

IROQUOIS COUNTY COMMERCIAL WIND ENERGY FACILITY ORDINANCE



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I. INTRODUCTION

A. Title

This Ordinance (“Ordinance”) shall amend the Iroquois County Zoning Ordinance and be known, cited, and referred to as the Iroquois County Commercial Wind Energy Facility Ordinance.

B. Purpose

This Ordinance is adopted for the following purposes:

1. To ensure that any development and production of wind generated electricity in all of Iroquois County (“County”) is safe and effective.
2. To assure the protection of health, safety, welfare, and property values for all County residents and landowners.
3. To facilitate economic opportunities for local residents.
4. To promote the supply of wind energy in support of Illinois statutory goal of increasing energy production from renewable energy sources.
5. To mitigate the impact of commercial wind energy facilities (“CWEFs”) on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources.

II. DEFINITIONS

A. Abandonment

The cessation of operations and/or maintenance of a CWEF for six months or longer.

B. Aircraft Detection Lighting Systems (“ADLS”)

A system that utilizes surveillance radar to track aircraft operating in proximity to the wind utility site. ADLS will activate the obstruction lighting system when aircraft enter the light activation volume and will deactivate when all aircraft depart.

C. Applicant

The entity or person who submits to the County, an application for a conditional use permit for a CWEF.

D. Commercial Wind Energy Facility (“CWEF”)

A wind energy conversion facility of equal to or greater than 500 kilowatts (“kW”) in total nameplate generating capacity used for generating electricity for the primary purpose of wholesale or retail sale and not primarily for consumption on the property on which the device or devices reside.

E. Facility Owner

An entity (i) with a direct ownership interest in a CWEF, regardless of whether the entity is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the facility, or (ii) at the time the facility is being developed, an entity 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 entity will own or operate the facility.

F. Financial Assurance

Cash in escrow, or another form expressly approved by the County Board, deposited in an account with an insured financial institution and that is held by the County Treasurer as the beneficiary.

G. Licensed Illinois Professional Engineer

A qualified individual who is licensed as a professional engineer in the State of Illinois.

H. Meteorological Tower

A tower which is erected primarily to measure wind speed and direction plus other data relevant to the permitting and operation of a CWEF project. 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.

I. Nonfunctioning Wind Turbine

A wind turbine or component that is not able to generate electricity for six consecutive months.

J. Nonparticipating Property

Real property that is not a participating property.

K. 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 CWEF is accepted by the County.

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

M. Operator

The entity responsible for the day-to-day operations and maintenance of the CWEF including any third-party subcontractors.

N. Participating Property

Real property that is the subject of a written agreement between a CWEF 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 CWEF or supporting facilities. Participating property also includes real property that is owned by a facility owner for the purpose of constructing a CWEF or supporting facilities.

O. 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 CWEF is accepted by the County.

P. Primary Structure

The structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary structures includes structures such as residences, commercial buildings, hospitals, churches, schools,

and day care facilities. Primary structures exclude structures such as hunting sheds, storage sheds, pool houses, unattached garages, and barns.

Q. Protected Lands

Real property that is:

1. Subject to a permanent conservation right consistent with the Illinois 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.

R. Shadow Flicker

The phenomena that occurs when rotating wind turbine blades cast moving shadows upon stationary objects.

S. Solicitor

Any person intending to solicit a landowner in person for the lease, purchase, or use of property for a CWEF or any component thereof.

T. Substation

The apparatus that connects the electrical collection system of the CWEF and increases the voltage for connection with the utility's transmission lines.

U. Supporting Facilities

Include but are not limited to the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the CWEF.

V. CWEF Tower Height

The distance from the rotor blade's tip at its highest point to the top surface of the CWEF foundation.

W. Wind Energy Conversion System ("CWEF")

All necessary devices that together convert wind energy into electricity, including the blades, nacelle, generator, towers, electrical components, foundation, transformer, meteorological towers, and electrical cabling from the towers to the substations.

X. Wind Turbine

Includes the wind turbine tower, nacelle, and blades.

III. APPLICABILITY

This Ordinance governs the permitting of meteorological towers, CWEFs, and supporting facilities, that generate electricity to be sold to wholesale or retail markets. This Ordinance does not govern private wind facilities with an aggregate generating capacity of 500 kW or less. Permitting of any Battery Energy Storage Facility (“BESS”) and/or Commercial Solar Energy Facility (“CSEF”) must be applied for separately using their appropriate application processes.

