with the County: a school; place of worship; day care facility; public library; or community center.

Off-grid Solar Energy System: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

Operator: The person or entity responsible for the day-to-day operation and maintenance of a CSES, including third-party subcontractors. The Operator must be a qualified solar power professional. All references to Operator in this Section shall include Operator's successor's-in-interest and assigns.

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 CSES or supporting facility. Participating property also includes real property that is owned by a facility owner for the purpose of constructing a CSES 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 CSES is filed with the County.

Passive Solar Energy System: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Photovoltaic System: An active solar energy system that converts solar energy directly into electricity.

Property Line: Shall mean the boundary line of the area over which the entity applying for a CSES has legal control for the purposes of installation of a CSES. 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.

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.

Renewable Energy Easement, Solar Energy Easement: An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

Roof Mount: A solar energy system that is mounted on a rack that is fastened onto a building roof.

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

Solar Collector: An assembly, structure, and the associated equipment and housing, designed for gathering, concentrating, or absorbing direct and indirect solar energy for which the primary purpose is to convert or transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

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

Solar Energy System (SES): All components required to become a complete assembly, or structure, that will convert solar energy into electricity for use.

Solar Energy System Addition: A private solar energy system which is structurally attached to a building or structure on the zoning lot on which said system is located. Said system shall be considered part of the building and shall comply with all provisions of this ordinance pertaining thereto.

Solar Energy System, Private (PSES): A collection of one (1) or more solar collectors designed for use by the occupant(s) of the zoning lot on which said system is located; excess power generation is limited to net metering or similar technology with regulations set by the local power utility, community, county, and state. Private solar energy system equipment shall conform to applicable industry standards, and applicants for building permits for private solar energy systems shall submit certificates from equipment manufacturers that the equipment is manufactured in compliance with industry standards.

Solar Facility: A solar energy system, along with all of the necessary equipment, structures, and substations needed to facilitate the transfer of the generated electricity offsite; and, all accessory structures and equipment used to maintain and secure said facility.

Solar Heat Exchanger: A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

Solar Hot Air System: An active solar energy system (also referred to as Solar Air Heat or Solar Furnace) that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air.

Solar Hot Water System: A system (also referred to as Solar Thermal) that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Solar Mounting Devices: Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

Substation: The apparatus that collects and connects the electrical collection system of the Commercial Solar Energy Facility 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 CSES. “Supporting facilities” also include 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.

3. **Private Solar Energy Systems (PSES):** A **s**ingle ground mount, roof mount or building integrated private solar energy system for residential/business use is permitted as an Accessory Use in ALL Zoning Districts where there is a principal structure, and shall be subject to the regulations for accessory uses.

a. Setback Requirements:

1). Set back requirements for all PSES shall meet the structure minimum set back requirements when the PSES is oriented at any & all positions.

2). No PSES shall be allowed in the front yard of any residentially used or zoned property.

3). Roof mounted PSES shall not extend beyond the exterior perimeter of the building on which the system is mounted.

b. Height Requirements.

1). Building or roof mounted PSES shall not exceed the maximum allowed height for the Zoning District in which the building is located.

2). Ground or pole mounted PSES shall not exceed a maximum height of twelve (12) feet, when oriented at maximum tilt.

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

d. Approved PSES Components. Electric PSES components must have a UL listing, or approved equivalent, and must be designed with anti-reflective properties. Solar hot water systems must have an SRCC rating.

e. Utility Notification: All grid-intertie PSES shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

f. Coverage: Roof or building mounted PSES, excluding building-integrated systems, shall allow for adequate roof access for fire-fighting purposes to the south-facing or flat roof upon which the panels are mounted. Ground-mount PSES shall be exempt from impervious surface calculations if the soil under the collector is not compacted and maintained in vegetation. Foundations, gravel, or compacted soils are considered impervious.

g. All pile driving activity during the project may only occur between the hours of 7:00 am and 5:00 pm.

h. Design Standards: Active PSES shall be designed to conform to the DeKalb County Comprehensive Plan and to blend into the architecture of the building or may be require to be screened from routine view from public rights-of-ways, other than alleys. Screening may be required to the extent it does not affect the operation of the system. The color of the solar collector is not required to be consistent with other roofing materials.

1). *Building Integrated Photovoltaic Systems*. Building integrated photovoltaic PSES shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.

2). *PSES with Mounting Devices*. PSES using roof mounting devices or ground-mount PSES shall not be restricted if the system is not visible from the closest edge of any public right-of-way or immediately adjacent to a residential structure.

3). *Reflectors.* All PSES using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.

i. For PSES, commencing with the issuance of building permits, the Applicant or Owner shall maintain a current liability policy covering bodily injuries and any damage that may occur, on their home owner's policy or other applicable policy as approved by the Director of Community Development.

j. Plan Approval Required: All PSES shall require administrative plan approval by the DeKalb County Building official via the review of the application for a building permit.

1). Plan Applications. Plan applications for PSES shall be accompanied by horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.

1. Pitched Roof Mounted PSES. For all roof-mounted systems other than a flat roof the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

2. Flat Roof Mounted PSES. For flat roof applications a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

2). 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.

4. Municipal CSES: CSES 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.

5. Commercial Solar Energy Systems (CSES)

a. Applicability:

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

2). No CSES or Substation governed by this Ordinance shall be constructed, erected, installed, or located within unincorporated DeKalb County, unless a CSES Permit has been obtained for each individual CSES or for a group of CSES under a joint CSES Permit application pursuant to this Ordinance. Unless otherwise allowed by the County, all projects shall conform to the representations made within the special use permit application, representations during the public hearing process, and representations contained within the building permit application and supporting facilities.

b. Standards and Requirements:

1). CSES are allowed in the A-1, MC, and PD-I Zoning Districts, and shall require a CSES Permit.

2). Setbacks:

1. All setbacks shall be measured from the nearest edge of any above-ground component of the facility (excluding the security fencing), except the interconnection point; and

2. The facility shall be setback at least one hundred fifty (150) feet from the nearest point on the outside wall of an occupied community building or dwelling on a nonparticipating property; and

3. The facility shall be setback at least fifty (50) feet from a public road right-of-way; and

4. The facility shall be setback at least fifty (50) feet from the nearest point on the property lines of a nonparticipating property.

5. There shall be no setback from the boundary lines of a participating property.

6. These setbacks may be waived if the developer of the facility can obtain and submit as part of the CSES 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.

7. 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.

8. 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 Illinois Commerce Commission, and the Federal Energy Regulatory Commission, and their designees or successors.

3). Power and Communication Lines. All power and communication lines running between banks of solar panels and to on-site electric substations or interconnections with buildings shall be buried underground, except at the interconnection point to the electrical grid. (Note: Suspended cabling management systems do not comply with this requirement.) Exemptions may be granted by DeKalb County in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Director of Community Development. In addition, the Illinois Department of Agriculture (IDOA) has established standards and policies in the Agricultural Impact Mitigation Agreements (AIMA) regarding the construction or burial of electric transmission lines which should be agreed to and adhered to between the landowner and the developer.

4). Ground Cover, Screening, and Buffer Areas.

1. In order to prevent erosion, manage run-off, and provide ecological benefit, the facility shall install and maintain a "low-profile" native prairie vegetation on the facility (including beneath and between the panels), using a mix appropriate for the region and soil conditions

2. Top soil shall not be removed during development, unless part of a remediation effort.

3. DeKalb County has a Noxious Weed Ordinance which is to be followed.

4. Due to potential county liability under the Illinois Endangered Species Protection Act (520 ILCS 10/11(b) it is required that any vegetation planted be in compliance with all federal and state laws protecting endangered species. This will also include pollinators such as bees.

