

## CHAPTER 157: WIND ENERGY CONVERSION SYSTEMS

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### § 157.01 PURPOSE.

The purpose of this chapter is to facilitate the commercial construction, installation, and operation of wind energy conversion systems or other renewable energy technologies in unincorporated Jersey County that promote economic development and ensure the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. This chapter governs the siting of wind energy conversion system facilities and substations that generate electricity to be sold to wholesale or retail markets. This chapter does not apply to residential construction and is not intended to replace safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.

(Ord. WEC-23, passed 8-8-2023)

### § 157.02 DEFINITIONS.

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

**APPLICANT.** The entity who submits to the county an application for the siting and operation of any WECS or substation. All references to **APPLICANT** in this chapter shall include the **APPLICANT'S** successors-in-interest and assigns, which includes a WECS permittee (as defined below).

**COMMERCIAL OPERATION DATE.** The calendar date on which the WECS project produces power for commercial sale, not including test power.

**COMMERCIAL WIND ENERGY FACILITY.** A wind energy conversion facility of equal or greater than 500 kilowatts in total nameplate generating capacity. Also referred to herein as "wind energy conversion system" or "WECS" or "WECS project".

**FINANCIAL ASSURANCE** or **FINANCIAL SECURITY** or **DECOMMISSION SECURITY.** 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.

**METEOROLOGICAL TOWER.** Those towers which are erected primarily to measure wind speed and direction plus other data relevant to siting and operation of a WECS project. For purposes of this chapter, **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 WECS project is filed with the county.

**NOTICE TO PROCEED.** A written document, named as such, stating that the applicant expresses an intent to commence construction activities on a WECS project and identifying the date on which the construction activities are scheduled to commence.

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

**OPERATOR.** The person or entity responsible for the day-to-day operation and maintenance of the wind energy conversion system, including any third-party subcontractors. The **OPERATOR** must be a qualified wind power professional. All references to **OPERATOR** in this chapter shall include the **OPERATOR'S** successors-in-interest and assigns.

**OWNER.** The person or entity or entities with an equity interest in a wind energy conversion system, including their respective successors-in-interest and assigns. The **OWNER** does not mean: (i) the property owner from whom land is leased for locating a wind energy conversion system (unless the property owner has an equity interest in a wind energy conversion system); or (ii) any person holding a security interest in a wind energy conversion system solely to secure an extension of credit, or a person foreclosing on such security interest, provided that after foreclosure, such person seeks to sell a wind energy conversion system at the earliest practicable date. This definition includes the definition of facility owner as defined in 55 ILCS 5/5-12020.

**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 WECS project or supporting facilities. **PARTICIPATING PROPERTY** also includes real property that is owned by a facility owner for the purpose of constructing a WECS project 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 permit to develop the WECS project is filed with the county.

**PROFESSIONAL ENGINEER.** A qualified individual who is licensed as a professional engineer in any state in the United States. Where a structural engineer is required to take some action under the terms of this chapter, a **PROFESSIONAL ENGINEER** may serve as the structural engineer if he or she has the appropriate structural engineering certification.

**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 wildlife refuges 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 the government or non-profit conservation organizations for conservation purposes.

**SPECIAL USE APPLICATION.** An application approved by the Subdivision and Land Use Committee, after a hearing, allowing a particular use at a specified location subject to compliance with certain specified special conditions as may be required by the Subdivision and Land Use Committee.

**SUBSTATION.** The apparatus that collects and connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.

**SUPPORTING FACILITIES.** The transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the WECS.

**WECS APPLICANT.** An applicant who applies for and receives a special use application approval under this chapter for the siting and operation of any WECS or substation. All references to a **WECS APPLICANT** in this chapter shall include a **WECS APPLICANT'S** successors-in-interest and assigns.

