

PIATT COUNTY
ZONING ORDINANCE

APPENDIX A
STANDARDS FOR
WIND ENERGY
CONVERSION SYSTEMS
OVER 500 kW

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Appendix A

STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS OVER 500 kW

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I. INTRODUCTION

A. *Title*

This Ordinance shall amend the Piatt County Zoning Ordinance and be known, cited and referred to as **Appendix A Standards for Wind Energy Conversion System over 500 kW**.

B. *Purpose*

This Ordinance is adopted for the following purposes:

1. To assure that any development and production of wind-generated electricity in Piatt County is safe and effective;
2. To facilitate economic opportunities for local residents;

II. DEFINITIONS

- A. "Applicant" means the entity or person who submits to the County, pursuant to Section V of this Ordinance, an application for the special use permit for any WECS(s) or substations.
- B. "Construction Permit" means the Building Permit which shall be obtained from the Zoning Officer prior to commencing any construction on the WECS project.
- C. "Financial Assurance" means reasonable assurance from a credit worthy party, examples of which include a surety bond trust instrument, cash escrow, or irrevocable letter of credit, or corporate guaranty from an entity whose credit is investment grade (reviewed on an annual basis).

- D. "Hearing facilitator" – the County may unilaterally engage the services of a hearing facilitator not affiliated with any pro wind or anti wind group to preside over any required hearings resulting from the special use permit application. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the Zoning Board and County Board but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence and the propriety of any arguments. Upon conclusion of the evidence and final arguments, the Zoning board will prepare and submit "findings of fact" and a final recommendation to the County Board. The hearing facilitator shall be an attorney licensed to practice in the State of Illinois, jointly selected by the state's attorney (or his/her designee) and the County Zoning Officer and appointed by the chairman of the County Board with the consent of the County Board. The applicant shall reimburse the county for the fees and costs charged by the facilitator.
- E. "Nonparticipating primary structure" means a dwelling on land that is not leased to a WECS Project.
- F. "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS(s), including any third party subcontractors.
- G. "Owner" means the entity or entities with a direct equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) at the earliest practicable date.
- H. "Participating primary structure" means a dwelling on land that is leased to a WECS Project.
- I. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- J. "Primary Structure" means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, churches, schools and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.

- K. "Rotor" means the rotating assembly in a turbine, especially a wind turbine.
- L. "Substation" means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.
- M. "Wind Energy Conversion System" (WECS") means all necessary facilities that together convert wind energy into electricity and deliver that electricity to a utility's transmission lines, including, but not limited to, the rotor, nacelle, generator, WECS Tower, Electrical components, WECS foundation, transformer, electrical cabling from the WECS Tower to the substation(s)/switchyard(s), communications facilities, transmission lines, poles, and/or towers, operations and maintenance building, and other related devices, facilities, and equipment.
- N. "WECS Project" means the collection of WECS(s) as specified in the Special Use Permit application pursuant to Section V of this Ordinance.
- O. "WECS Tower" means the support structure to which the nacelle and rotor are attached.
- P "WECS Tower Hub Height" means the distance from the center of the rotor hub to the top surface of the WECS Tower foundation.
- Q. "WECS Tower Tip Height" means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.
- R. "Shadow Flicker" means the phenomena that occurs when rotating wind turbine blades cast moving shadows upon stationary objects.

III. APPLICABILITY

This Ordinance governs the siting of WECS(s) and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of WECS(s) with an aggregate generating capacity of 500 kW or less who locate the WECS(s) on their own property are not subject to this Ordinance, but are subject to other special use requirements outlined in the Piatt County Zoning Ordinance.

IV. PROHIBITION

No WECS or WECS Project governed by Section III of this Ordinance shall be constructed, erected, installed or located within Piatt County unless prior special use permit application has been approved for each individual WECS or WECS Project pursuant to this Ordinance. Upon special use approval, a construction permit shall be obtained from the Zoning Officer prior to the commencement of construction of any WECS or WECS Project or any part thereof.

V. SPECIAL USE PERMIT APPLICATION

A Wind Farm Special Use Permit may only be authorized in the A-1 or AC zoning districts subject to the following standard conditions.