5. A strip of turfgrass, the width of one commercial mower, or as otherwise required to allow for maneuvering emergency vehicles, may be maintained along the edge of the access road.

6. Any part of the facility that is within one thousand (1,000) feet of a nonparticipating residence shall be screened.

a. Required screening shall consist of native trees, shrubs, or a combination thereof.

b. The vegetative screening shall be at least five (5) feet in height at the commercial operation date.

c. All screening must be installed prior to the activation and operation of the facility.

d. All screening is to be maintained by the facility owner for the life of the project, with replacement plantings and maintenance conducted as necessary. Failure to do so will be a violation of the CSES Permit.

7. Prior to submittal of the Building Permit application, the developer shall submit a Landscape Monitoring and Maintenance Plan to the DeKalb County Soil and Water Conservation District for review and approval, to ensure the establishment and continued maintenance of the native prairie vegetation, all installed landscape screening, and all existing vegetation that provides required landscape screening.

a. All vegetation utilized as part of the facility shall meet the performance standards set forth in these regulations and shall be maintained to those standards throughout the life of the project.

8. Those portions of the subject property which are outside of the fenced-in area of the facility that are not put into agricultural production as a result of the presence of the facility shall be included in the Landscape Plan and Landscape Monitoring & Maintenance Plan, so that these areas do not go unattended and become a source of noxious weeds and unattended weed growth for the duration of the financial guarantee to ensure that the landscaping matures in accordance with the proposed plans.

9. Temporary vegetative ground cover shall be planted prior to construction to prevent excessive soil erosion, reduce dust emission, aid weed suppression, and to manage soil stability during the pre-construction phase.

5). Interconnection Point. The interconnection point to the electrical grid shall be located within or as adjacent to a right-of-way or existing power line as is possible, but shall in no case be further than twenty (20) feet from a right-of-way or existing power line. Any poles used as part of the interconnection point shall be placed such that they run parallel to said right-of-way or existing power line. A variation from this standard may be granted, provided the applicant can adequately demonstrate the unique circumstances and particular hardships that would merit such a variation being granted.

6). Height Requirement: The CSES shall be sited so that no component of a solar panel shall have a height of more than twenty (20) feet above the ground when the arrays are at full tilt. This restriction may be waived if the developer of the facility can obtain and submit as part of the CSES Permit application, a written, signed, and notarized statement from the owner of each affected nonparticipating property agreeing to waive this restriction.

7). Fencing. The CSES shall be sited so that the facility's perimeter is enclosed by fencing having a height no less than six (6) feet and no more than twenty-five (25) feet. Said fencing shall be a primarily woven wire or agricultural style fencing, and shall contain appropriate warning signage that is posted such that it is clearly visible on the site.

1. These requirements may be waived if the developer of the facility can obtain and submit as part of the CSES Permit application, a written, signed, and notarized statement from the owner of each affected nonparticipating property agreeing to waive these restrictions.

2. However, this waiver does not negate any applicable State or Federal requirements regarding the security fencing around a CSES.

8). Sound: Noise levels from CSES 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 CSES Permit application. Any waivers as to noise obtained after the filing of the Special Use Permit application shall be provided to the County prior to the issuance of the Building Permit. Any such waivers shall be recorded with the County Recorder of deeds.

9). Stormwater: CSES are subject to DeKalb County's Stormwater Management regulations, erosion and sediment control provisions. The facility owner will have to submit and receive approval of a Site Development Permit to demonstrate that these requirements will be met.

10). 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 CSES in accordance with the "Agricultural Impact Mitigation Agreement" (AIMA), the Illinois Drainage Code, and any agreements related to drainage.

11). **Supporting facilities:** Supporting facilities constructed in conjunction with the CSES are subject to all of the same siting requirements as the CSES, and must be fully detailed and presented as part of the CSES 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.

12). **Aviation Protection**. For CSES located within 500 feet of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

13). **Standards and Codes:** All CSES 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 Fire Protection Association (NFPA); the National Electric Code, as amended; and, all DeKalb County Health Department requirements.

14). **Approved CSES Components.** Electric CSES components must have a UL listing, or approved equivalent, and must be designed with anti-reflective properties.

15). **Guy Wires:** 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 fifteen (15) feet from the ground.

16). **Lighting.** Except for lighting that is required by the FCC or FAA, all lighting shall be shielded and downcast so that no glare extends substantially beyond the boundaries of the facility. All projects shall comply with responsible outdoor lighting provided by the Dark-Sky Association and shall limit outdoor lighting to that which is minimally required for safety and operational purposes.

17). **Utility Notification:** All CSES shall comply with the interconnection requirements of the electric utility.

c. **Content of an CSES Permit Application:** A CSES Permit application shall require the following:

1). For CSES Permit applications for projects proposed to occupy more than one (1) zoning lot, only one (1) application covering the entire project is required.

2). 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).

3). **A completed "Application for Zoning Action" form**.

4). **<u>CSES Permit Fees:</u>**.

1. Prior to processing any special use permit application for a commercial solar 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 special 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 special use or decisions on any agreements with the county if outstanding fees remain due to the county.

3. 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.

5). **Facility Contacts:** The names, company names, addresses, emails, and phone numbers of the Applicant, the Facility Owner, and Operator of the CSES, if known.

6). 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 CSES Permit.

7). **Narrative Statement**: A written document providing to the extent available: (a) 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 solar panels, cells and modules, (iv) the number of solar panels, cells and modules, (v) the maximum height of the solar panels at full tilt, (vi) the number of Substations, (vii) project phasing plan and project construction timeline plan, and (viii) the general location of the project; and (b) a description of the Applicant, Owner and Operator, including their respective business structures.

8). A plat of survey, or property boundary plat, of the subject property. If the project will only result in a portion of the subject property being acquired or leased by the applicant, a plat of the proposed project area will also be required.

9). **Site Plan.** A detailed site plan for both existing and proposed conditions must be submitted, showing the location of all: solar arrays; associated supporting facilities; existing structures; property lines; rights-of-way; service roads; floodplains; wetlands and other protected natural resources; topography; drainage structures, including surface drainage ditches and subsurface drainage lines; electric equipment; fencing; and, screening materials, and all other characteristics requested by DeKalb County. The Site Plan must also identify all setback lines, occupied community structures, participating residences, nonparticipating property lines, and residences on nonparticipating properties within two hundred (200) feet of the property line, and their distance from them to the fencing around the CSES.

10). **Waivers:** Copies of any waivers to be submitted, along with verification that they have been properly recorded.

11). **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.

12). Drawings, elevations, or pictures of any structures to be altered, built, or included as part of the proposed project.

13). A CS E S 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.

14). A CS E S 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 CSES Permit application.

15). A CS E S developer shall be required to include as part of the CSES 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.

~~**16).**~~ Adequate proof that the special use permit application has been submitted to local emergency response agencies.

17). **Natural Resources Inventory Report (NRI)**: All CSES 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.

18). **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 facility.

19). **AIMA:** The facility owner must include signed & completed copies of the Agricultural Impact Mitigation Agreement (AIMA) that they entered with the Department of Agriculture.

20). **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 CSES Permit application, and shall be prepared to provide testimony supporting the calculation of costs provided in said plan during the public hearing.

21). **Landscape Plan:** A Preliminary Landscape Plan showing the proposed locations and dimensions of all plantings and landscaping must be submitted as part of the CSES Permit application.

22). Unless otherwise provided, all 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.