IV. PROHIBITION

No CWEF nor any component thereof shall be constructed, erected, installed, or located within the County without approval by the County Board through the issuance of a conditional use permit and issuance of a building permit. Additionally, no CWEF shall be installed within the County unless all road use agreements and decommissioning agreements have been entered into with each applicable governmental agency and all required financial assurances have been posted and provided to the County or applicable governmental agency.

V. SOLICITATION

- A. Prior to contacting any property owner or owner’s representative, any person intending to solicit a landowner in person for the lease, purchase, or use of property for a CWEF or any component thereof shall submit to the County Zoning Administrator an application for a solicitor permit, remit an application processing fee in the amount of \$100.00, and submit to a criminal background check.
- B. A solicitor permit shall only be issued upon approval by the County Zoning Administrator and receipt of a solicitor permit fee in the amount of \$1,000.00. A

solicitor permit shall be valid for one calendar year from the date of issuance and is not transferable to any other person.

VI. METEOROLOGICAL TOWER

If a meteorological tower is to be included in the site study/plan, a County permit shall be required from the County Zoning Administrator for each tower. The annual fee per tower shall be \$5,000.00. This fee shall also apply to all permanent meteorological towers located in or around the CWEF. A copy of the agreement where the landowner has authorized the placement of a meteorological tower on the property shall be included with each permit application. Towers are allowed to be moved within the proposed site plan and the current location of each tower must be communicated to the County Zoning Administrator. Failure to communicate changes in tower location shall be a default.

VII. CWEF CONDITIONAL USE APPLICATION PROCESS

To obtain approval, the applicant must first submit a conditional use permit application to the County Zoning Administrator. The application must be submitted in English. The applicant shall submit 10 complete copies of the CWEF conditional use permit application and the required fee in the form of a cashier's check or electronic funds made payable to the County. One copy shall be submitted as an electronic copy in a DOCX or PDF format. The following fees and information are required to be included with the conditional use permit application:

A. Application Fees

Prior to processing any conditional use permit application for a CWEF, the applicant must submit a cashier's check, or electronic funds, made payable to the County for the conditional use permit application fee equal to \$5,000.00 per megawatt ("MW") of proposed nameplate generating capacity, up to a maximum fee of \$250,000.00. These funds shall be placed in an insured and interest-bearing account and will be used to cover the County's costs incurred in processing the

conditional use permit application. All fees noted above include but are not limited to those costs corresponding with all direct, indirect, or third-party costs associated with any hearing, permitting, operations, and studies. If the County's expenses exceed the amount of the initial application fee, the applicant will be billed and shall reimburse the County for said excess expenses within 30 days of each invoice. Any unused fees shall be reimbursed to the applicant upon issuance of the building permit or 180 days after the decision of the County Board, whichever is later. The applicant may apply unused conditional use permit application fees toward the building permit fee.

B. Additional Information

The conditional use permit application shall contain or be accompanied by the following information:

1. The name, address, phone number, and electronic contact information of the applicant, facility owner, and operator, and all participating property owners, including their respective business structures. The applicant shall be required to include copies of all leases, easements, licenses, or other ownership interest in the properties.
2. A project summary, including but not limited to a description of the project, its approximate total nameplate generating capacity in MWs, all potential equipment manufacturers, types of wind turbines, number of wind turbines, and nameplate generating capacity of each wind turbine, the maximum height of the wind turbines, the maximum diameter of the wind turbines' rotors, the location of the project, and the project name.
3. An affidavit or other necessary documentation to verify that the applicant, facility owner, company, and parent companies, have the financial ability to complete the project as proposed.
4. A site plan for the project showing each wind turbine location including legal descriptions, 9-1-1 addresses, and parcel numbers for each site, all participating residences, nonparticipating residences, and occupied buildings,

property boundary lines including identification of all adjoining property, setback lines, public access roads and turnout locations, substations, operations and maintenance buildings, electrical cabling from each wind turbine to all substations, ancillary equipment, and third party transmission lines, the location of any wetlands, flood plains within 0.5 miles of the project, drainage structures including surface ditches and subsurface drainage lines, protected lands, and scenic and natural areas within 2,500 feet of the project, the location of all communications towers within two miles of each turbine, and the layout of all structures within the geographical boundaries of any applicable setbacks.

