

NOTICE OF PUBLIC HEARING
LEGAL NOTICE

Notice is given pursuant to law that the TAZEWELL COUNTY ZONING BOARD OF APPEALS will conduct a ***Special Public Hearing*** on **Thursday, May 4th, 2023** beginning at 5:30 p.m. of cases as follows.

5:30 P.M. – TAZEWELL COUNTY JUSTICE CENTER, JAMES CARIUS COMMUNITY ROOM, 101 SOUTH CAPITOL STREET, PEKIN, IL.

Any person having objections, concerns, or questions regarding any zoning case is invited to attend the Public Hearing. All present will be given an opportunity to be heard. Anyone wishing to participate as an “interested party” with the right to cross-examine others at the Public Hearing, MUST complete and file an appearance form and return to Community Development Personnel no later than one (1) business day **prior** to the hearing.

CASE NO. 23-04-A: The petition of Tazewell County for Amendment(S) to, Chapter 153, Wind Energy Code of Tazewell County to be as follows:

(Add the language as bolded and underlined, remove all language as stricken.)

- 153.01 Wind Energy Conversion Systems Purpose
- 153.02 Definitions
- 153.03 Requirements **Public Participation**
- 153.04 Maintenance and operation **Special Use**
- 153.05 Noise levels **Design and Installation**
- 153.06 Liability insurance **Operation and Maintenance**
- 153.07 Decommissioning plan **Non-Conforming Use and Structure**
- 153.08 Fees charged for building permit **Complaints**
- 153.09 **Liability Insurance**
- 153.10 **Decommissioning Plan**
- 153.11 **Fees**

§ 153.01 WIND ENERGY CONVERSION SYSTEMS PURPOSE.

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

§ 153.02 DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. **The estimated deconstruction cost per turbine, in current dollars at the time of filing a permit, for the commercial wind energy facility, taking into account, among other things:**
 - a. **the number of wind turbines and related Commercial Wind Energy Facilities involved;**
 - b. **the original construction cost of the commercial wind energy facilities;**
 - c. **the size and capacity of the wind turbines;**

- d. the salvage value of the commercial wind energy facilities;
- e. the construction method and technique for the wind turbines and other commercial wind energy facilities; and
- f. a comprehensive detailed description of how the “facility owner” plans to pay for the deconstruction of the “facility”.

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

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

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

IDOA. The Illinois Department of Agriculture.

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

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

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

PARTICIPATING PROPERTY. Real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a commercial wind energy facility, or supporting facilities.

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

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

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

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

REGISTERED PROFESSIONAL ENGINEER. Any appropriately trained and experienced engineer licensed by the State of Illinois.

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

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

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

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

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

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

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

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

§ 153.03 REQUIREMENTS-PUBLIC PARTICIPATION

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

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

§153.04 MAINTENANCE AND OPERATION-SPECIAL USE REQUIREMENTS

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

The **County Board** shall have final approval of all special use requests for the purpose of siting WECS and related substations and may only be placed in A-1, and A-2, **I-1 and I-2** zoning districts.

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

A request for special use permit for a commercial wind energy facility or modification of an approved special use permit, shall be approved if the request is in compliance with the standards and conditions imposed in Public Act 102-1123 and conditions imposed under any other State and/or federal statutes and regulations in addition to those specified herein.

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

§ 153.05 NOISE LEVELS ~~DESIGN AND INSTALLATION~~

Color, towers and blades.

Any non-reflective, unobtrusive color **such as gray or white** that will assist in mitigating the visual impact of the structure is allowable.

Lighting.

Lighting for the towers shall be constructed only in accordance with the ~~minimum~~ requirements and standards ~~allowed through~~ **of** the FAA ~~or~~ **and any** other **required** regulatory authority in an effort to minimize the visual impact of the structures.

*Compliance with **Federal Aviation Administration (FAA)***

It shall be the responsibility of the ~~person in charge~~ **Facility Owner** of the WECS project to complete the proper FAA applications and obtain the proper permits ~~for the WECS project. It shall also be the responsibility of the person in charge of the WECS project to obtain~~ or a determination of no significant impact to air navigation from the FAA.

Warnings.