**WECS BUILDING PERMIT.** A permit necessary for the commencement of work performed toward the construction, erection, or installation of an approved WECS, substation or operations and maintenance building in connection with a WECS project. A WECS BUILDING PERMIT may be issued by the county after a WECS project has obtained a special use application approval from the Subdivision and Land Use committee in addition to the County Board determining that all conditions, if any, have been satisfied that are imposed by the special use application. The WECS BUILDING PERMIT shall require the Jersey County Code Administrator to deliver a written "notice to proceed" for the WECS project prior to commencement of construction of the WECS project. The term "commencement of construction", as used in this chapter, includes any site development work (e.g., demolition, grubbing, grading, excavation, road work, construction of project-related structures and infrastructure improvements, and the like) regarding the WECS project.

**WECS TOWER** or **WIND TOWER.** Includes wind turbine tower, nacelle, and the top surface of the WECS blades.

**WECS TOWER HEIGHT.** The distance from the rotor blade at its highest point to the top surface of the WECS foundation.

**WIND TURBINE.** Any piece of electrical generating equipment that converts the kinetic energy of moving wind into

electrical energy through the use of airfoils or similar devices to capture the wind.

(Ord. WEC-23, passed 8-8-2023)

### **§ 157.03 APPLICABILITY.**

(A) This chapter governs the siting of WECS and substations that generate electricity to be sold to wholesale or retail markets.

(B) Owners of WECS with an aggregate generating capacity of 0.5MW or less who locate the WECS(s) on their own property are not subject to this chapter.

(Ord. WEC-23, passed 8-8-2023)

### **§ 157.04 PROHIBITION.**

No WECS or substation governed by this chapter shall be constructed, erected, installed, or located within the county, unless prior siting approval has been obtained for each individual WECS or for a group of WECSs under a joint siting application pursuant to this chapter.

(Ord. WEC-23, passed 8-8-2023)

### **§ 157.05 APPLICATION.**

The provisions of this chapter shall be administered and enforced by personnel of the Jersey County Code Administrator office (herein referred to as "Code Official"). The applicant must submit the following information ten business days prior to the submittal of the special use application for a wind energy conversion system. The applicant is required to submit 25 copies, one original full size application package of all required documentation and one application with all exhibits submitted electronically, to the Code Official, together with the appropriate filing fee. The application shall include the following:

(A) Site plan with existing conditions showing the following:

(1) A WECS project summary including, to the extent available:

(a) A general description of the project, including:

1. Its approximate overall nameplate generating capacity;
2. The potential equipment manufacturer(s);
3. Types(s) of WECS(s);
4. The number of WECS and the plate generating capacity of each WECS;
5. The maximum height of the WECS tower(s) and the maximum diameter of the WECS(s) rotor(s);
6. The number of substations;
7. A project site plan, project phasing plan and project construction timeline plan; and
8. The general location of the project; and

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

(2) Structural engineer-stamped plans for all work that is going to be completed;

(3) The name(s), address(es), and phone numbers(s) of the applicant(s), owner and operator, and all property owner(s), if known, and documentation demonstrating land ownership or legal control of the property;

(4) Existing property lines and property lines extending 100 feet from the exterior boundaries, including the names of adjacent property owners and current use of those properties;

(5) Existing public and private roads, showing widths of the roads and any associated easements;

(6) Location and size of any abandoned wells or sewage treatment systems;

(7) Existing buildings and any impervious surfaces;

(8) A contour map showing topography at two foot intervals. A contour map of surrounding properties may also be required;

(9) Existing vegetation (list type and percent coverage, i.e., cropland/plowed fields, grassland, wooded areas, and the like);

(10) A copy of the current FEMA FIRM map that shows the subject property, the 100 year flood elevation and any regulated flood protection elevation, if available;

(11) Surface water drainage patterns; and

(12) The location of any subsurface drainage tiles.