5. If a wind turbine is found to be in the direct path of existing emergency communications physical structures, regardless of the frequency or frequencies, the wind turbine shall be offset sufficient to ensure continued utilization of the emergency communications structure.
6. All required reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance, and all applicable federal and state laws/regulations including but not limited to those enacted/issued by the Federal Aviation Administration, the U.S. Fish and Wildlife Service, the Illinois Department of Natural Resources, the Illinois Environmental Protectional Agency.
7. The applicant shall supply an EcoCAT study from the Illinois Department of Natural Resources performed within the last 12 months from the date of the application.
8. Any other information normally required under the Iroquois County Zoning Ordinance or requested by the County.

C. Zoning Districts

1. CWEFs shall only be located in A1 or A2 districts and must obtain a conditional use permit prior to the submission of any application of a building permit.

2. The design standards and bulk regulations applicable to A1 and A2 districts for setbacks, lot size, lot coverage, lot area, height, and signage shall be suspended for all CWEFs and the regulations herein shall apply instead. All other design standards and bulk regulations of the respective districts shall apply.
3. Any wind turbine or meteorological tower proposed within 1.5 miles of the corporate limits of any incorporated village or city shall require an approval sign-off by that corporate authority.

D. Utility Agreement

At the time of applying for the conditional use permit, written proof shall be provided that the applicant has an interconnect agreement with an electric utility company. Upon reasonable cause shown by the applicant, the County may allow for a variance of this requirement to allow that proof of an interconnect agreement be provided prior to the issuance of a building permit.

E. Existing Conditions

The applicant shall submit the following:

1. Existing property lines and property lines extending 500 feet from the exterior boundaries, including the names of adjacent property owners and current use of those properties.
2. Existing public and private roads, showing widths of the roads and any associated easements.
3. Location and size of any existing and abandoned wells and sewage treatment systems.
4. Existing buildings and any impervious surfaces.
5. Contour map showing topography at two-foot intervals. A contour map of surrounding properties may also be required.
6. Existing vegetation including type and percent of coverage (i.e., cropland/plowed fields, grasslands, wooded areas, etc.).
7. Waterways, watercourses, lakes, and public water wetlands.

8. Any delineated wetland boundaries.
9. A copy of the current FEMA/FIRM map that shows the subject property along with the 100-year flood elevation showing regulated flood protection elevation within a 0.5-mile radius of the project.
10. Floodway, flood fringe, and/or general flood plain district boundary, if applicable, and not provided on the copy of the current FEMA/FIRM map.
11. Mapped soils, according to the County soil survey.
12. Surface water drainage patterns.
13. A tile survey to identify the location of all subsurface drainage structures including drain tiles.
14. Identification all Federal Aviation Administration regulated airports and heliports, and Illinois Department of Transportation regulated airports, restricted landing areas, heliports, or other facilities utilized for the takeoff and/or landing of aircraft. Applicant must submit the project layout to the FAA and IDOT for comment and provide any response as part of its conditional use permit application.

F. Coordination with Local Fire Departments

1. The facility owner shall submit to the local fire departments with jurisdiction over the CWEF and the Eastern Illinois Mutual Aid Association, a copy of the site plan.
2. Upon request by a local fire department, the facility owner shall cooperate with the local fire department to develop the fire department's emergency response plan. In addition, at no cost to the local fire department, the facility owner shall provide to the local fire department any and all specialized and necessary new rescue or retrieval equipment occasioned by the use of the particular equipment being used at the project (i.e., gurneys, body harnesses, PPE, etc.).
3. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

G. Consideration for Use of Public Roads

In consideration of use of public roads, a proposed access route map shall be included with the conditional use permit application. Also to be included shall be the list of all impacted road authorities complete with the contact information and proof of notice to such road authorities of the conditional use permit application. Prior to the issuance of a building permit, the applicant shall enter into a road agreement with the County, as approved by the County Board, and copies of executed road use agreements entered into with each impacted road authority shall be provided to the County.