A visible warning sign of “high voltage” must be placed at the base of all WECS ~~projects.~~ **towers, at the entrance to the access road of the applicable tower and every substation located in the project area.** The sign must have at a minimum six-inch letters. ~~Such signs shall be located a maximum of 300 feet apart and at all points of site ingress and egress.~~

Participating Property.

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

Setbacks.

Participating Residences – All WECS towers shall be set back ~~at least 750 feet from any adjoining property’s dwelling unit, and no~~ **not less than one and one-tenth times the tower height from the applying property owner’s dwelling structure to the nearest point on the outside wall of the structure.**

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

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

Public Road Rights-of-Way - All WECS towers shall be set back a distance of at least **not less than** one and one-tenth times the WECS tower height from public road **rights-of-way.** ~~third party transmission lines, and communications towers.~~

Nonparticipating Properties - All WECS towers shall be set back a distance of at least **not less than** one and one-tenth times the WECS tower height from adjacent property lines **to the nearest point on the property line of the nonparticipating property**. Property lines that are shared with other properties included in the same WECS development may forgo this requirement, provided written acceptance of this waiver is obtained from all affected property owners prior to the public hearing.

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

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

Any waiver of any setback requirement shall run with the land and be recorded as part of the chain of title in the deed of the subject property.

Height.

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

Compliance with additional regulations.

It shall be the responsibility of the person in charge **Facility Owner** of the WECS project to contact the FCC and FAA regarding additional permits necessary or any other applicable federal or state regulations for the installation of a WECS project prior to the County Zoning Board of Appeals granting a special use permit **issuance**.

Installation certification.

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

Roads.

Any proposed access roads that will be used for construction purposes shall be identified and approved by the Township Road Commissioner and the County Engineer prior to the granting of the special use permit.

Any road damage caused by the transport of the facility's equipment, the installation, or the removal must be completely repaired to the satisfaction of the Township Road Commissioner and the County Engineer. The Township Road Commissioner and County Engineer may choose to require either remediation of road repair upon completion of the project or are authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by the Township Road Commissioner or the County Engineer may be required by the Township Road Commissioner or the County Engineer to ensure the township or the county that future repairs are completed to their satisfaction.

An Applicant proposing to use any county, municipal or township road(s), for the purpose of transporting WECS or Substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) or Substation(s), shall enter into a Road Use Agreement that includes the following provisions, at a minimum:

1. **A Haul Route Map for review and approval by the respective Road District Commissioner and the County Engineer prior to the granting of the Siting Approval Permit. Traffic for construction purposes shall be limited to these roads.**

2. A pre-construction road surface scan shall be conducted to determine existing road conditions for assessing potential future damage. This study is to be conducted by an outside civil engineer firm agreed upon by both the road districts and the facility owner or their respective designee.
3. Scope of repairs; pre-construction and post construction.
4. The applicant shall obtain a weight or size permit from all appropriate government agencies, to include; IDOT, the County, townships and municipalities prior to construction.
5. Any road damage caused by the transport of the facility's equipment, the installation, maintenance or removal must be completely repaired to the satisfaction of the Road District Commissioner and the County Engineer. The Road District Commissioner and the County Engineer may choose to require either remediation of the road repair upon completion of the WECS Project or are authorized to collect fees for necessary remediation.
6. Financial assurance in the amount agreed upon by the Road District Commissioner and County Engineer to ensure future repairs are completed to their satisfaction shall be provided.

All repairs and improvements to public roads and roadway appurtenances shall be subject to the prior approval of the County before being made and shall also be subject to inspection and acceptance by the County after such repairs and improvements are completed. The County's Road Agreement, and any further agreements contemplated therein, regarding the maintenance and repair of public roads and highways, must be approved by the Tazewell County Board, to include financial assurance prior the approval of any WECS Building Permit applications related to the construction of the proposed WECS project.

Drainage Tile.

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

The following shall apply to the tile line repair:

1. The Facility Owner or their designee(s) will work with the Landowner to identify the tile lines traversing the property included within the Underlying Agreement which will be crossed or disturbed by the construction of the Facility. All tile lines identified in this manner will be shown on the Construction and Decommissioning Plans and staked or flagged in the locations where expected crossing or disturbance is anticipated prior to construction or decommissioning to alert construction and decommissioning crews to the possible need for tile line repairs.
2. Tile lines that are damaged, cut, or removed shall be staked or flagged placed in such a manner they will remain visible until the permanent repairs are completed. In addition, the location of damaged drain tile lines will be recorded using Global Positioning Systems (GPS) technology.