(B) Site plan with proposed conditions showing the following:

(1) Location and spacing of wind energy conversion systems;

(2) Location of access roads and access points and rights-of-way that will be utilized for both the construction and operation of the WECS;

(3) Planned location of underground or overhead electric lines connecting the wind energy conversion system to a building, substation or other electric load;

(4) New electrical equipment other than at the existing building or substation that is to be the connection point to the WECS;

(5) Sketch elevation of the premises accurately depicting the proposed wind energy conversion system and its relationship to structure on adjacent land;

(6) The location of any wetlands, floodplain, drainage structures including surface ditches and subsurface drainage lines, underground mines, scenic and natural areas within 1,500 feet of the proposed WECS, and the layout of all structures within the geographical boundaries of any applicable setback;

(7) The location of all participating and nonparticipating residences, occupied community buildings, parcel boundary lines, public access roads and turnout locations, substation(s), operations and maintenance buildings, permanent meteorological towers, electrical cabling from WECS tower to the substation(s), ancillary equipment, and third party transmission lines;

(8) All determinations of no hazard to air navigation from the Federal Aviation Administration;

(9) All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this chapter;

(10) An agricultural impact mitigation agreement (AIMA) executed between the applicant and the Illinois Department of Agriculture;

(11) Any other information normally required by the county as part of its permitting requirements for siting buildings or other structures;

(12) Waivers from the setback requirements executed by the occupied community building owners and/or the nonparticipating property owners bearing a file stamp from the County Recorder of Deeds office confirming that the waiver was recorded against title to the affected real property;

(13) Results and recommendations from the Illinois Department of Natural Resources obtained through the ecological compliance assessment tool or a comparable successor tool;

(14) Results of the United States Fish and Wildlife Service's information for planning and consulting environmental review or a comparable successor tool that is consistent with the United States Fish and Wildlife Service's land-based wind energy guidelines;

(15) Information demonstrating that the WECS project will avoid protected lands;

(16) Any other information requested by the county or the county consultants that is necessary to evaluate the siting application and operation of the WECS project and to demonstrate that the WECS project meets each of the regulations in this chapter, including the special use application standards set forth below;

(17) Material changes to the application are not permitted once the notice of the public hearing has been published, unless requested or permitted by the county; and

(18) The applicant shall submit 25 copies of the special use application to the county, and at least one copy in electronic format.

(Ord. WEC-23, passed 8-8-2023)

## **§ 157.06 DESIGN AND INSTALLATION.**

(A) *Design safety certification.*

(1) WECSs shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI"). Applicants shall submit certificates of design compliance that the equipment manufacturers have obtained from Underwriters Laboratories ("UL"), Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energie ("CGL"), or an equivalent third party. All turbines shall be new equipment commercially available; no used or experimental equipment shall be used in the WEC project without the approval of a variance by the County Code Administrator.

(2) Following the granting of siting approval under this chapter, a structural engineer shall certify, as part of the WECS building permit application process, that the foundation and tower design of the WECS is within accepted professional standards, given local soil, subsurface and climate conditions.

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

(C) *Electrical components.* All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards (e.g. ANSI and International Electrical Commission).

(D) *Aesthetics and lighting.* The following items are recommended standards to mitigate visual impact:

(1) *Coatings and coloring.* Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color.

(2) *Turbine consistency.* To the extent feasible, the WECS project shall consist of turbines of similar design and size, including tower height. Further, all turbines shall rotate in the same direction. Turbines shall also be consistent in color and direction with nearby facilities.

(3) *Lighting.* WECS projects shall 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 WECS project, the applicant shall install Aircraft Detection Lighting Systems ("ADLS") or other similar technology to reduce light pollution and visual impacts caused by the WECS towers.

(4) *Intra-project power and communication lines.* All power lines used to collect power from individual turbines and all communication lines shall 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) *Warnings.*

(1) A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations, and at all entrances to the wind towers.

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

(F) *Climb prevention.* All WECS towers must be unclimbable by design or protected by anti-climbing devices such as:

(1) Fences with locking portals at least six feet high; or

(2) Anti-climbing devices 12 feet vertically from the base of the WECS tower.