A. To obtain special use approval, the Applicant must first submit a special use permit application to the Piatt County Zoning Officer.

B. The special use permit application shall contain or be accompanied by the following information:

1. A WECS Project summary, including, to the extent available: (1) a general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), maximum number of WECS(s), and approximate name plate generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS(s) rotor(s); the general location of the project; and (2) a description of the Applicant, Owner and Operator, including their respective business structures;
2. The name(s), address (es), phone number(s) and signatures of the Applicant(s), Owner and Operator, and all participating property owner(s).
3. A preliminary site plan for the installation of WECS(s) showing the proposed location of each WECS Tower, guy lines and anchor bases (if any), Primary Structure(s), property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), electrical cabling from the WECS Tower to the Substation(s), ancillary equipment, third party above or below ground transmission lines, and layout of all structures within the geographical boundaries of any applicable setback, the location of any construction staging areas including concrete batch plants and a final site plan shall be required before the construction permit is issued;
4. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance;

5. Financial assurance that the project can be developed as proposed before the construction permit is issued; and
 6. Any other information normally required by the County as part of its Zoning Ordinance.
 7. An executed AIMA agreement with the Illinois Department of Agriculture.
 8. If the applicant intends to offer a “good neighbor plan”, a “property value guarantee plan” or any other financial incentive plan in connection with a proposed WECS project, a copy of such plan shall be included with the special use application at the time the application is submitted.
 9. The applicant shall provide 14 complete copies of the WECS special use application upon submittal of the WECS special use application fee. A minimum of one copy shall be submitted in electronic format.
- C. The Applicant shall notify the County of any material changes to the information provided in Section **V.B** above that occur while the special use permit application is pending.

VI. FEES

- A. 1. The applicant, upon submittal of an application for a wind energy conversion special use, shall submit a certified check to the county in the amount provided in the county fee schedule. This amount shall be placed in a special fund and will be used to cover the county’s costs incurred during the special use application review process and public hearings, including, but not limited to, costs of experts and attorneys retained by the county and the cost of any appeals.
2. Should the actual costs to the county exceed the cost deposit, the applicant shall remit additional funds as outlined in the county fee schedule within 15 days of the receipt of written notice from the county. The county may stay the processing of an application or continue any hearings until such time as the requested additional funds have been paid.
3. Any amount remaining in the fund after the county renders its decision, exhaustion of all appeals, and payment of all bills and invoices, shall be refunded to the applicant.

VII. DESIGN AND INSTALLATION

A. Design Safety Certification

1. WECS(s) shall conform to applicable industry standards, including those of the American National Standards Institute (“ANSI”). Prior to the Issuance of construction permits, Applicant shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (“UL”), Det Norske Veritas (“DNV”), Germanischer Lloyd Wind Energie (“GL”), or an equivalent third party. All turbines shall be new equipment commercially available; no used or experimental equipment shall be approved by the Zoning Officer or the Zoning Board of Appeals without the issuance of a variance.
2. Following the granting of the special use permit under this Ordinance, a Professional Engineer shall certify, as part of the construction permit application that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

B. Controls and Brakes

All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed 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). Utility lines connecting the towers, substations, etc., shall be placed underground where practical.

D. Color

Towers and blades shall be painted a non-reflective, unobtrusive color that mitigates the visual impact of the structure. No advertisement shall be visible on the blades or tower.

E. *Turbine Consistency*

To the extent feasible, the project shall consist of turbines of similar design and size, including tower height. All turbines shall rotate in the same direction.

F. *Compliance with the Federal Aviation Administration*

The WECS shall comply with all applicable FAA requirements.