23). Any other information requested by the County or its consultants necessary to evaluate the special use permit application and to demonstrate that the project meets the provisions of this ordinance.

d. CSES Permit Application Process:

1). The hearing officer shall hold a public hearing on the application, and shall make a recommendation to the County Board on whether the CSES Permit application meets the regulations as set forth for CSES in this Ordinance. The hearing officer shall make a finding of fact and recommendation of compliance based upon those regulations herein prescribed.

2). A complete application for a CSES 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 Commercial Solar Energy Facility. 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.

3). Interested parties to a CSES 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.

4). **AIMA:** If copies of the signed AIMA were not included as part of the CSES 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.

5). **Findings of fact and Recommendation of Compliance of the hearing officer**: Within 30 days after the close of the hearing on a proposed CSES, the hearing officer shall make written findings of fact and shall submit same together with his Recommendation of Compliance to the Community Development Department.

6). The Community Development Department will forward the Hearing Officer's Recommendation of Compliance and Findings of Fact to the Planning, Zoning, and Development Committee for further consideration. The Committee will then make a recommendation to the full County Board to be considered at their next available meeting.

7). The County Board shall make the final decision based on the evidence presented at the Public Hearing in each particular case.

8). **Resolution of the CSES Permit Application.** A copy of the Hearing Officer's Recommendation and Findings of Fact and the County Board's Determination of Compliance (Ordinance) shall be forwarded to the Applicant.

9). In any case where a special use permit has been approved for a CSES, 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 the facility within five (5) years from the date of the granting of the special 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 special 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.

e. **Post CSES Permit Approval:** Following the approval of the CSES Permit, the facility owner shall submit and obtain approval of the following:

1). The CSES shall be constructed and operated in substantial conformity to the plans and materials submitted as part of the application and presented at the public hearing.

2). **Landscape Plan:** The facility owner shall submit their fully detailed Landscape Plan to the DeKalb County Soil and Water Conservation District (SWCD) for review and approval. This plan shall then be subsequently revised as necessary to comply with the recommendations of the SWCD. Copies of the revised plan shall be submitted as part of the Site Development Permit application. The following information shall be provided in the detailed Landscape Plan:

1. Project name and geographic location;

2. A site plan showing the location of each plant community proposed on-site (e.g.: different plant communities under panels, between panels, landscape screening, or other site areas);

3. Lists of proposed native species to be installed, including scientific name, common name, and quantity;

4. Separate species lists shall be provided for each plant community being proposed;

5. A general description of the proposed site preparation and installation methods for the native species (e.g.: seed drill, hand broadcast, plant plugs, etc.).

3). **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 CSES, identifying all drain tiles located therein. The CSES 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 CSES.

4). **NPDES Permit:** CSES 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.

5). **Site Development Permit**: The facility owner shall submit a complete application for a Site Development Permit, and receive approval thereof prior to the submittal of the Building Permit for the CSES.

6). **Landscape Monitoring and Maintenance Plan**: The facility owner shall submit a Landscape Monitoring and Maintenance Plan to the DeKalb County SWCD for review and approval prior to the submittal of the Building Permit for the CSES.

7). **Road Use Agreements:** Road Use Agreements shall be established with all appropriate road authorities prior to the submittal of the Building Permit for the CSES. The Applicant shall provide 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 CSES Building Permit.

8). **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 CSES shall comply with the interconnection requirements of the electric utility.

9). **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 CSES. The Decommissioning Agreement and Financial Assurances shall comply with 55 ILCS 5/5-12020.

10). **Solar PV Building Permit:** The facility owner shall submit a Solar PV Building Permit application to the DeKalb County Community Development Department for review and approval the CSES, and all associated supporting facilities.

1. **Plan Approval Required**: All solar energy systems shall require administrative plan approval by the DeKalb County Building official via the review of the application for a building permit.
    1. **Plan Applications**. Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the property for a ground-mount system, including the property lines.
    2. **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. **<u>Fees:</u>**
    1. The facility owner or developer 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. The Building Permit fee is due at the time of submission.
    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. Modifications to an existing, commercial solar energy conversion system, such as routine maintenance, repair, or replacement of components … $5,000. (Modifications that result in a significant departure from what was originally approved for the facility, such as, but not limited to: an increase in the number of solar panels, new

accessory structures, or an increase in nameplate wattage of the facility shall require an amendment to the Special Use Ordinance governing the facility.)

4. 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.

3. Reserved.

4. All pile driving activity during the project may only occur between the hours of 7:00 am and 5:00 pm.

5. Foundations. A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.

6. The County may retain a qualified, independent code inspector or professional engineer both to make appropriate inspections of the CSES during and after construction and to consult with the County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the CSES 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 CSES.

11). As-Built Map and Plans: Within sixty (60) calendar days of completion of construction of the CSES, the Applicant or Operator shall deliver "as-built" maps, site plan and engineering plans for the CSES that have been signed and stamped by a Professional Engineer and a licensed surveyor.

12). 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.

13). <u>Liability Insurance and Indemnification</u>

1. Commencing with the issuance of a building permit, the applicant 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 $10,000,000 per occurrence and $20,000,000.00 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.

2. 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 special 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 special 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.

f. Operation and Maintenance

1). Upon request from the DeKalb County Community Development Department, an owner of a CSES must provide documentation, within thirty (30) days, that the CSES 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 CSES from the property.

2). Upon request from the DeKalb County Community Development Department, the owner or operator of a CSES must submit, within 14 days, a current operation and maintenance report to the Department.

3). Decommissioning Plan: Periodically, and as required by the Agricultural Impact Mitigation Agreement, the Owner must update the Decommissioning Plan and cost estimations, and provide updates Financial Assurances to the benefit of the County.

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

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

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

g. Remedies

1). The Applicant's failure to materially comply with any of the provisions under the CSES Permit granted herein, or any applicable state, federal, or local laws and regulations, shall be a default and shall be grounds for revocation of the CSES Permit by the County Board.

2). Prior to implementation of the applicable County procedures for the resolution of default(s), the County Board must first provide written notice to the Applicant and Operator, setting forth the alleged default(s) and provide an opportunity for the Applicant or the Operator to cure the default(s) within a thirty (30) calendar day period from the date of the notice. Should the Applicant commence the cure within that 30-day cure period, and diligently pursues a cure, then the Applicant shall receive an additional sixty (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 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. If the Applicant or Operator cannot cure the default(s) or resolve the alleged default(s) within the cure period, then applicable County ordinance provisions addressing the resolution of such default(s) shall govern.

3). A special use permit shall be automatically terminated, revoked, and void if the applicant/owner dissolves or ceases to do business, abandons the facility, or the facility ceases to operate for more than twelve (12) months.

4). Subject to the provisions of this section, a special 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 special use permit, conditions and restrictions, or failure to comply with any county, state, or federal permits, laws, or regulations.

5). Transferability: Owner shall provide written notification to the County at least thirty (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 special use permit, as applicable, shall remain liable for compliance with all conditions, restrictions, and obligations contained in the special use permit and any conditions, building

permit, the provisions of this ordinance and applicable county, state, and federal permits, laws, and regulations.

h. Coordination with Emergency Responders

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 CSES 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 CSES.

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 CSES.