(G) *Setback requirements.*

(1) WECS towers shall be sited as follows, with setback distances measured from the center of the base of the WECS tower:

(a) Occupied community buildings: 2.1 times the maximum blade tip height of the WECS tower to the nearest point on the outside wall of the structure;

(b) Participating residences: 1.1 times the maximum blade tip height of the WECS tower to the nearest point on the outside wall of the structure;

(c) Nonparticipating residences: 2.11 times the maximum blade tip height of the WECS tower to the nearest point on the outside wall of the structure;

(d) Boundary lines of participating property: none;

(e) Boundary lines of nonparticipating property: 1.1 times the maximum blade tip height of the WECS tower to the nearest point on the property line of the nonparticipating property;

(f) Public road rights-of-way: 1.1 times the maximum blade tip height of the WECS tower to the center point of the public road right-of-way;

(g) Overhead communications and electric transmission and distribution facilities (not including overhead utility service lines to individual houses or outbuildings): 1.1 times the maximum blade tip height of the WECS tower to the nearest edge of the property line, easement, or right-of-way containing the overhead line;

(h) Overhead utility service lines to individual houses or outbuildings: none; and

(i) Fish and Wildlife Areas and Illinois Nature Preserve Commission protected lands: 2.1 times the maximum blade tip height of the WECS tower to the nearest point on the property line of the fish and wildlife area or protected land.

(2) The setback requirements may be waived by the written consent of the owner(s) of each affected property. The applicant does not need to obtain a variance from the county upon waiver by the property owner of the setback requirement. Any waiver of any of the above setback requirements shall run with the land and be recorded with the Jersey County Recorder's Office.

(H) *Compliance with additional regulations.* Nothing in this chapter is intended to preempt other applicable state and federal laws and regulations.

(I) *Site assessment.* To ensure that the subsurface conditions of the site will provide proper support for the WECS towers and soil restoration, the applicant, at its expense, shall provide soil and geotechnical boring reports to the County Code Administrator with respect to each WECS tower location as part of its WECS building permit. The applicant shall follow the guidelines for conservation practices and impact mitigation submitted by the County Soil and Water Conservation District (or equivalent regulatory agency). The applicant shall submit grading plans for the proposed substations for review and comment by the County Soil and Water Conservation District prior to the issuance of any WECS building permit for the construction of said substations.

(J) *Communications analysis; interference.*

(1) The applicant, at its expense, shall have a third party, qualified professional (after submission of résumé and relevant work experience) conduct an appropriate analysis of the television reception documenting the television stations that are received within one and one-half miles of the footprint of the WECS project. The results of said study shall be public record and will serve as a base line reading for television reception conditions prior to the construction of the WECS project and shall be submitted as part of the special use application.

(2) The applicant, at its expense, shall have a third party, qualified professional (after submission of résumé and relevant work experience), conduct a communications analysis that indicates that the 911 communications, emergency communications or official county and local municipal communications reception shall not be negatively impacted or influenced by the proposed wind power facility. Said communication analysis shall be a public record and shall be submitted as part of the special use 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 WECS project summary and site plan, as set forth in § 157.05(B). To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s), the applicant and 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.

(4) If, after construction of the WECS, the applicant (WECS permittee) or operator receives a written complaint related to interference with local broadcast residential television, the applicant (WECS 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 Jersey County Code Administrator for review. Once the construction is complete and a television reception complaint is received by the applicant (WECS permittee), who will have 30 calendar days to verify the complaint, the applicant (WECS permittee) will be given 15 calendar days to respond, in writing (validation date). Said response shall be addressed and forwarded to both the Jersey County Code Administrator 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 (WECS permittee). If the complaint is considered valid by the applicant (WECS permittee), an explanation shall be provided, including a timeline, as to what the applicant (WECS permittee) intends to do about the complaint. The applicant (WECS permittee) of the wind power facility will be given an additional 15 calendar days from the validation date to resolve said TV reception issue. If the complaint is considered invalid by the applicant (WECS permittee), an explanation shall be provided, including supporting documentation and expert opinions, as to why the applicant (WECS permittee) believes the complaint is not valid. Television reception complaints must be filed within six months from the date each wind turbine generator goes online.