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

§ 153.06 ~~LIABILITY INSURANCE~~ OPERATION AND MAINTENANCE.

Facility Owner.

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

Facility Operation Manager.

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

Annual Inspection Report.

Every WECS project must be inspected annually by an authorized factory representative **or technician with a specialized training in wind farm operation**, to certify that it is in good working condition and not a hazard to the public. **Said reports shall be retained and made available to the County upon request for inspection.**

Interference.

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

Fire risk.

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

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

Shadow Flicker.

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

Noise Levels.

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

§ 153.07 DECOMMISSIONING PLAN NONCONFORMING USE AND STRUCTURES.

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

1. **It is the intent of this section to permit nonconforming uses to continue until they are removed or until they become a risk to public safety and/health;**
2. **It is the intent of this section that nonconforming structures shall not be enlarged upon, expanded or extended, unless they are brought into compliance with the current regulations, subject to reasonable exceptions listed below;**

3. Any nonconforming structure which received a Siting Approval Permit from the County prior to becoming nonconforming, may be continued only in accordance with the following:

No nonconforming structures shall be:

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

Nonconforming Use of a Structure:

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

Exceptions:

- a. Structural alterations or repairs of a nonconforming structure required by law shall be permitted;
- b. No nonconforming structure shall be structurally altered or enlarged in such a manner that would further increase the nonconformity, *except* that structural alterations or operations components related with normal maintenance, repairs and replacements may be permitted where there is no increase in the existing encroachments;
- c. Provided that the result is to change the status of a structure or use from nonconforming to conforming, such structure or use may be: Structurally altered, added to or enlarged, moved or relocated, in whole or part, expanded or extended, changed or, restored or reconstructed.

§ 153.08 ~~FEE~~ CHARGED FOR BUILDING PERMIT COMPLAINTS.

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

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

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

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

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

§ 153.09 LIABILITY INSURANCE.

The WECS project shall maintain a current insurance policy to cover installation and operation of the WECS project. The amount of the policy shall be established as a condition of permit approval.

The owner or operator of the WECS shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$ 5,000,000.00 per occurrence and \$10,000,000.00 in the aggregate, with an annual Certificate of Insurance being provided to the County, with the County being added as an additional insured, with the designation of primary and noncontributory.

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

Insurance coverage shall be maintained without interruption from the date of permitting through the decommissioning of all wind turbines. Certificates of Insurance acceptable to the County and in compliance with this section shall be filed with the County prior to the commencement of any work on the WECS and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required under this section shall contain a provision that coverages afforded under the policies shall not be cancelled or allowed to expire until at least 60 days written notice has been given to the County.

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

§ 153.10 DECOMMISSIONING PLAN.

1. The WECS project must contain a decommissioning plan to ensure it is properly decommissioned upon the end of the project life or facility abandonment. Decommissioning shall include: removal of all structures (including transmission equipment and fencing) and debris to a depth of four feet; restoration of the soil; and restoration of vegetation within six months of the end of project life or facility abandonment.

2. ~~The decommissioning plan shall state how the facility will be decommissioned, the professional engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the escrow agent with which the resources shall be deposited. The decommissioning plan shall also recite an agreement between the applicant and the county that:
 - a. ~~The financial resources for decommissioning shall be in the form of a surety bond, or shall be deposited in an escrow account with an escrow agent acceptable to the Zoning Enforcement Officer;~~
 - b. ~~A written escrow agreement will be prepared, establishing upon what conditions the funds will be disbursed;~~
 - c. ~~The county shall have access to the escrow account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within six months of the end of project life or facility abandonment;~~
 - d. ~~The county is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning;~~
 - e. ~~The county is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the county's right to seek reimbursement from applicant or applicant successor for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien; and~~
 - f. ~~Financial provisions shall not be so onerous as to make wind power projects unfeasible.~~~~