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 CSES 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 CSES 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.

i. Use of Public Roads

1). An Applicant proposing to use any County, municipality, township or village road(s), for the purpose of transporting CSES or Substation parts and/or equipment for construction, operation, or maintenance of the CSES 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 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 CSES 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 CSES 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 CSES 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 CSES and the reasonable cost of repairing roads used by the facility owner during construction of the CSES so that those roads are in a condition that is safe for the driving public after the completion of the CSES construction. Roadways improved in preparation for and during the construction of the CSES 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 CSES Project.

j. Landscape Monitoring and Maintenance Plan

1). The Landscape Monitoring and Maintenance Plan (LMMP) shall provide an explanation of how the ecological quality of the site will be achieved and maintained throughout the life of the facility. At a minimum, the Year 5 performance standards described below should continue to be met. Basic elements of the LMMP shall address the following activities:

1. *Mowing*: A discussion of the mowing strategy(s) and frequency(s) that will be used. For instance, annual mowing should be properly timed and kept to a minimum to avoid disturbance of wildlife and native vegetation but frequent enough to prevent the establishment of weeds/trees/shrubs that may be introduced by seed over time. Annual mowing is recommended once a year, after October 15, since most native plants have flowered and gone to seed by this time, and before April 15, which is the typical start of prime nesting season for birds. If invasive or weedy species need to be targeted outside of this time frame, the use of high mowing (mower blade over 12" high) or properly timed use of brush cutter/weed ship can be implemented to target specific species and prevent the formation of weed seed without harming native plants. To prevent smothering of native plants, the cut material should be chopped into small enough parts or cut material should be collected, removed, and properly disposed of.
2. *Chemical Control*: Chemical pesticides/herbicides shall be applied selectively (e.g.: spot application rather than routine broadcast spraying) unless part of an approved adaptive management strategy to address problem areas (e.g.: areas with a dominance of invasive plant species that do not respond well to mechanical control measures). Pesticide/herbicide applications are to be performed by a licensed professional applicator in strict compliance with all warning labels and applicable codes, standards, and best management practices.
3. *Fertilizer Use*: Fertilizers shall <u>not</u> be used in areas planted with native vegetation.
4. *Erosion Control*: No area on the vegetated portion of the site greater than one (1) square meter shall be devoid of vegetation, as measured by aerial coverage. The site shall have no

rills or gullies greater than four (4) inches wide by four (4) inches deep.

5. *Supplemental Seeding/Revegetation*: Remedial actions may be needed as site conditions warrant. Such actions may include reseeding or planting live plugs of native plant species. Installation of supplemental plugs and/or seed should be consistent with the approved seed mix and appropriate for the habitat conditions, or approved by SWCD.
6. *Tree/Shrub Replacement*: At least 80% of the trees/shrubs identified in the permitted plans must remain alive and healthy throughout the life of the facility. The LMMP shall include a discussion of how trees/shrubs will be monitored and replaced.
7. *Adaptive Management*: To maintain the ecological quality if the site, the applicant must be prepared to adapt management practices if site conditions change. For instance, an outbreak of an invasive species may require more intensive management and reseeding to restore habitat. The earlier a problem is identified and adaptive strategies are implemented, the less corrective action is typically required. The LMMP shall include a brief discussion of how adaptive management strategies would be established and implemented.

2). **Inspections**: The DeKalb County Community Development Department and SWCD reserve the right to request access to the site to conduct visual inspections and assess the condition of the native planting areas.

3). **Annual Monitoring and Maintenance Reports:** A brief monitoring and Maintenance Report shall be submitted to SWCD annually for the first five (5) years or until compliance approval is provided by SWCD. See the compliance approval subsection below for information on performance standards associated with compliance approval. The reports shall be submitted to SWCD by December 31st of each year. The Monitoring and Maintenance Report shall be prepared by an ecologist and shall include, at a minimum:

1. Project name and geographic location;
2. Map location and description of each plant community present on-site;
3. Description of the general condition of each plant community including any issues or deficiencies from the performance standards;
4. List of all species observed in each plant community, including scientific and common names, based on a minimum of two (2) meander searches conducted by an ecologist during the growing season (one (1) meander search in the spring and one (1) in the summer);
5. List of five (5) most dominant species present in each community, estimated based on visual observation during the meander searches, including scientific and common names;
6. Discussion of maintenance activities implemented during the current year being reported on;
7. Summary of maintenance activities planned for the coming year, including any "adaptive management" strategies proposed to address issues or to correct deficiencies from the performance standards; and
8. Color photos representing each plant community and their general condition including any issues observed or deficiencies in performance standards.

4). **Performance Standards**

1. **Upon Completion of Construction:** A temporary cover crop shall be planted to aid in the establishment of the native species and prevent erosion. Cover crop may include species such as Oats (Avena sativa). NOTE: Perennial Rye (Lolium perenne) and Barnyard Grass (Echinochloa crusgalli), which are identified as cover crop on some regional species lists, shall <u>not</u> be used.
2. **Within three (3) Months of Seeding:** At least 70% o the project site (excluding access road(s) and equipment pad(s)), as measured by aerial coverage, shall be vegetated or otherwise stabilized against erosion. The cover crop may be used to accomplish this requirement.
3. **Year 1:** By the end of the first full growing season, planted areas shall have 90% vegetation cover. The cover crop may be used to accomplish this requirement. Any planted trees/shrubs that are dead or trees/shrubs with 50% or more dead branches shall be replaced.
4. **Year 2:** By the end of the second growing season, at least 50% of the vegetation present

shall be native, non-invasive species. No area on the vegetated portion of the site greater than one (1) square meter shall be devoid of vegetation, as measured by aerial coverage. Any planted trees/shrubs that are dead or trees/shrubs with 50% or more dead branches shall be replaced. None of the 3 most dominant species within the planted communities shall be non-native or invasive species, including, but not limited to: …

5. **Year 3:** By the end of the third growing season at least 60% of the vegetation present shall be native, non-invasive species. No non-native or invasive species shall be among the three (3) most dominant species. No area on the vegetated portion of the site greater than one (1) square meter shall be devoid of vegetation, as measured by aerial coverage. Any planted trees/shrubs that are dead or trees/shrubs with 50% or more dead branches shall be replaced.
6. **Year 4:** By the end of the fourth growing season at least 70% of the vegetation present shall be native, non-invasive species. No non-native or invasive species shall be among the three (3) most dominant species. No area on the vegetated portion of the site greater than one (1) square meter shall be devoid of vegetation, as measured by aerial coverage. Any planted trees/shrubs that are dead or trees/shrubs with 50% or more dead branches shall be replaced.
7. **Year 5:** By the end of the fifth growing season at least 75% of the vegetation present shall be native, non-invasive species. No non-native or invasive species shall be among the three (3) most dominant species. No area on the vegetated portion of the site greater than one (1) square meter shall be devoid of vegetation, as measured by aerial coverage. A minimum of 80% of all trees/shrubs identified in the approved plans must be alive and healthy.
8. **Compliance Approval:** After Year 5 performance standards have ben achieved, the applicant can submit a written request for compliance approval from SWCD. SWCD staff will visit the site to evaluate if performance has been met. If performance standards are confirmed to have been met, SWCD will provide written confirmation to the Community Development Director. Once compliance approval has been obtained, the applicant is responsible for implementing the long-term portion of the maintenance plan and maintaining the Year 5 performance standards throughout the life of the facility.
9. **Post Compliance Approval Reporting:** At each 5-year interval after compliance approval, a brief monitoring report shall be submitted to SWCD for review and acceptance. Failure to submit this report will be a violation of the Special Use Ordinance. The format of the report shall follow the format of the Annual Monitoring and Maintenance Report. If the report shows that the site does not meet or exceed the Year 5 performance standards, additional maintenance shall be performed during subsequent years to achieve the Year 5 standards. Monitoring reports shall be submitted annually until such standard is achieved, at which point the 5-year reporting period shall be resumed.

B. Wind Energy Conversion Systems

1. Purpose

a. It is the purpose of this section to provide regulations for the construction, installation, and operation of Wind Energy Conversion Systems in unincorporated DeKalb County, if the County Board finds the evidence complies with state and federal law and regulations, and with the standards of this zoning code including the factors listed below. These requirements:

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, including the owner.