(K) *Noise levels.* Noise levels from each WECS or WECS project shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. The applicant shall submit the manufacturer's wind turbine sound power level characteristics and other relevant data regarding wind turbine 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 special use permit application,

(L) *Agricultural impact mitigation.* Pursuant to 505 ILCS 147/15(a), the applicant, at its expense, shall enter into an agricultural impact mitigation agreement with the Illinois Department of Agriculture prior to any public hearing required before a siting decision on the WEC project application. The agricultural impact mitigation plan must be approved by the Illinois Department of Agriculture prior to the acceptance by Jersey County. All impacted agricultural land, whether impacted during construction, operation, or decommissioning activities, must, at a minimum, be remediated by the applicant pursuant to the terms of the agricultural impact mitigation agreement with the Illinois Department of Agriculture. The applicant shall submit the executed agricultural impact mitigation agreement to the county as part of the special use permit application.

(M) *Avian and wildlife study.* The applicant, at its expense, shall have a third party, qualified professional (after submission of résumé and relevant work experience) conduct an avian and wildlife impact study and submit said study to the county as part of the special use permit application. The avian and wildlife impact study must be approved by the Illinois Department of Natural Resources prior to acceptance by Jersey County. Each WECS or WECS project shall be located, designed, constructed, and operated so as to avoid and if necessary, mitigate the impacts to wildlife.

(N) *As-built map and plans.* Within 60 calendar days of completion of construction of the WECS project, the applicant or operator shall deliver "as-built" maps, site plan and engineering plans for the WECS project that have been signed and stamped by a professional engineer and a licensed surveyor.

(O) *Engineer's certificate.* The WECS project engineer's certificate shall be completed by a structural engineer registered in the State of Illinois or by a professional engineer with a certification from a structural engineer registered in the State of Illinois; shall certify that the WECS tower and foundation design is compatible with and appropriate for each turbine design proposed to be installed; and shall certify that the specific soils and subsurface conditions at the site can support the apparatus, given local soil, subsurface and climate conditions. All commercially installed wind turbines must utilize self-supporting, tubular towers. The WECS project engineer's certificate shall be a public record and shall be submitted as part of the special use permit application meeting all currently adopted Jersey County ordinances.

(P) *Conformance with approved application and plans.* The applicant shall construct and operate the WECS project in substantial conformance with the construction plans contained in a county-approved submitted special use permit application(s), conditions placed upon the operation of the facility, this chapter and all applicable state, federal and local laws and regulations.

(Q) *Additional terms and conditions.*

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

(2) The county may retain a qualified, independent code inspector or professional engineer both to make appropriate inspections of the WECS project during and after construction and to consult with the county to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the WECS project 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 WECS project.

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

(4) The special use application 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 chapter, or conditions placed upon the operation of the commercial wind energy facilities are held to be invalid, such invalidity shall not affect any other provision of this chapter that can be given effect without the invalid provision and, to this end, the provisions in this chapter are severable.

(5) 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 issuance of any WECS building permit or prior to construction of the WECS project.

(6) No wind turbine generator shall 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. The wind turbine generator shall not be installed in a location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

(7) The applicant of the WECS project shall use two methods to detect icing conditions on turbine blades: (1) sensors that detect when blades become imbalanced or create vibration due to ice accumulation; and (2) meteorological data from on-site meteorological towers, on-site anemometers, and other relevant weather sources 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.

(Ord. WEC-23, passed 8-8-2023)

## **§ 157.07 OPERATION.**

(A) *Maintenance.*

(1) *Annual report.* The applicant (WECS 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:

(a) A general description of any physical repairs, replacements or modification(s) to the WECS and/or its infrastructure;

(b) Complaints pertaining to setbacks, noise, shadow flicker, appearance, safety, lighting and use of any public roads received by the applicant concerning the WECS and the resolution of such complaints;

(c) Calls for emergency services;

(d) Status of liability insurance; and

(e) A general summary of service calls to the WECS. Failure to provide the annual report shall be considered a material violation of this chapter and subject to § 157.17.

(2) *Re-certification.* Any physical modification to the WECS that alters the mechanical load, mechanical load path, or



major electrical components shall require re-certification under § 157.06(A). Like-kind replacements and modifications that are made in the ordinary course of operations, including expected repairs and warranty items, shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement or other modifications made in the ordinary course of operations), the applicant shall confer with a relevant third-party certifying entity identified in § 157.06(A) to determine whether the physical modification requires re-certification.