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

1. **Wind Turbine towers and blades;**
2. **Wind Turbine generators;**
3. **Wind Turbine foundations (to a depth of 5 feet);**
4. **Transformers;**
5. **Collection/interconnection substation (components, cable, and steel foundations), provided, however, that electrical collection cables at a depth of 5 feet or greater may be left in place;**
6. **Overhead collection system;**
7. **Operations/maintenance buildings, spare parts buildings and substation/ switching gear buildings unless otherwise agreed to by the Landowner;**
8. **Access Road(s) (unless Landowner requests in writing that the access road is to remain);**
9. **Operation, maintenance, yard/staging area unless otherwise agreed to by the Landowner; and debris and litter generated by deconstruction and deconstruction crews;**
10. **The Facility Owner shall, at its expense, complete decommissioning of a commercial wind energy facility twelve (12) months after the end of the useful life of the facility;**

11. Prior to issuance of the County building permit, the facility owner shall have the approval of the Decommissioning Plan and required financial assurance.

Financial Assurance to cover the estimated costs of decommissioning of the Commercial Wind Energy Facility shall be at one hundred percent (100%) of the cost estimate submitted and approved by the County. Financial assurance shall be made in the form of a surety or like bond and revaluated every four (4) years for economic relevance. Said revaluation must be performed by an independent third party Professional Engineer licensed in the State of Illinois and provided for review by the County. Should the County find reason to disagree with the revaluation, the County shall retain the services of an additional State of Illinois Licensed Professional Engineer, at the cost of the Facility Owner. Based on any revaluation, the County may require changes in the level of financial assurance used to calculate the phased coverages.

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

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

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

§ 153.11 FEES CHARGED FOR BUILDING PERMIT.

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

CASE NO. 23-05-A: The petition of Tazewell County for Amendment(S) to Chapter 157, Zoning Code of Tazewell County to be as follows:

(Add the language as bolded and underlined, remove all language as stricken.)

§ 157.481 NOTICE OF PUBLIC HEARING; PUBLICATION.

- (A) Notice of the time and place of any public hearing required by this chapter for zoning amendments, variances, and special uses shall be published in a newspaper of general circulation in the County not less than 15 days and **not more than 30 45 days** before such hearing. ~~; provided that notification is relating to a Class A zoning case, the publication shall occur not less than 45 days prior to the date of the hearing.~~

§ 157.482 NOTICE TO ADJOINING PROPERTY OWNERS.

The Community Development Administrator, as a courtesy, shall notify all adjoining property owners of a pending application and of the hearing date, location, and nature of the request before the Zoning Board of Appeals and other pertinent information as specified in § 157.481. Adjoining property owners shall be identified by information obtained from the County Supervisor of Assessment's office. Notification shall occur not less than 15 days and **not more than 30 45 days** prior to the date of the hearing. ~~; provided that notifications relating to a Class A zoning case shall occur not less than 45 days prior to the date of the hearing.~~

§ 157.483 NOTICE TO INTERESTED GOVERNMENTAL BODIES.

(A) The Community Development Administrator shall notify the county’s Soil and Water Conservation District, County Health Department, and villages and municipalities within one and one-half miles of the proposed property, Road Commissioners, and the County Highway Engineer of pending applications for an amendment, variance, and special use. Notification shall occur not less than 15 days and **not more than 30 45** days prior to the date of the hearing. ~~provided that notifications relating to a Class A zoning case shall occur not less than 45 days prior to the date of the hearing.~~

CASE NO. 23-06-A: The petition of Tazewell County for Amendment(S) to Chapter 156, Solar Energy Systems Ordinance of Tazewell County to be as follows:

(Add the language as bolded and underlined, remove all language as stricken.)

§ 156.02 DEFINITIONS.

AGRICULTURAL IMPACT MITIGATION AGREEMENT. The Agreement between the Facility Owner and the Illinois Mitigation Agreement Department of Agriculture (IDOA) described herein. (AIMA)

COMMERCIAL SOLAR ENERGY FACILITY (FACILITY). A solar energy conversion facility equal to or greater than 500 Energy Facility (Facility) kilowatts in total nameplate capacity, including a solar energy conversion facility seeking an extension of a permit to construct granted by a county or municipality before June 29, 2018.