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, including all associated supporting facilities. "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 Permitee: An Applicant who applies for and receives a CWF Permit for the establishment and operation of a CWF. All references to Permitee in this Section shall include Permitee'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. "Supporting facilities" also include 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.
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, or for a group of CWF projects under a joint CWF Permit, pursuant to this ordinance. Unless otherwise allowed by the County, all projects shall conform to the representations made within the special use permit application, representations during the public hearing process, and representations contained within the building permit application and supporting facilities.

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 Illinois Commerce Commission, and the 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. 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 thirty (30) hours 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 occupied community building, nonparticipating property, or nonparticipating residence 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. Any waivers as to noise obtained after the filing of the Special Use Permit application shall be provided to the County prior to the issuance of the Building Permit. Any such waivers shall be recorded with the County Recorder of deeds.
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" (AIMA), the Illinois Drainage Code, and any agreements related to drainage.
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, subsurface, 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 should install Aircraft Detection Lighting Systems ("ADLS") or other similar technology toreduce 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.
    e) **Debris and Garbage:** The project area shall be kept free of debris and garbage at all times during the life of the project.
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.

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

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.
   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. **CWF Permit Fees:**.
      1. Prior to processing any special use permit application, 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 special 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 special use or decisions on any agreements with the county if outstanding fees remain due to the county.
      3. 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.
   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, (ix) description of supporting facilities, including energy storage systems (if any), (x) energy storage system nameplate capacity, overall acreage, and types of energy systems to be utilized for the project (if any), and (xi) construction timeline and phasing plan;
      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; concrete batch plants; laydown yards; 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. **Waivers:** Copies of any 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. **Shadow Flicker Study:** 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 thirty (30) hours of shadow flicker under planned operating conditions.

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 two (2) signed & completed copies of the Agricultural Impact Mitigation Agreement(s) (AIMA) that they entered with the Department of Agriculture, dated prior to the date of the public hearing.

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.

x. Unless otherwise provided, all 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.

y. Any other information requested by the County or its consultants necessary to evaluate the special use permit application and to demonstrate that the project meets the provisions of this ordinance.

7. CWF Permit Application Process

a. The hearing officer shall hold a public hearing on the application, and shall have a recommendation to the County Board on 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 recommendation 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 Recommendation of Compliance to the Community Development Department.

f. The Community Development Department will forward the Hearing Officer's Recommendation of Compliance and Findings of Fact to the Planning, Zoning, and Development Committee for further consideration. The Committee will then make a recommendation to the full County Board to be considered at their next available meeting.

g. The County Board shall make the final decision based on the evidence presented at the Public Hearing in each particular case.

h. **Resolution of the CWF Permit Application**: A copy of the Hearing Officer's Recommendation and Findings of Fact and the County Board's Determination of Compliance (Ordinance) shall be forwarded to the applicant.

i. In any case where a special use permit has been approved for a CWF, 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 (5) years from the date of the granting of the special 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 special 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.

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 Sit Development Permit.

e. **Site Development Permit**: The facility owner shall submit a complete application for a Site Development Permit for the CWF, 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 Building Permit application to the DeKalb County Community Development Department for review and approval of the CWF, including all supporting facilities.

   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.

3) **<u>Fees</u>**:

a) The facility owner or developer 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. The Building Permit fee is due at the time of submission.

b) 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.

c) Modifications to an existing, commercial wind energy conversion system, such as routine maintenance, repair, or replacement of components … $5,000. (Modifications that result in a significant departure from what was originally approved for the facility, such as, but not limited to: an increase in the height of a turbine, new accessory structures, or an increase in nameplate wattage of the facility shall require an amendment to the Special Use Ordinance governing the facility.)

d) 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.

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.

l. **Liability Insurance and Indemnification**

1) 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.

2) 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 special 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 special 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.

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 *I* 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.
    d. A special use permit shall be automatically terminated, revoked, and void if the applicant/owner dissolves or ceases to do business, abandons the facility, or the facility ceases to operate for more than twelve (12) months.
    e. Subject to the provisions of this section, a special 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 special use permit, conditions and restrictions, or failure to comply with any county, state, or federal permits, laws, or regulations.
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 and any conditions, building permit, the provisions of this ordinance and applicable county, state, and federal permits, laws, and regulations. Owner shall provide written notification to the County at least thirty (30) days prior to a change in ownership of the project 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. 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.

C. Energy Storage Systems (ESS)

1. **Purpose:** The purpose of this Section is to provide regulations for the construction, installation, and operation Energy Storage Systems (ESS) in unincorporated DeKalb County, while ensuring the health, safety, and welfare of the residents of DeKalb County. This ordinance shall not be deemed to nullify any provision of local, state, or federal law. The contents of this Section shall apply to all ESS installations in unincorporated DeKalb County.
2. **Definitions:** The following words, terms, and phrases, when uses in this Section, shall have the meanings ascribed to this Section except when the context clearly indicates a different meaning:

Energy Storage System (ESS): A facility with an aggregate energy capacity that is greater than 1,000-kilowatts and that is capable of absorbing energy and storing it for use at a later time, including, but not limited to, electrochemical and electromechanical technologies. ESS does not include technologies that require combustion. ESS also does not include energy storage systems associated with commercial solar energy facilities or commercial wind energy facilities.

Excused Service Interruption: Shall mean any period during which an ESS does not store or discharge electricity and that is planned or reasonably foreseeable for standard commercial operation, including any unavailability caused by a buyer; storage capacity tests; system emergencies; curtailments, including curtailment orders; transmission system outages; compliance with any operating restriction; serial defects; and planned outages.

Facility Owner: Shall mean (i) a person with a direct ownership interest in a ESS, 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.

Force Majeure: Shall mean any event or circumstance that delays or prevents a energy storage system from timely performing all or a portion of its commercial operations if the act or event, despite the exercise of commercially reasonable efforts, cannot be avoided by and is beyond the reasonable control, whether direct or indirect, of, and without the fault or negligence of, a facility owner or operator or any of its assignees. "Force majeure" includes, but is not limited to:

(1) fire, flood, tornado, or other natural disasters or acts of God;
(2) war, civil strife, terrorist attack, or other similar acts of violence;
(3) unavailability of materials, equipment, services, or labor, including unavailability due to global supply chain shortages;
(4) utility or energy shortages or acts or omissions of public utility providers;
(5) any delay resulting from a pandemic, epidemic, or other public health emergency or related restrictions; and
(6) litigation or a regulatory proceeding regarding a facility.

"NFPA": Shall mean the National Fire Protection Association.

Nonparticipating Residence: Shall mean a residence that is located on nonparticipating property and that exists and is occupied on the date that the application for a permit to develop an ESS is filed with the County.

Occupied Community Building: Shall mean a school, place of worship, day care facility, public library, or community center that is occupied on the date that the application for a permit to develop an ESS is filed with the County in which the building is located.

Participating Property: Shall mean real property that is the subject of a~~n~~ a written agreement between the a facility owner and the owner of the real property and that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing an ESS or supporting facilities.

Protected Lands: Shall mean real property that is: (i) subject to a permanent conservation right consistent with the 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.

Supporting facilities: Shall mean the transmission lines, substations, switchyard, access roads, meteorological towers, storage containers, and equipment associated with the generation, storage, and dispatch of electricity by an ESS.

3. Energy Storage Systems (ESS)

a. Applicability:

3). This Ordinance governs the siting of ESS, and associated supporting facilities, that generate electricity to be sold to wholesale or retail markets.