G. *Lighting*

A lighting plan for each WECS shall be provided to the Zoning Board of Appeals. Such plan should select and submit to the FAA a request to use an Aircraft Detection Lighting System (ADLS) approved by the FAA. The applicant shall provide the County, the FAA approval of the required ADLS prior to the installation of any wind turbine tower sections. The plan must describe all lighting that will be used, including any lighting that may be required by the FAA. The lighting should be planned and developed in such a way to minimize the visual impact of the structures

H. *Warnings*

1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
2. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.
3. A 911 address sign which conforms to the County specifications for size, color and reflectivity shall be placed and maintained by the owner/operator at the entrance to each WECS access road from a public road. A sign or posting no more than 4 square feet in area shall be placed and maintained in conjunction with, but in a subordinate position of, that same 911 sign and shall provide the tower numbers and a toll free telephone number, answered by a person twenty four hours a day seven days per week, for emergency calls and informational inquiries.

I. *Climb Prevention*

1. All WECS Towers must be unclimbable by design or protected by anti-climbing devices such as:
 - a. Fences with locking portals at least six feet high; or
 - b. Anti-climbing devices 12 feet vertically from the base of the WECS Tower; or
 - c. Locked doors and interior ladders.

J. *Height*

WECS Tower Tip Height shall not exceed 625 feet.

K. *Blade Clearance*

The minimum distance between the ground and any protruding blade(s) utilized on a WECS shall be 20 feet, as measured at the lowest point of the arc of the blades.

L. *Setbacks*

1. All WECS Towers shall be set back 1.3 times the tower tip height of the tower, or 1600 feet, whichever is greater, from any Primary Structure in existence or which has received construction permits for construction as of the date of application of the special use permit. Distance shall be measured from the point of the Primary Structure foundation closest to the WECS Tower to the center of the WECS Tower foundation. The owner(s) of the Primary Structure may waive this setback requirement in writing; but in no case shall a WECS Tower be located closer to a Primary Structure than 1000 feet.
2. An incorporated village or municipality must approve of the location of any tower to be located within 1.5 miles of the corporate limits of such incorporated village or municipality.
3. All WECS Towers shall be set back a distance of 1.3x the tower tip height or 1000 feet, whichever is greater, from adjacent property lines, as measured from the closest edge of the tower structure.

4. All WECS Towers shall be set back a distance of at least 1.1 times the WECS Tower Tip Height from public roads, above-ground third party transmission lines, telephone lines and communication towers, in existence as of the date of application of the special use permit, unless waived in writing by the affected property owner(s) and utility company. Distance shall be measured from the center of the WECS Tower foundation to the closest point on such above-ground public electric power line, third party transmission line, telephone line and center of the base of the communication tower.
5. All WECS Towers shall be set back a distance of at least 1.1 times the WECS Tower Tip Height from the nearest edge of the existing right of way of public roads as of the date of application of the special use permit. Distance shall be measured from the nearest edge of the road right of way of such public road in existence as of the date of approval of the special use permit. The Township Highway Commissioner or County Highway Engineer, or similar authorized representative with respect to local or state roadways, may waive this setback requirement as to roads within their respective jurisdictions.
6. All WECS substations shall be set back 1600 feet from the property line of any property containing a primary structure.
7. All WECS towers shall be 1.5 miles from any school property line. The affected school may waive this setback requirement, but in no case shall a WECS Tower be located closer to a school property line than 1600 feet.
8. There shall be at least 3,500 feet separation from the exterior above-ground base of a WECS tower to any Restricted Landing Area or Airport.
9. The Applicant does not need to obtain a variance or other approval from the County upon written waiver by the applicable State, County, Township, utility company or property owner(s) of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property.

M. *Drainage Repair*

The Owner or Operator shall repair waterways, drainage ditches, field tiles, or any other infrastructures damaged during construction, maintenance phases, upgrading, and decommissioning.

N. *Compliance with Additional Regulations*

Nothing in this Ordinance is intended to preempt other applicable state and Federal laws and regulations.