“Commercial solar energy facility” does not include a solar energy conversion facility:

- (1) for which a permit to construct has been issued before June 29, 2018;**
- (2) that is located on land owned by the commercial solar energy facility owner;**
- (3) that was constructed before June 29, 2018; or (4) that is located on the customer side of the customer’s electric meter and is primarily used to offset that customer’s electricity load and is limited in nameplate capacity to less than or equal to 2,000 kilowatts**

Commercial Solar Energy Facility Owner (Facility Owner). A person or entity that owns a commercial solar energy facility. A Commercial Solar Energy Facility Owner is not nor shall it be deemed to be a public utility as defined in the Public Utilities Act.

COMMERCIAL/LARGE SCALE SOLAR FARM. A utility scale commercial facility that converts sunlight to electricity, whether by photovoltaics, concentrating solar thermal devices, or various experimental technologies for onsite or offsite use with the primary purpose of selling wholesale or retail generated electricity. A **COMMERCIAL SOLAR FARM** is the principal land use for the parcel on which it is located.

COMMERCIAL OPERATION DATE. The calendar date of which the Facility Owner notifies the Landowner, County, and IDOA in writing that commercial operation of the facility has commenced. If the Facility Owner fails to provide such notifications, the Commercial Operation Date shall be the execution date of this AIMA plus 6 months.

DECOMMISSIONING/DECONSTRUCTION. The removal of a Facility from the property of a Landowner and the restoration of that property as provided in the AIMA

DECOMMISSIONING PLAN. A plan prepared by a Professional Engineer, at the Facility’s expense, that includes:

- (1) The estimated Deconstruction cost, in current dollars at the time of filing, for the Facility, considering among other things:**
 - i. the number of solar panels, racking, and related facilities involved;**
 - ii the original Construction costs of the Facility;**
 - iii .the size and capacity, in megawatts of the Facility;**
 - iv. the salvage value of the facilities (if all interests in salvage value are subordinate to that of the Financial Assurance holder if abandonment occurs);**
 - v. the Construction method and techniques for the Facility and for other similar facilities; and**
- (2) a comprehensive detailed description of how the Facility Owner plans to pay for the Deconstruction of the Facility.**

FACILITY OWNER. (i) a person with a direct ownership interest in a commercial solar energy facility, regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the facility, and (ii) at the time the facility is being developed, a person who is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility.

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

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 commercial solar energy facility is filed with the county.

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

PARTICIPATING RESIDENCE. A residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the commercial wind energy facility or the commercial solar energy facility is filed with the county. "Protected lands" means real property that is:

(1) Subject to a permanent conservation right consistent with the Real Property Conservation Rights Act; or

(2) Registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

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

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

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

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

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

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

§ 156.06 COMMERCIAL/LARGE SCALE SOLAR FARM (SES)-ENERGY FACILITY

(A) **A solar energy conversion facility equal to or greater than 500 Energy Facility (Facility) kilowatts in total nameplate capacity and** Ground mount solar energy systems that are the primary use of the lot, designed for providing energy to off-site uses or export to the wholesale market require a special use in **A-1, A-2, I-1 and I-2 zoning** the Agriculture Districts the Conservation District and Industrial Districts and shall comply with ~~§§ 157.435 through 157.447~~ all special use requirements for a Class A Special Use request, as specified in the Tazewell County Zoning Code.