4). No ESS governed by this Ordinance shall be constructed, erected, installed, or located within unincorporated DeKalb County, unless a Special Use Permit has been obtained for the ESS pursuant to this Ordinance. Unless otherwise allowed by the County, all projects shall conform to the representations made within the special use permit application, representations during the public hearing process, and representations contained within the building permit application and supporting facilities.

b. Standards and Requirements:

18). ESS are allowed in the A-1, MC, and PD-I Zoning Districts, and shall require a Special Use Permit.

19). Setbacks:

1. All setbacks shall be measured from the nearest edge of the nearest battery or other electrochemical or electromechanical enclosure; and

2. The facility shall be setback at least one hundred fifty (150) feet from the nearest point on the outside wall of an occupied community building or nonparticipating residence; and

3. The facility shall be setback at least fifty (50) feet from the nearest point on the property line of the occupied community building or nonparticipating property; and

4. The facility shall be setback at least fifty (50) feet from the nearest edge of a public road right-of-way; and

5. These setbacks may be waived if the developer of the facility can obtain and submit as part of the Special Use Permit application, written, signed, and notarized statements from the owners of each affected nonparticipating property or nonparticipating residence 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.

6. A "spot" survey will be required, at time of installation, verifying that the facility meet 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.

7. 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 Illinois Commerce Commission, and the Federal Energy Regulatory Commission, and their designees or successors.

20). Fencing. The ESS shall be sited so that the facility's perimeter is enclosed by fencing having a height no less than seven (7) feet and no more than twenty-five (25) feet.

1. These requirements may be waived if the developer of the facility can obtain and submit as part of the ESS Permit application, a written, signed, and notarized statement from the owner of each affected nonparticipating property agreeing to waive these restrictions.

2. However, this waiver does not negate any applicable State or Federal requirements regarding the fencing around a ESS.

21). Sound: Noise levels from ESS shall be in compliance with applicable Illinois Pollution Control Board (IPCB) standards. Within one (1) year of the commercial operation date, the facility owner shall provide the octave band sound pressure level measurements from locations chosen by the county at the perimeter of the ESS to demonstrate compliance with this Section.

22). **Stormwater:** ESS are subject to DeKalb County's Stormwater Management regulations, erosion and sediment control provisions. The facility owner will have to submit and receive approval of a Site Development Permit to demonstrate that these requirements will be met.

23). **Drainage Systems:**

1. The facility owner shall file a farmland drainage plan with the County and impacted drainage districts that outlines how the surface and subsurface drainage of farmland will be restored during and following the construction or deconstruction of the ESS. The plan shall be created independently by the facility owner and shall include the location of any potentially impacted drainage district facilities to the extent the information is publicly available from the County or the drainage district and the plans to repair any subsurface drainage affected during the construction or deconstruction using procedures outlined in the decommissioning plan. All surface and subsurface damage shall be repaired as soon as reasonably practicable.
2. The facility owner shall compensate landowners for crop losses or other agricultural damages resulting from damage to a drainage system caused by the construction of an ESS. The facility owner shall repair or pay for the repair of all damage to the subsurface drainage system caused by the construction of the ESS. The facility owner shall repair or pay for the repair and restoration of the surface drainage caused by the construction or deconstruction of the ESS facility as soon as reasonably practicable.

24). **Standards and Codes:**

1. All ESS shall be in compliance with this ordinance and all applicable state and federal regulatory codes.
2. All ESS shall comply with the National Fire Protection Association (NFPA) 855 "Standard for the Installation of Stationary Energy Storage Systems" in effect on the date of the filing of the special use permit application.
3. If lithium-ion battery systems will be utilized, the energy storage system shall comply with the fire and safety standards and guidance established for the installation for lithium-ion battery energy storage systems set by the NFPA.
4. All ESS shall have a warning that complies with the requirements of NFPA 855 Section 4.7.4, published in 2023, or applicable sections in the most recent version of NFPA 855.

25). **Lighting:** The energy storage system shall adhere to the principles of responsible outdoor lighting provided by the International Dark-Sky Association and shall limit outdoor lighting to that which is minimally required for safety and operational purposes. Any outdoor lighting shall be reasonably shielded and downcast from all residences and adjacent properties.

26). **Decommissioning Plan:** The facility shall provide a decommissioning plan, including all requirements for decommissioning plans in NFPA 855 and the facility owner shall:

1. State how the energy storage system will be decommissioned, including removal to a depth of three (3) feet of all structures that have no ongoing purpose and all debris and restoration of the soil and any vegetation to a condition as close as reasonably practicable to the soils and vegetation's preconstruction condition within eighteen (18) months of the end of project life or facility abandonment;
2. Include provisions related to commercially reasonable efforts to reuse or recycle equipment and components associated with the commercial offsite energy storage system;
3. Include financial assurance in the form of a reclamation bond or other commercially available financial assurance that is acceptable to the county, with the county or participating property owner as beneficiary. The amount of the financial assurance shall be the estimate cost of decommissioning the ESS, after deducting salvage valve, as calculated by a professional engineer licensed to practice engineering in Illinois with expertise in preparing decommissioning estimates, retained by the applicant. The financial assurance shall be provided to the County incrementally as follows:

a. 25% before the start of full commercial operation;
b. 50% before the start of the fifth year of commercial operation;
c. 100% by the start of the tenth year of commercial operation;

4. Update the amount of the financial assurance at least every 5 years for the duration of the commercial operations. The amount shall be calculated by a professional engineer licensed to practice engineering in Illinois with expertise in decommissioning, hired by the facility owner;
5. Decommission the energy storage system, in accordance with the approved decommissioning plan, within eighteen (18) months after abandonment. An energy storage system that has not stored electrical energy for twelve (12) consecutive months or that fails, for a period of six (6) months, to pay a property owner who is party to a written agreement, including, but not limited to, an easement, option, lease, or license under the terms of which an energy storage system is constructed on the property, amounts owed in accordance with the written agreement shall be considered abandoned, except when the inability to store energy is the result of an event of force majeure or excused service interruption; and
6. Prior to the issuance of a building permit, the county shall require a decommissioning agreement to be entered into between the county and the facility owner.

27). Recommended Standards: The following are standards that developers are recommended to consider implementing as good neighbor policies to help mitigate the impact of the ESS on surrounding properties:

1. Ground Cover, Screening, and Buffer Areas:

a. Clearing the areas within ten (10) feet on each side of the ESS of combustible vegetation and other combustible growth.
b. Screening any part of ESS that is within one thousand (1,000) feet of an occupied community building or nonparticipating residence.
c. Any screening should consist of native trees, shrubs, or a combination thereof.
d. It is recommended that any screening be installed prior to commencement of construction of the ESS.
e. Any screening should be maintained by the Facility owner for the life of the facility, with replacement plantings conducted as necessary.
f. If any portions of the subject property which are outside of the fenced-in area of the facility are not put into agricultural production as a result of the presence of the facility, that these areas also be maintained by the facility owner, so that these areas do not go unattended and become a source of noxious weeds and unattended weed growth.

2. **Power and Communication Lines**. Burying any power and communication lines running to and from the ESS underground, and placing any utility poles that are utilized by the facility as close to a right-of-way or existing power line as is practical. And that any poles used be placed such that they run parallel to said right-of-way or existing power line.
3. **Fencing:** Have the fencing be primarily woven wire or agricultural style fencing.

c. Pre-Application Meeting: A pre-application meeting shall be held with representatives from the Community Development Departments, and all other applicable departments and agencies as determined by the Community Development Department.

d. Content of an ESS Special Use Permit Application: The Special Use Permit application shall require the following:

1). For Special Use Permit applications for projects proposed to occupy more than one (1) zoning lot, only one (1) application covering the entire project is required.

2). 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).

3). **A completed "Application for Zoning Action" form**.