H. Agricultural Mitigation Impact Agreement (“AIMA”)

The facility owner must enter into an Agricultural Impact Mitigation Agreement (“AIMA”) with the Illinois Department of Agriculture and participating property owners prior to the date of a public hearing on the conditional use permit application.

I. Changes in Information

The applicant shall notify the County Zoning Administrator of any changes to any information provided in the conditional use permit application occurring while the application is pending.

J. All Costs to be Paid by Facility Owner.

In addition to all fees required under this Ordinance, the facility owner shall pay all costs incurred by the County including but not limited to all costs incurred by any offices, boards, and commissions of the County or third parties associated with the County. Such costs include but are not limited to direct or indirect costs associated with any hearing, permitting, operations, inspections, decommissioning, litigation, disputes, and/or negotiations occurring during the conditional use permit application and building permit processes.

K. Application Acceptance

A conditional use permit application shall be deemed complete when it contains all information and documents required under this Ordinance. The application filing date shall be the date on which the County determines the application is complete.

L. Public Hearing

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 County but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence and the propriety of any arguments. The hearing facilitator shall be an attorney licensed to practice in the State of Illinois. The applicant shall reimburse the County for the fees and costs charged by the hearing facilitator.

M. Material Changes

Material changes to the conditional use permit application are not permitted once the notice of the public hearing has been published.

N. Permit Expiration

A building permit must be applied for and approved within two years from the date of conditional use permit approval by the County Board.

VIII. BUILDING PERMIT REQUIREMENTS

Following conditional use permit approval by the County Board, the applicant is eligible to apply for a building permit for the CWEF subject to the following requirements and conditions:

A. All Costs Are Current

All costs for fees and studies required for the conditional use permit and building permit application processes must be current and paid in full.

B. CWEF Building Permit Fee

Prior to the issuance of a building permit, the facility owner must deposit a building permit fee equating to \$10,000.00 per MW of total nameplate capacity of the

CWEF. The applicant shall pay the fee in the form of a cashier's check or electronic funds made payable to the County.

C. Site Plan

The applicant shall submit the following:

1. Location map with the addresses, number, and spacing of wind turbines.
2. Location of access roads and access points.
3. Planned location of underground or overhead electric lines connecting the wind turbines of the CWEF to a building, substation, or other electrical load.
4. New electrical equipment other than the existing building or substations that is to be the connection point for the CWEF.
5. A drawing prepared by a licensed Illinois professional engineer depicting the CWEF and its relationship to structures on adjacent lands.

D. Setbacks

Setback distances shall be measured beginning from the center of the base of a wind turbine or meteorological tower.

1. Occupied Community Buildings: A minimum setback of 2.1 times the wind turbine's maximum blade tip height to the nearest point on the outside wall of the structure.
2. Participating Residences: A minimum setback of 1.1 times the maximum blade tip height to the nearest point on the outside wall of the residence.
3. Nonparticipating Residences: A minimum setback of 2.1 times the maximum blade tip height to the nearest point on the outside wall of the residence.
4. Boundary Lines of Nonparticipating Property: A minimum setback of 1.1 times the maximum blade tip height to the nearest point on the property line.
5. Public Road Rights-of-Way: A minimum setback of 1.1 times the maximum blade tip height to the center point of the public road right-of-way line.
6. Overhead Communication and Electric Transmission and Distribution Facilities: A minimum setback of 1.1 times the maximum blade tip height to the

nearest edge of the property line, easement, or right-of-way containing the overhead line.

7. Fish and Wildlife Areas and Illinois Nature Preserve Commission Protected Lands: A minimum setback of 2.1 times the maximum blade tip height to the nearest point on the property line of the protected land.

E. Interference

1. The applicant shall provide the applicable microwave transmission providers and local emergency service providers (including 9-1-1 operators) copies of the project summary and site plan (or various project summaries and site plans if the applicant should seek approval of differently sized project and/or projects constructed with differing wind turbine generators). To the extent that the above providers demonstrate a likelihood of interference with its communications, the applicant shall take all reasonable measures to mitigate or eliminate such interference. If, after construction of the CWEF, the facility owner receives a written complaint from the FCC or other agency related to the above-mentioned, or any other type of interference with the regulated airwaves, the facility owner shall take all steps required by the FCC or other agency to mitigate or eliminate such complaint.
2. As part of the conditional use permit application, the applicant shall include a study related to interference with local broadcast television, wireless internet services, broadcast radio, emergency communications, and weather radar used for public safety. If it is demonstrated a likelihood of interference may result from the CWEF, the applicant shall take measures to mitigate such anticipated interference. If, after construction of the CWEF, the facility receives a reasonable written complaint related to interference the facility owner shall take steps to rectify the complaint.