O. *Use of Public Roads*

1. An Applicant, Owner, or Operator 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, upgrades and decommissioning, or maintenance of WECS(s) or Substation(s), shall, prior to the issuance of construction permits:
 - a. Identify all such public roads within the county to be used for transportation of WECS components or substations components and/or equipment for the construction, operation, or maintenance of the WECS (s) or substations(s);
 - b. Provide the County Zoning Officer prior to the issuance of building permits with:
 - 1) The list of roads to be used;
 - 2) An executed copy of applicable weight and size permits from appropriate governmental units having jurisdiction over identified public roads; and
 - 3) An executed copy of each written road use agreement and supporting documentation required by the appropriate governmental units having jurisdiction over identified public roads addressing:
 - a) The use and proposed repair plan for the public roads, bridges, and rights of way located within that governmental unit's jurisdiction;
 - b) The pre-construction baseline survey prepared and sealed by a State of Illinois Licensed Professional Engineer to determine existing road and bridge conditions for assessing potential damage to identified public roads;
 - c) The method to conduct a post-construction baseline survey prepared and sealed by a State of Illinois Licensed Professional Engineer to determine any actual damage to identified public roads and bridges;
 - d) Proposed remediation or compensation to the appropriate governmental unit having jurisdiction over identified public roads for any actual measured damage to public roads and bridges; and

- e) Performance/surety bonds or other financial assurance documents required to guarantee the performance of the road use agreements.
- f) If no such written agreement is required by the governmental unit having jurisdiction per identified public roads, an executed written statement from said unit of government stating no agreement is required shall be submitted.

2. Reasonable dust control measures will be required during construction of the WECS.

P. 911 Addressing Prior to the issuance of building permits, the applicant shall provide in a GIS shape file format the turbine locations and access roads. This information will be used for E-911 addresses for each of the wind turbines.

Q. TERMS

Notwithstanding any other provisions of the Piatt County Zoning Ordinance, a special use permit for a WECS shall be effective and may be relied upon so long as construction of the WECS is commenced within 36 months after issuance of the special use permit, which period may be extended by the County Board without further public hearing.

VIII. OPERATION

A. Maintenance

Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Section **VII.A.1** of this Ordinance. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the Owner or Operator shall confer with a relevant third-party certifying entity identified in Section **VII.A.1** of this Ordinance to determine whether the physical modification requires re-certification.

B. Interference

1. The Applicant shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the project summary and site plan, as set forth in Section **V.B.1** and **V.B.3** of this Ordinance. To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s), the Applicant shall take measures to mitigate such anticipated interference. If, after construction of the WECS, the Owner or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall remedy the complaint within 120 days. There may be an extension of up to 60 days if mutually agreed upon by both parties.
2. If, after construction of the WECS, the Owner or Operator receives a written complaint related to interference with local broadband service and/or local broadcast residential television the Owner or Operator shall remedy the complain within 120 days. There may be an extension of up to 60 days if mutually agreed upon by both parties.

C. Coordination with Local Fire Department

1. Prior to issuance of building permits the Applicant, Owner or Operator shall submit to the local fire department a copy of the site plan.
2. Prior to the issuance of building permits, the Owner or Operator shall cooperate with the local fire department to develop and implement a fire protection plan in coordination with local emergency response authorities to ensure that all the appropriate emergency services agencies are cognizant of actions required in the event of a fire or other emergency at the wind power facility. In addition, the owner or operator of the wind power facility shall provide training for, and the necessary equipment to, local emergency response authorities and their personnel so that they can property respond to a potential emergency at the wind project.
3. Prior to issuance of building permits, an emergency operation plan shall be submitted to the Piatt County EMA director for review and approval.
4. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

D. *Materials Handling, Storage and Disposal*

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

E. *Shadow Flicker*

1. The applicant shall conduct an analysis on the potential shadow flicker onto adjacent properties as part of the approval process. The analysis shall identify the locations of the shadow flicker and the expected duration of the flicker over the course of a calendar year.
2. Shadow flicker shall not affect a primary structure in excess of 30 hours per calendar year. This limitation may be waived in writing by the owner(s) of the impacted primary structure.
3. Applicant shall provide an updated Shadow Flicker analysis at the time of Building Permit applications for wind turbines.

IX. NOISE LEVELS

Noise levels from each WECS or WECS project shall be in compliance with applicable Illinois pollution control board (IPCB) regulations. The applicant, through the use of a qualified professional as part of the special use application process, shall appropriately demonstrate compliance with the above noise requirements, with the condition that homes and families that are affected by wind turbine noise levels are given due consideration as it relates to the health and enjoyment of those individuals.