(B) *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 wind power facility 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 tower site may evaluate and coordinate their emergency response plans with the applicant of the WECS project.

(2) Nothing in this section shall alleviate the need to comply with all other applicable life safety and fire/emergency laws and regulations or any adopted Jersey County ordinance.

(C) *Water, sewer, materials handling, storage and disposal.*

(1) All solid waste related to the construction, operation and maintenance of the WECS 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 WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal 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.

(D) *Shadow flicker.* The applicant must present to the County Board a model study on potential shadow flicker. The applicant shall appropriately demonstrate to the County Board through industry standard modeling that no occupied community building or nonparticipating residence will experience an expected duration of 30 hours or more per year. An occupied community building owner or a nonparticipating residence owner may waive this shadow flicker mitigation requirement. Each waiver of the above shadow flicker mitigation requirement shall be set forth in a written waiver executed by the occupied community building owner or nonparticipating residence owner and filed with the County Recorder of Deeds office against title to the affected real property.

(E) *Signage.* Signage regulations are to be consistent with ANSI and AWEA standards. A reasonably visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations, and at all entrances to wind towers.

(F) *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 WECS project in accordance with the agricultural impact mitigation agreement.

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

(Ord. WEC-23, passed 8-8-2023)

## **§ 157.08 LIABILITY INSURANCE AND INDEMNIFICATION.**

(A) Commencing with the issuance of a WECS special use application approval, the applicant shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least \$5,000,000 per occurrence and in the aggregate; and shall further maintain the above-stated lines of insurance from delivery of the "notice to proceed" by the applicant under the turbine supply and/or balance of plant construction contract(s) for the WECS project, in coverage amounts of at least \$5,000,000 per occurrence and \$20,000,000 in the aggregate during the life of the WECS project. The applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a WECS building permit; corresponding policies and endorsements shall be provided within 60 days of issuance, and at each subsequent renewal, at least annually thereafter.

(B) The applicant (WECS permittee) 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 WECS 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 applicant (WECS permittee), the owner or the operator under this chapter 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.

(Ord. WEC-23, passed 8-8-2023)

### **§ 157.09 COMPLAINT RESOLUTION.**

The applicant shall develop a process to resolve any complaints that may arise from neighboring property owners during the construction and operation of the wind energy conversion system. The process shall use an independent mediator and shall include a time limit for acting on a complaint that is received. The process shall not preclude the local government from acting on a complaint. The applicant shall provide to the nearby residents a toll-free phone number for complaints during the construction of the facility if a problem should arise. The applicant will respond to all complaints from persons directly affected by the commercial project within 48 hours, will attempt to resolve all complaints in a prompt and responsible manner, will keep a log of all complaints and the method of resolution, will make the log available to the county, and will agree to participate in a non-binding mediation for complaints that are not resolved, with the cost of such to be paid directly by the applicant.

(Ord. WEC-23, passed 8-8-2023)

### **§ 157.10 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 or substation(s), shall;

- (1) Identify all such public roads; and
- (2) Obtain applicable weight and size permits from relevant government agencies prior to construction.

(B) To the extent an applicant must obtain a weight or size permit from the county, municipality, township or village, the applicant shall;

- (1) Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
- (2) 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 special use application. 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, or the installation, maintenance, or removal of such equipment, 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 wind energy conversion system 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 or County Engineer to assure to the road district or the county that future repairs are completed to their reasonable satisfaction, shall be provided. The applicant shall submit a draft form of said financial assurance with special use application.

(3) Enter into a road use agreement with the county and each affected road district that includes the following provisions, at a minimum;

- (a) Project layout map;
- (b) Transportation impact analysis;
- (c) Pre-construction plans;
- (d) Project traffic map;
- (e) Project scope of repairs;
- (f) Post-construction repairs;
- (g) Insurance;
- (h) Financial security in forms and amounts acceptable to the county; and

(i) The road use agreement shall require the applicant to be responsible for the reasonable cost of improving roads used to construct a WECS and the reasonable cost of repairing roads used by the facility owner during construction of the wind energy conversion systems so that those roads are in a condition that is safe for the driving public after the completion of the wind energy conversion system's construction.