F. Fully Executed and Funded Public Road Use Agreements

All CWEF building permit applications shall be accompanied by fully funded and executed public road use agreements entered into with each road authority

impacted by the project. Financial assurance funding shall be in the form of a cashier's check, electronic funds, or other form approved by the County Board or appropriate road authorities for the amount required by the respective road use agreement.

Public Road Use Agreements shall include at a minimum:

1. A final map identifying the roads and rights-of-way that will be utilized for the construction, operation, and decommissioning of the CWEF.
2. A list of all impacted road authorities and contacts.
3. Other inclusions as specified or required by the County Board, County Engineer, or impacted road authorities.
4. The agreement shall contain a limitation on liability clause.
5. Any road damage caused by the transportation, installation, maintenance, or removal of any equipment or material associated with the CWEF must be completely repaired to the reasonable satisfaction of the County Engineer, or appropriate local roadway authority. The County Engineer may choose to require the remediation of road repair upon completion of the CWEF and is authorized to collect fees for overweight and/or oversized load permits. Further, financial assurance shall be provided in an amount to be fixed by the County Engineer to ensure the County that future repairs are completed to reasonable satisfaction. Such financial assurance shall be in the form of cash in escrow or other form approved by the County Board and deposited in an account held by the County or the appropriate road authority as the beneficiary with an insured financial institution.
6. All repairs and improvements to County public roads and roadway appurtenances shall be subject to the prior approval of the County Engineer before being made and shall also be subject to inspection and acceptance by the County Engineer after such repairs and improvements are completed. Road use agreements entered into with the County and any further agreements contemplated therein, regarding the maintenance and repair of public roads

and highways, must be approved by the County Engineer prior to the approval of any building permit applications related to the construction of the CWEF.

G. Decommissioning Plan

The applicant must submit a completed and agreed upon decommissioning agreement pursuant to the terms of this Ordinance. (See Section XII).

H. Minimum Rotor or Wind Vane Clearance

The lowest point of the arc created by rotating wind vanes or blades on a wind turbine shall be no less than 15 feet measured from the highest point of the terrain within one blade radius from the base of the tower.

I. Shadow Flicker

A licensed Illinois professional engineer hired by the County, with the cost invoiced to the facility owner, shall conduct an analysis on the potential shadow flicker onto adjacent properties as part of the building permit application process, and the analysis shall identify the locations of the shadow flicker and expected durations of shadow flicker over the course of one year. Shadow flicker shall not affect any occupied community building or nonparticipating residence more than 30 hours per year under planned operating conditions.

J. Compliance with the Federal Aviation Administration ("FAA")

The CWEF shall comply with all applicable FAA requirements.

K. Lighting

On wind turbines, there shall be no strobe lighting, intermittent white lighting, or other lighting, unless expressly required by the FAA. The applicant shall apply for an Aircraft Detection Lighting System ("ADLS") or other similar technology to reduce light pollution and visual impacts caused by the CWEF. If approved by the relevant federal authorities, the applicant shall install the ADLS system and operate said system during the duration of the project, except such time necessary for testing and repairs of the ADLS system. If lighting is provided at substations, the lighting shall be shielded and downcast such that the light does not spill onto adjacent parcels or residences.

L. Foundations

Prior to building permit approval under this Ordinance, a licensed Illinois professional engineer, hired by the County with the cost invoiced to the facility owner, shall review, and verify that each foundation and tower design of the CWEF is within accepted professional standards, given local soil and climate conditions. Failure to make payment to the County within 30 days of the invoice date shall be deemed a default. It being understood that an applicant may submit different building permit applications hereunder in keeping with the project flexibility based on equipment type to be used allowed for in Section VII(B)(2) herein, it being further understood that any and all such permit applications shall still be verified by a licensed Illinois structural engineer as contemplated herein.

M. Color

Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color.