- (1) **Special Use Requirements**
- (a) **Prior to the public hearing, the facility owner must have entered into the Agricultural Impact Mitigation Agreement required by 55 ILCS 5/5-12020©. The facility owner’s compliance with the AIMA shall be a condition of the special use.**
- (b) **A request for special use permit for a commercial solar energy conversion facility or modification of an approved special use permit, shall be approved if the request is in compliance with the standards and conditions imposed in Public Act 102-1123 and conditions imposed under any other State and/or federal statutes and regulations in addition to those specified herein.**
- (3) *Fencing and weed/grass control.*
- (i) The applicant shall submit an acceptable pollinator friendly plan for property inside and outside the fenced area for the entire property. **The Facility Owner shall work with SWCD to determine appropriate vegetation for the existing soils.** The operating company or successor during the operation of the solar farm shall adhere to the pollinator friendly plan.
- (ii) **The Facility Owner shall provide for weed control in a manner that prevents the spread of weeds. Chemical control, if used, shall be done by an appropriately licensed pesticide applicator.**
- (iii) **The Facility Owner shall be responsible for the reimbursement of all reasonable costs incurred by owners of agricultural land where it has been determined by the appropriate state or county entity that weeds have spread from the Facility to their property. Reimbursement is contingent upon written notice to the Facility Owner. Facility Owner shall reimburse the property owner within 45 days after notice is received.**
- (iv) **The Facility Owner shall ensure that all vegetation growing within the perimeter of the Facility is properly and appropriately maintained. Maintenance may include, but not be limited to, mowing, trimming, chemical control, or the use of livestock as agreed to by the Landowner.**
- (v) **The Deconstruction plans must include provisions for the removal of all weed control equipment used in the Facility, including weed-control fabrics or other ground covers.**
- (vi) **A commercial solar energy facility to be sited so that the facility's perimeter is enclosed by fencing having a height of at least 7 feet and no more than 25 feet; and**
- (6) *Setbacks.*
- Occupied Community Buildings - 150 feet from the nearest point on the outside wall of the structure**
- Nonparticipating Dwellings - 150 feet from the nearest point on the outside wall of the structure**
- Public Road Rights-of-Way – 50 feet from the nearest edge.**
- Boundary lines of Nonparticipating Property – 50 feet to the nearest point on the property line of the nonparticipating property.**
- (8) *Fire protection.* A fire protection plan for the construction and the operation of the facility, and emergency access to the site. **The facility owner shall coordinate with the local fire districts by:**
- (A) Submitting to the local fire department(s) a copy of the project site plan;**

(B) Working cooperatively with the fire district(s) having jurisdiction to develop the fire emergency response plan. The Facility Owner shall cover the expense of any additional training agreed upon to be necessary by the Facility Owner and fire district. The Facility Owner shall, upon approval and prior to permit issuance, submit the Emergency Response Plan and the contact information of the representative of the fire district(s) who has approved the plan.

Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

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

(11) (12) Decommissioning Plans and Financial Assurance of Commercial Solar Energy Facilities

(A) Decommissioning of a Facility shall include the removal/disposition of all solar related equipment/facilities, including the following utilized for operation of the Facility and located on Landowner property:

(i) Solar panels, cells and modules;

(ii) Solar panel mounts and racking, including any helical piles, ground screws, ballasts, or other anchoring systems;

(iii) Solar panel foundations, if used (to depth of 5 feet);

(iv) Transformers, inverters, energy storage facilities, or substations, including all components and foundations; however, Underground Cables at a depth of 5 feet or greater may be left in place;

(v) Overhead collection system components;

(vi) Operations/maintenance buildings, spare parts buildings and substation/switching gear buildings unless otherwise agreed to by the Landowner;

(vii) Access Road(s) unless Landowner requests in writing that the access road is to remain;

(vii) Operation/maintenance yard/staging area unless otherwise agreed to by the Landowner; and

(ix) Debris and litter generated by Deconstruction and Deconstruction crews.

(B) The Facility Owner shall, at its expense, completely Decommission of a Facility within twelve months after the end of the useful life of the Facility.

(C) Prior to issuance of the County building permit, the facility owner shall have the approval of the Decommissioning Plan and required financial assurance.

Financial Assurance to cover the estimated costs of decommissioning of the Commercial Solar Energy Facility shall be at one hundred percent (100%) of the cost estimate submitted and approved by the County. Financial assurance shall be made in the form of a surety or like bond and revaluated every four (4) years for economic relevance. Said revaluation must be performed by an independent third party Professional Engineer licensed in the State of Illinois and provided for review by the County. Should the County find reason to disagree with the revaluation, the County shall retain the services of an additional State of Illinois Licensed Professional Engineer, at the cost of the Facility Owner. Based on any revaluation, the County may require changes in the level of financial assurance used to calculate the phased coverages.

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

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

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

BY ORDER OF THE TAZEWELL COUNTY ZONING BOARD OF APPEALS

/s/ DUANE LESSEN

Chairman, Zoning Board of Appeals
Tazewell County, IL

Dates of Publication: March 22nd, 2023

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