(4) All repairs and improvements to public roads and roadway appurtenance 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 public roads and highways, must be approved by the County Board prior to the issuance of any wind energy conversion systems building permit related to the construction of the proposed wind energy conversion systems.

(Ord. WEC-23, passed 8-8-2023)

#### **§ 157.11 APPLICABLE FEES AND SPECIAL USE APPLICATION.**

(A) Upon submittal of a special use permit application for a wind energy conversion system, the applicant shall submit a non-refundable filing fee as listed in the Jersey County Fee Schedule that will be utilized to review and assess the application. Should the actual costs to the county exceed the current fee, the applicant shall be responsible for those additional costs, including, but not limited to the costs of outside attorneys, hearing officer, and consultants (e.g, noise engineers, traffic engineers, and environmental consultants), and shall remit additional funds to the county within 15 days of receipt of request from the county. The building permit fee shall be calculated using the most current adopted Jersey County Fee Schedule.

(B) An itemized cost estimate for the entire construction of the project such as the following (may not be all inclusive):

- (1) Cost of plans and engineering, surveying, environmental reports;
- (2) Cost of stormwater plan, or any research regarding stormwater development;
- (3) Fencing and ground work of actual wind turbine site;
- (4) Cost of substation connections, including but not limited to overhead wires and switches;
- (5) Any foundation work required for the placement of the wind turbine structure; and
- (6) The entire structure itself and any machinery and equipment needed to operate the facility.

(Ord. WEC-23, passed 8-8-2023)

#### **§ 157.12 COUNTY CODE ADMINISTRATOR RESPONSIBILITIES.**

(A) The County Code Official shall accept and date stamp the application was filed. The date stamp should be considered the official filing date for all time purposes. Receipt and acceptance of an application by the Code Official is *pro forma*, and does not constitute an acknowledgment that the applicant has complied with this chapter.

(B) The Code Official shall forward the application to the County Engineer for a determination of completeness.

(C) Code Official shall make available a copy of the application and public record concerning the application for public inspection during the normal business hours of the county offices. Additionally, the Code Official shall provide to any person so requesting copies of the application or the public record upon payment by such persons for the actual cost of reproduction.

(Ord. WEC-23, passed 8-8-2023)

#### **§ 157.13 PUBLIC HEARING.**

After the filing of an application, the Code Official shall make a preliminary determination of completeness of the application. If, in the Code Official's opinion, the application has addressed the required elements of an application, it will be forwarded to the County Engineer and the Subdivision and Land Use Committee to conduct a public hearing on the application. If the application is incomplete, the applicant will be notified and the application will not proceed to hearing unless good cause is shown for the incompleteness.

(A) *Notice.* The applicant must provide a complete list of all properties adjacent to a proposed wind energy conversion system. The applicant shall have a notice issued to every owner of those properties by certified mail, registered mail, or personal service at the last known address of such owner of a property as identified by the county tax records. The notice will identify the nature of the proposed use and the date that a public hearing shall occur on the proposed use at the Subdivision and Land Use Committee, and that any person may make an appearance to participate in that hearing. Those notices must be served at least 15 days before the public hearing. The applicant shall provide evidence of notification or evidence of a "good faith" effort to contact the property owner prior to the hearing if requested by the Code Official. The hearing notice shall also be published in a circulation of general publication at least three times before the hearing commences, with the first publication occurring at least 30 days before the hearing and at least one publication occurring between seven and 15 days before the hearing.

(B) *Subdivision and Land Use Committee.* The Committee members shall preside over the public hearing; establish a record of the proceedings; and make decisions concerning the admission of the evidence and the manner in which the hearing is conducted. The Chairperson of the Committee will make a recommendation and proposed findings to the full Board at the next regular scheduled meeting. At the commencement of the public hearing, people wishing to provide a public comment will be identified by a sign in sheet.