N. Other Standards and Codes

The CWEF shall conform to applicable industry standards, including those of the American National Standards Institute (“ANSI”). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (“UL”) or an equivalent third party.

O. Controls and Brakes

All CWEF shall be equipped with a redundant braking system. This includes both aerodynamic overspeed 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 overspeed protection.

P. CWEF Building Permit Approval

Once all criteria and standards have been met, the County Tax/Planning/Zoning Committee shall vote to approve issuance of a building permit at its next regularly scheduled meeting. The vote on a building permit is non-discretionary if the

applicant has satisfied all Ordinance requirements, conditions of approval, and federal/state law.

IX. CONSTRUCTION STANDARDS

After receiving a building permit for the CWEF, the facility owner may begin the construction phase of the project. Construction must begin within 12 months of the date of issuance of the building permit, or it will become invalid. Necessary inspections shall be performed by the County, contracted individuals, and/or third-party vendors. The facility owner is responsible for the cost of any inspections. Inspections shall include but are not limited to the following subject matters:

A. Power and Communication Lines

1. Power and communication lines running between wind turbine units and/or to electric substations or interconnections with buildings within the perimeter of the CWEF shall be buried according to the National Electric Code (“NEC”) as adopted by the County Board at the time of acceptance of the building permit application. All power and communication lines shall be buried no less than six feet deep. During the installation and before wires and lines are covered there shall be an inspection for compliance by an independent inspector hired by the County with the cost invoiced to the facility owner. Failure to make payment to the County within 30 days of the invoice date shall be deemed a default. Exemptions or variances may be granted by the County Board in instances where shallow bedrock, water courses, or other elements of natural landscape interfere with the ability to bury lines.
2. All power and communication lines shall be geo-located for inclusion on record drawings.
3. J.U.L.I.E shall be contacted before commencing any excavations or digging.
4. All electrical components of the CWEF shall conform to applicable local, state, and national codes, and relevant national and international standards (e.g., ANSI, UL and International Electrotechnical Commission).

B. Drainage Tiles

1. All drainage tiles shall be repaired or restored to same or better condition as to when the project began. There shall be an inspection for compliance by an independent inspector chosen and hired by the County with the cost invoiced to the facility owner.
2. Local drainage districts and all property owners affected shall be contacted prior to beginning development to locate drainage district tiles within the project's limits.

C. Warning Signs

1. A 9-1-1 warning sign which conforms to the specifications of the Iroquois County Zoning Ordinance for size, color and reflectivity shall be placed and maintained by the facility owner at the entrance to each wind turbine access road from a public road. A sign or posting no more than four square feet in area shall be placed and maintained in conjunction with, but in a subordinate position of, that same 9-1-1 sign, and shall provide the tower numbers and a toll-free telephone number, answered by a person 24 hours a day, seven days a week, for emergency calls and informational inquiries.
2. A 9-1-1 compliant, visible warning sign concerning voltage must be affixed to any fencing at the base of all pad-mounted transformers and supporting facilities.
3. Warning signs identifying underground wire locations shall be placed at all road crossings, creek, waterway, and ditch crossings, and at the base of wind turbines and supporting facilities.
4. No wind turbine or meteorological tower sites shall include any advertising signage or logos exceeding four square feet. The wind turbine manufacturer name shall not be considered "advertising" for the purpose of this Ordinance.

D. Climb Prevention

All CWEF installations shall be protected from unauthorized access through one or more of the following control measures:

1. Fences with locking portals at least eight feet in height.
2. Anti-climbing devices 12 feet in height vertically from the base of wind turbines.
3. Locked wind turbine doors.

E. Record Maps and Plans

Prior to the commercial operation date of the CWEF, the facility owner shall deliver all record maps and plans, including a final site plan and engineering plans for the facility that have been signed and stamped by a licensed Illinois professional engineer to the County Board for final approval and acceptance to operate.

X. PRIOR TO COMMERCIAL OPERATIONS

Each CWEF shall have a final inspection performed by an independent, certified inspector hired by the County with the cost invoiced to the facility owner, at the completion of the construction of the project and prior to receiving approval to begin operations. Such inspection shall verify compliance with the zoning regulations, building permit conditions, and other applicable regulatory codes such as with the NEC. Before a commercial operation date is determined and approved by the County Board, all items within this Ordinance must be complied with, all inspections passed, all financial assurances deposited with the County Treasurer and/or appropriate authority, and all costs shall be reimbursed to the County.