X. BIRDS

The Applicant, through the use of a qualified professional, such as an ornithologist or wildlife biologist, shall conduct an avian habitat study, as part of the special use application process, to determine if the installation of WECS(s) will have a substantial adverse impact on birds and/or bats.

XI. PUBLIC PARTICIPATION

Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation in the County's consideration of the special use application.

XII. LIABILITY INSURANCE AND INDEMNIFICATION

- A.** Commencing with the issuance of construction permits, the Applicant, Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$10 million per occurrence and \$40 million in the aggregate. An annual certificate of insurance shall be provided to the county, with the county being added as an additional insured on the policy to the extent the County is entitled to indemnification in accordance with Section **XII.B.**

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 I 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. The 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.

- B.** Applicant, Owner or Operators shall defend, indemnify and hold harmless the County and its officials, employees 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, except to the extent arising in whole or in part out of the negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of Applicant's, Owner's or Operator's selection, construction, operation, upgrade, and removal of the WECS and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under the law.

- C. The applicant shall maintain “environmental - pollution liability” coverage with a limit of not less than \$5,000,000.

XIII. DECOMMISSIONING PLAN (CESSATION OF OPERATIONS)

The WECS project must provide a decommissioning plan to ensure that the WECS equipment is removed and land is restored to its previous use upon the end of the project’s life, before a construction permit is issued. The plan shall include:

- A. If any Wind Energy Conversion System has not been in operation and producing electricity for at least 270 consecutive days, it shall be removed. The Piatt County Zoning Officer shall notify the Owner to remove the system. Within thirty days, the Owner shall either submit evidence showing that the system has been operating and producing electricity or remove it. If the Owner fails to or refuses to remove the WECS, the violation shall be referred to the Piatt County State’s Attorney for enforcement.
- B. Provisions for the removal of structures, debris, and cabling on the surface and at least 4’ below the surface;
- C. Provisions for the restoration of the soil and vegetation;
- D. An estimate of the decommissioning costs certified by a professional engineer in current dollars, which shall be updated and submitted to the Piatt County Zoning Officer every 5 years;
- E. A financial plan approved by Piatt County to ensure funds will be available for decommissioning and land restoration;
- F. A provision that the terms of the decommissioning plan shall be binding upon the Owner or Operator and any of their successors, assigns, or heirs; and
- G. A provision that Piatt County shall have access to the site and to the funds outlined in E. above to effect or complete decommissioning one year after cessation of operations.

XIV. REMEDIES

- A.** The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Ordinance. Approval of the conditional use for a WECS shall be deemed conclusive evidence that the Applicant, Owner, or Operator has complied with the above provisions with respect to application for and approval of such special use.
- B.** Prior to implementation of the existing County procedures for the resolution of such default(s), the County Board shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).
- C.** If after the 60 day period: (i) the Applicant, Owner, or Operator has not cured the alleged default, or (ii) the County Board determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County ordinance provisions addressing the resolution of such default(s) shall govern.

XV. PENALTIES

A failure to obtain applicable building permit(s) for the construction of a Wind Energy Conversion System or failure to comply with the requirements of a building permit or the provisions of this Ordinance shall be deemed a violation of this ordinance. The State's Attorney may bring an action to enforce compliance of the requirements of this Ordinance by filing an action before the Piatt County Ordinance Violation Hearing Department or by filing an action in the Circuit Court for an injunction requiring conformance with this ordinance or seek such other order as the court deems necessary to secure compliance with this ordinance. Any person who violates this ordinance shall be fined not less than twenty-five dollars or more than five hundred dollars. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. Nothing herein shall prevent the County from seeking such other legal remedies available to prevent or remedy any violations of this ordinance.


PRESENTED, APPROVED, AND ADOPTED this 10th day of March 2021.

AYES 5 NAYS 1


PIATT COUNTY BOARD
PIATT COUNTY, ILLINOIS

ATTEST:

BY:



Jennifer Harper
Clerk for the
County of Piatt, State of Illinois



Ray C Spencer Chairman
Piatt County Board