4). **Fees for the Special Use Permit:**

1. Prior to processing any special use permit application for an ESS, and its 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 $50,000. Nameplate capacity shall be calculated in terms of direct current nameplate capacity.

2. No hearings on an application shall be conducted nor decisions rendered on any items related to the special use or decisions on any agreements with the county if outstanding fees remain due to the county.

5). **Facility Contacts:** The names, company names, addresses, emails, and phone numbers of the Applicant, the Facility Owner, and Operator of the ESS, if known.

6). 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 Special Use Permit.

7). **Narrative Statement**: A written document providing to the extent available: (a) a detailed description of the project, including (i) its approximate overall name plate storage capacity, (ii) a description of the zoning district designation for the parcel of land comprising the facility site, (iii) a description of the proposed changes to the landscape of the facility site, including vegetation clearing and planting, exterior lighting, and screening or structures, (iv) a listing of any supporting facilities, (v) project phasing plan and project construction timeline plan, and (vi) the general location of the project; and (b) a description of the Applicant, Owner and Operator, including their respective business structures.

8). A plat of survey, or property boundary plat, of the subject property. If the project will only result in a portion of the subject property being acquired or leased by the applicant, a plat of the proposed project area will also be required.

9). **Site Plan.** Detailed engineering drawings for both existing and proposed conditions must be submitted, showing the location of all: ESS facilities; associated supporting facilities; existing structures and physical features; property lines; rights-of-way; service roads; floodplains; wetlands and other protected natural resources; topography, existing and proposed; drainage structures, including surface drainage ditches and subsurface drainage lines; fencing; and, screening. If the facility will not occupy the entire subject property, then the Site Plan shall also identify the specific leased/purchased area(s) to be occupied by the facility. The Site Plan must also identify all setback lines, occupied community structures, participating residences, nonparticipating property lines, and residences on nonparticipating properties within two hundred (200) feet of the property line, and their distance from them to the ESS.

10). **Waivers:** Copies of any waivers to be submitted, along with verification that they have been properly recorded.

11). **Noise Analysis:** Sound modeling showing that the facility will be in compliance with applicable Illinois Pollution Control Board (IPCB) standards.

12). Drawings, elevations, or pictures of any structures to be altered, built, or included as part of the proposed project.

13). **NFPA:** Demonstration that the facility will comply with all applicable NFPA standards governing the facility.

14). **Farmland Drainage Plan:** A farmland drainage plan and proof the farmland drainage plan has been provided to any impacted drainage district.

15). **IDNR EcoCAT:** The results and recommendations from consultation with the Illinois Department of Natural Resources (IDNR) that are obtained through the Ecological Compliance

Assessment Tool (EcoCAT), or comparable successor tool. The developer shall be required to adhere to the recommendations provided by the IDNR in the resultant Agency Action Report under 17 Ill. Adm. Code 1075.

16). **IHPD:** The results of a consultation with the Illinois Historic Preservation Division (IHPD) to assess potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act.

17). **Protected Lands:** The facility owner shall submit (1) a demonstration of the avoidance of protected lands as identified by the IDNR and the Illinois Nature Preserve Commission, or (2) consider the recommendations of the Department of Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserves.

18). **Legal Descriptions:** A legal description of the subject property(s) on which the facility will be located, which will be used for the public notice. If the facility will not occupy the entire subject property, then a second legal will of the specific leased/purchased area(s) to be occupied by the facility will be required.

19). **Lighting Plan:** A lighting plan, for any proposed lighting.

20). **Decommissioning and Site Reclamation Plan:** A decommissioning plan with detailed cost estimations, and proposed financial assurance form.

21). Any other information requested by the County or its consultants necessary to evaluate the special use permit application and to demonstrate that the project meets the provisions of this ordinance.

k. ESS Special Use Permit Application Process:

1). The hearing officer shall hold a public hearing on the application, and shall make a recommendation to the County Board on whether the Special Use Permit application meets the regulations as set forth for ESS in this Ordinance. The hearing officer shall make a finding of fact and recommendation of compliance based upon those regulations herein prescribed.

2). A complete application for a Special Use 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 for the facility. 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.

3). Interested parties to a ESS 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.

4). Findings of fact and Recommendation of Compliance of the hearing officer: After the close of the hearing on a proposed ESS, the hearing officer shall make written findings of fact and shall submit same together with his Recommendation of Compliance to the Community Development Department.

5). The Community Development Department will forward the Hearing Officer's Recommendation of Compliance and Findings of Fact to the Planning, Zoning, and Development Committee for further consideration. The Committee will then make a recommendation to the full County Board to be considered at their next available meeting.

6). The County Board shall make the final decision based on the evidence presented at the Public Hearing in each particular case.

7). Resolution of the ESS Permit Application. A copy of the Hearing Officer's Recommendation and Findings of Fact and the County Board's Determination of Compliance (Ordinance) shall be forwarded to the Applicant.

8). Expiration of Special Use Permit: A building permit must be issued, or actual on-site construction must have commenced prior to the expiration of three (3) years from the granting of the special use permit. If a building permit or actual on-site construction has not commenced within the applicable time period, then the special use permit shall be revoked without further action of the county. An extension of time to obtain the building permit or to commence actual on-site construction may be granted upon a showing of good cause.

l. Post Special Use Permit Approval: Following the approval of the Special Use Permit, the facility owner shall submit and obtain approval of the following:

1). The ESS shall be constructed and operated in substantial conformity to the plans and materials submitted as part of the application and presented at the public hearing.

2). NPDES Permit: ESS 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.

3). Site Development Permit: The facility owner shall submit a complete application for a Site Development Permit, and receive approval thereof prior to the submittal of the Building Permit for the ESS.

4). Road Use Agreements: Road Use Agreements shall be established with all appropriate road authorities prior to the submittal of the Building Permit for the ESS. The Applicant shall provide 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 the ESS Building Permit.

5). ESS Building Permit: The facility owner shall submit a Building Permit application to the DeKalb County Community Development Department for review and approval of the ESS, and all associated supporting facilities.

1. Plan Approval Required: All ESS shall require administrative plan approval by the DeKalb County Building official via the review of the application for a building permit.

1. Plan Applications. Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the property for a ground-mount system, including the property lines.

2. 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. Fees:

1. The facility owner or developer must deposit a building permit fee equating to $5,000 per megawatt of nameplate capacity, up to a maximum fee of $50,000. Nameplate capacity shall be calculated in terms of direct current nameplate capacity. The Building Permit fee is due at the time of submission.
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. Modifications to an existing energy storage system: $5,000. (A facility owner may undertake periodic augmentation to maintain the approximate original capacity of the ESS. Periodic augmentation shall not include adding additional properties or parcels to the energy storage system, or expanding the footprint of the energy storage system approved pursuant to the special use permit process.)

3. The County may retain a qualified, independent code inspector or professional engineer both to make appropriate inspections of the ESS during and after construction and to consult with the County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the ESS is performed in compliance with applicable electrical and building codes.

4. The facility owner must submit the following documents as part of the Building Permit application (all technical submissions must comply with the state law):
    1. An electrical diagram detailing the energy storage system layout, associated components, and electrical interconnection methods, with all National Electric Code compliant disconnects and overcurrent devices;
    2. An equipment specification sheet;
    3. Engineer drawings demonstrating compliance with the requirements of this ordinance; and
    4. All documents demonstrating compliance with this ordinance, state or federal law or regulation.