XI. ONGOING OPERATION REQUIREMENTS

The following items must be complied with throughout the lifetime of the project:

A. Semi-Annual Report

The facility owner must submit a semi-annual operational report to the County Board, based on the date of the project's commercial operation date. This report shall contain the following information:

1. The monthly electrical output of the facility reported in kWh for the prior six months;
2. A general description of any physical repairs, replacements, or modifications to

- the facility and/or its infrastructure;
3. Proof of liability insurance; and
 4. The facility owner of the CWEF must submit, on a semi-annual basis, a summary of the operation and maintenance reports to the County Board. The summary shall include complaints pertaining to setbacks, noise, shadow flicker, appearance, safety, lighting, and use of any public roads received by the facility owner concerning the facility and the resolution of such complaints.

Failure to provide the semi-annual report shall be considered a default of this Ordinance and subject to all appropriate remedies.

B. Maintenance

Any physical modification to the CWEF that alters any of the major electrical components so that such modification requires re-certification from the original third-party certifying entity of the CWEF (e.g., ANSI, UL, etc.), will require the facility owner of the CWEF to obtain such re-certification for the affected CWEF components from such third-party entity in accordance with its then-existing design standards and processing times for re-certification certificates. Like-kind replacements shall not require recertification. Prior to making any physical modification (other than a like kind replacement), the facility owner shall confer with the County Board to determine whether the physical modification requires re-certification. Any turbine height increase on an existing wind turbine, or expansion of the CWEF, shall require an amendment to the conditional use permit and be subject to a new public hearing. Amendment of a conditional use permit shall require a new conditional use application fee and building permit fee for the additional nameplate capacity.

C. Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation, maintenance and decommissioning of the CWEF 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 CWEF, shall be handled, transported, and disposed of in accordance with all applicable local, state, and federal laws.
3. The outdoor storage of materials, vehicles and equipment that directly support the operation and maintenance of the CWEF shall not be allowed. Chemicals and hazardous materials must be kept inside a storage shed. The County Zoning Administrator or its designee shall have the discretion in determining whether the outdoor storage is in compliance with this provision. All outdoor storage areas shall have at the minimum a gravel surface covering.

D. Inspections

The facility shall be inspected annually for three years following the commercial operation date to verify continued compliance with the Ordinance's requirements. These inspections shall include on-site visits from the staff of the local fire departments/districts to ensure that the necessary protective equipment is provided. Also, the Iroquois County Soil and Water Conservation District will verify that the landscape plan is being followed. Additional inspections necessitated by complaints or otherwise shall not replace annual or triennial inspection requirements. The cost of all inspections shall be invoiced to the facility owner by the County with payment due 30 days from the invoice date. Upon completion of any inspection, a report shall be prepared and submitted to the County Board and facility owner.

XII. DECOMMISSIONING PLAN

Prior to the issuance of a building permit, the facility owner or operator shall enter into a decommissioning agreement with the County, which shall incorporate the agreed upon decommissioning plan (including the means and methods by which decommissioning will be achieved), agreed upon decommissioning cost estimates, and agreed upon financial assurance related to decommissioning. Decommissioning financial assurances shall be compliant with the AIMA, and any additional

requirements allowed by law and the AIMA. The decommissioning plan and cost estimates shall not include salvage value as discount. The decommissioning agreement must be approved by the County Board.

XIII. NOISE LEVELS

Noise levels from the CWEF project shall comply with the sound limitations set by the Illinois Pollution Control Board (“IPCB”) regulations and requirement of this Ordinance.

XIV. PUBLIC PARTICIPATION

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

XV. LIABILITY INSURANCE

The facility owner of the CWEF shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$40 million per occurrence and \$40 million in the aggregate. The facility owner of the CWEF shall maintain this policy for the lifetime of the CWEF and submit a copy of same to the County Board at each renewal. The County may find it necessary to increase or decrease the amount of coverage, and the facility owner shall be required to make the adjustment at the next renewal. The County and its officials shall be named as additional insureds.

XVI. PUBLIC NUISANCE

Any CWEF declared to be unsafe by the County Board by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, or abandonment will be hereby declared a public nuisance and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures set forth in this Ordinance.