(C) *Committee and County Board action.* The Subdivision and Land Use Committee will consider the following facts:

(1) Whether the application and proposed wind energy conversion system substantially complies with the wind energy conversion systems.

(2) Whether the proposed wind energy conversion system is sufficiently protective of the public health, safety and welfare of the residents of Jersey County.

(3) The Subdivision and Land Use Committee shall tender its findings and recommendations to the County Board. The committee may recommend approval, approval with request for additional information or clarification, approval with conditions, or denial. Within 30 days of the conclusion of the public hearing, the County Board will meet in public session and render its decision. The County Board may approve, approve with conditions, or deny the application.

(D) *Re-filing.* Any applicant, owner or operator whose wind energy conversion system application is denied may not re-file a substantially similar application for one year. If the County Code Official determines an application is substantially similar to one the applicant filed within one year, it will not be forwarded to the Subdivision and Land Use Committee or the County Board for review.

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

(Ord. WEC-23, passed 8-8-2023)

#### **§ 157.14 BUILDING PERMIT PROCEDURE.**

Building applications shall be submitted to the Code Official. The application shall be on a form approved by the Code Official and must be accompanied by two copies of the following:

- (A) Address of property, date of application (911 address required);
- (B) Applicant's name, address, and contact information;
- (C) Property owner's name, address, phone number, and email;
- (D) Company name (if different from applicant), contact information, mailing address, and email;
- (E) Site drawing that shows the proposed location and distance of the wind energy conversion system with reference to property lines of the parcel; right-of-way of any road; residence; business; or public building;
- (F) Final construction plans prepared and sealed by a structural engineer licensed in Illinois;
- (G) Building permit fee payable by check to "Jersey County" (refer to the Jersey County Fee Schedule).

(Ord. WEC-23, passed 8-8-2023)

#### **§ 157.15 ENFORCEMENT AND INSPECTIONS.**

The provisions of this chapter shall be administered and enforced by personnel of the Jersey County Code Administrator office (herein referred to as the "Code Official") through an inspection of the wind energy conversion system every year. The Code Official and his/her designee are hereby granted the power and authority to enter upon the premises of the wind energy conversion system at any time by coordinating a reasonable time with the operator and/or owner of the facility. Any person, firm, or corporation who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any provisions in this section may face fines of not less than \$100 nor more than \$750 for each offense. A separate and distinct offense shall be regarded as committed each day the violation remains uncorrected.

(Ord. WEC-23, passed 8-8-2023)

#### **§ 157.16 DECOMMISSIONING SECURITY COSTS.**

The plan shall ensure financial resources equal to 125% of the entire cost of decommission, and approved by the Code Official and the state's attorney, in a surety performance bond that is readily convertible into cash at face value and that names Jersey County and its officials as the insured. This surety shall be retained by the county to cover the cost of the decommissioning requirements herein. Following initial submittal of the surety, the cost calculation shall be reviewed bi-annually, and adjusted accordingly based upon an updated estimate, excluding the salvage value, by an Illinois licensed engineer under seal; provided however, that any such periodic adjustment must be approved by the County Board. The county shall hire the engineer and the applicant shall be required to cover the cost. Failure to comply with any requirement of this section shall result in the immediate termination and revocation of all prior approvals and permits; further, the county shall be entitled to make immediate demand upon, and/or retain any proceeds of, the surety, which shall be used for decommissioning and/or removal of the wind energy conversion system, even if still operational. The decommissioning agreement and financial assurances shall comply with 55 ILCS 5/5-12020.

(Ord. WEC-23, passed 8-8-2023)

#### **§ 157.17 REMEDIES.**

(A) The applicant's failure to materially comply with any of the provisions under the special use application, any conditions imposed on the project, and/or failure to comply with any law or regulation shall be a default and shall be grounds for revocation of the special use application by the Jersey County Subdivision and Land Use Committee.

(B) Prior to implementation of the applicable county procedures for the resolution of default(s), the Jersey County Code Administrator 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 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 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.

(Ord. WEC-23, passed 8-8-2023)