6). Commercial Operation Date: Prior to the commercial operation date, the facility owner shall:

1. Submit to the county a commissioning report meeting the requirements of NFPA 855 Sections 4.2.4, 6.1.3, and 6.1.5.5, as published in 2023, or the most recent version of NFPA 855;

2. Submit to the county a hazard mitigation analysis meeting the requirements of NFPA 855 Section 4.4 or the applicable Sections in the most recent version of NFPA 855;

3. The facility owner shall submit to the county an emergency operations plan meeting the requirements of NFPA 855 Section 4.3.2.1.4, published in 2023, or application Sections in the most recent version of NFPA 855; and

4. The facility owner shall offer to provide training for local fire departments and emergency responders in accordance with the facility emergency operations plan. A copy of the emergency operations plan shall be given to the facility owner, the local fire department, and the emergency responders. All batteries integrated within an energy storage system shall be listed under the UL 1973 Standard. All batteries integrated within energy storage systems shall be listed in accordance with UL 9540 Standard either from the manufacturer or by a field evaluation.

7). 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.

e. Operation and Maintenance

7). Annual report. The facility owner of any energy storage system must submit, on an annual basis on or before February 1st of each calendar year following its commercial operation date, a report to the county zoning administrator containing the following information: (i) a general description of any physical repairs, replacements, or modifications to the energy storage system and/or its infrastructure; (ii) complaints pertaining to setbacks, noise, appearance, safety, lighting, and use of any public roads received by the owner or operation concerning the energy storage system and the resolution of such complaints; (iii) calls for emergency services;

(iv) certificates of insurance; and (v) a general summary of service calls to the energy storage system facility. In addition to the annual report, the owner or operator of any energy storage system must also furnish such report upon direct request by the county. Failure to provide the annual report or report directly requested by the county (within 30 days) shall be considered a material violation of this ordinance subject to the remedies provision of this ordinance.

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

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

f. Defaults and Remedies

6). Any energy storage system declared to be unsafe by the county by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, or abandonment is hereby declared a public safety issue and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures set forth in this ordinance and decommissioning agreement or plan.

7). The Applicant's failure to materially comply with any of the provisions under the ESS Special Use Permit granted herein, or any applicable state, federal, or local laws and regulations, shall be a default and shall be grounds for revocation of the Special Use Permit by the County Board.

8). Prior to implementation of the applicable County procedures for the resolution of default(s), the County Board must first provide written notice to the Applicant and Operator, setting forth the alleged default(s) and provide an opportunity for the Applicant or the Operator to cure the default(s) within a thirty (30) calendar day period from the date of the notice. Should the Applicant commence the cure within that 30-day cure period, and diligently pursues a cure, then the Applicant shall receive an additional sixty (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 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. If the Applicant or Operator cannot cure the default(s) or resolve the alleged default(s) within the cure period, then applicable County ordinance provisions addressing the resolution of such default(s) shall govern.

9). A special use permit shall be automatically terminated, revoked, and void if the applicant/owner dissolves or ceases to do business, abandons the facility, or the facility ceases to operate for more than twelve (12) months.

10). Subject to the provisions of this section, a special 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 special use permit, conditions and restrictions, or failure to comply with any county, state, or federal permits, laws, or regulations.

11). Any violation of this ordinance shall be an offense punishable by a fine of $1,000.00. Each violation shall be a separate offense. Each day a violation occurs or continues shall be a separate offense, subject to a $1,000.00 fine for each additional day the violation is not corrected. A court may set any additional and appropriate per day fine for each day the infraction exists or until such infraction is remedied. It is the goal of this ordinance to promote structural safety to protect the public. The court has the authority to set any additional appropriate fines and will consider the nature of the offense, the degree of public safety involved, and the efforts of the county and responsible owner or applicant to resolve quickly and safely any and all infractions. It is the intent that any dispute between the parties be resolved promptly and where possible by informal discussions as outlined elsewhere in this ordinance.

12). Transferability: Owner shall provide written notification to the County at least thirty (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 special use permit, as applicable, shall remain liable for compliance with all conditions, restrictions, and obligations contained in the special use permit and any conditions, building permit, the provisions of this ordinance and applicable county, state, and federal permits, laws, and regulations.

EXHIBIT "B"

Commercial Energy Systems - Amended Statute
Petition DC-26-04

Date of Hearing: April 2, 2026_

Time of Hearing: _1:00 p.m._

Location of Hearing: DeKalb Legislative Center
Gathertorium
200 North Main Street
Sycamore, IL 60178

I. Procedural Summary:

On the above date and time, a required public hearing was held to obtain public comment concerning recently enacted and significant amendments to state statute 55 ILCS 5/5-12020, and the resulting changes that are needed to the county's applicable zoning ordinance for such systems. The new amended statute sets modified state standards for wind and solar energy systems, and now includes provisions for battery/energy storage systems, and continues the state preemption of local county zoning ordinances in the areas defined by the amended statute.

The statute also imposes changes to timeline restrictions from the time of application and hearing, to ultimate County action, that also must be adhered to by affected counties, including DeKalb. The statute also includes a marked increase in the fee structure for applications and the siting and permitting process that counties can now charge potential developers, and requires entity-transfer guarantees, to ensure counties are now able to charge appropriate fees to process the complex applications, permitting, and siting requirements that these types of projects entail, and are better protected should the developed project have a change in ownership and/or operational management.

As with the prior statutory enactment, the county is under a certain timeline to enact a zoning ordinance to implement the new statutory definitions, timelines, and requirements, in the affected areas, and the public hearing was held to obtain public comment and to enable the county to meet that state-imposed statutory deadline.

Received as part of the public record:

1. Notice, published in accordance with applicable ordinance and legal requirements.
2. County Staff report outlining in red the affected amendments proposed and/or required to the current county ordinance.

3. County memorandum dated March 22, 2026, summarizing the affected areas of change imposed by the amended statute.
4. Copy of the applicable state statute, 55 ILCS 5/5-12020.

II. Public Hearing Summary

Present on behalf of the County were Director Derek Hiland, and Assistant Director Marcellus Anderson, to present the county's revised ordinance to comply with the new statutory requirements, and to publish the proposed new fees and other changes that are permitted by the new amended statute as well.

Assistant Director Anderson commenced the testimony by describing the necessary hearing process, the timelines for counties to enact a revised ordinance, and reading into the record the memorandum summary of the more significant changes and requirements of the amended statute.

The county memorandum is hereby incorporated as part of this record, as is the county staff report, and both shall be considered part of the permanent record of the hearing.

PUBLIC COMMENT

There were two people from the public present for the hearing. Mr. Robert Pritchard, Squaw Grove Township, and Ms. Vicky Torres, Cortland Township. Ms. Torres inquired about the new fees that are now permitted under the amended statute, and the timeline now imposed for completion of public hearings for these types of projects. She also had questions concerning the height requirements for vegetative screening. All questions were appropriately answered by Director Hiland and/or Assistant Director Anderson.

There were no other members of the public present and no written submissions from any members of the public were received by the hearing officer prior to the hearing.

III. Recommendation

It is the opinion of this hearing officer that, once again, the county has worked very hard to put together a workable ordinance that preserves and retains county zoning control in those areas still permitted after the enactment of the amended state statute, while incorporating the continued limitations on county authority that have resulted from the enactment and further amendment of that statute.

Exhibit "B"

Local zoning policy decisions have long been the purview of local zoning boards and commissions and, unfortunately but irrefutably, these local institutions will continue to be limited by the state under this amended statute. There is some relief to be found however, in some sense, in that counties such as DeKalb can now be more fairly compensated for the very real costs involved in these significant projects, from application to ultimate permitting and site development.

I recommend that the county board approve the proposed amendments to the county zoning ordinance as presented by county staff, and subject to such other amendments and provisions that the County may deem appropriate consistent with the amended state statute, 55 ILCS 5/5-12020.

Respectfully submitted,

Dale J. Clark
Hearing Officer