XVII. CHANGE IN OWNERSHIP

If the facility owner of the CWEF changes, the successor owner or operator must assume in writing all obligations of the original CWEF conditional use permit (including conditions), building permit, site plan approval, road use agreements, decommissioning agreements, and any other agreements entered into with the County. The owner or operator (or successor) must pay to the County a fee of \$5,000.00 to the County for the purpose of the County's review of the successor party's ability to own or operate the CWEF. The successor owner or operator of the CWEF shall notify the County Zoning Administrator in writing of the ownership or operator change and written proof that it has assumed all obligations required by this ordinance within 30 days of the ownership or operator change. The CWEF conditional use permit and all other permits/approvals for the CWEF shall be void if the new owner or operator fails to fulfill these requirements. Reinstatement of a void conditional use permit, building permit, or operating permit shall be subject to the same review and approval processes for new applications under this Ordinance.

XVIII. DEFAULTS AND REMEDIES

The applicant's, facility owner's, or operator's failure to comply with any of the above provisions shall constitute a default under this Ordinance.

- A. If the CWEF is declared to be unsafe by the County by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, or abandonment is hereby declared a public safety issue and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures set forth in this Ordinance.
- B. Failure by the applicant or facility owner to comply with any provisions of this ordinance, provisions under the conditional use permit, other permits, any conditions imposed on the project, and/or failure to comply with any law or regulation shall constitute a default under this Ordinance and shall be grounds for

revocation of any conditional use permit or other permits granted by the County Board or the County.

- C. Prior to implementation of the existing County procedures for the resolution of such default(s), the County 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 30 days, for good faith negotiations to resolve the alleged default(s).
- D. If the County determines that the parties cannot resolve the alleged defaults within the good faith negotiation period, the County shall make application to the circuit court for an injunction requiring conformance with this Ordinance or make such other order as the court deems necessary to secure compliance with the Ordinance.
- E. Any violation of this Ordinance shall be an offense punishable by a fine of \$1,000.00. Each violation shall be a separate offense. Each day a violation occurs or continues shall be a separate offense, subject to a \$1,000.00 fine for each additional day the violation is not corrected. A court may set any additional and appropriate per day fine for each day the infraction exists or until such infraction is remedied. It is the goal of this ordinance to promote structural safety to protect the public. The court has the authority to set any additional appropriate fines and will consider the nature of the offense, the degree of public safety involved, and the efforts of the County and responsible owner or applicant to resolve quickly and safely any and all infractions. It is the intent that any dispute between the parties be resolved promptly and where possible by informal discussions.
- F. After the effective date of this Ordinance, any persons who, being the facility owner or agent of the owner of any land, or project developer, located within the territorial jurisdiction of this Ordinance proceeds with development of a CWEF prior to being approved under the terms of this Ordinance shall be fined as stated herein.

- G. The County reserves the right to hire outside counsel to enforce this Ordinance or determine compliance with this Ordinance. The owner/operator is liable for payment of reasonable attorney's fees in this regard.
- H. Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy violations. All costs connected therewith shall accrue to the applicant, owner, or operator responsible for the project.

XIX. SEVERANCE

If any section, clause, or provision of the Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

XX. INDEMNIFICATION

The applicant, facility owner and/or operator of the CWEF project shall defend, indemnify and hold harmless the County and its officials, employees, committees, volunteers and agents from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including attorney's fees, without limitation arising out of acts of omissions of the Applicant, facility owner and/or operator associated with the construction, operation, and decommissioning of the CWEF project.

XXI. FACTORS FOR CONSIDERATION

The County Board may approve a CWEF conditional use permit application, if it finds the evidence complies with state and federal law and regulations, and with the standards of the Iroquois County Zoning Ordinance including the factors listed below. The factors below are applied as a balancing test, not individual requirements to be met.

- A. The establishment, maintenance, or operation of the CWEF will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
- B. The CWEF will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair the property values of surrounding properties.
- C. The establishment of the CWEF will not impede the normal and orderly development and improvement of the surrounding properties.
- D. Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided.
- E. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- F. The proposed CWEF is not contrary to the objectives of the current comprehensive plan of the County (if any).
- G. The CWEF shall, in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is located except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the County Board.