

ARTICLE 17: COMMERCIAL WIND POWER GENERATING FACILITIES

Sec. 17.1. - Purpose of Article.

The regulations set forth in this Article are intended to protect and promote the health, safety, welfare, and morals of the residents of Moultrie County by establishing specific criteria for the siting, construction, operation, maintenance, and decommissioning of commercial Wind Power Generating Facilities ("CWEF"), and facilities attendant thereto.

Sec. 17.2. - Applicability.

This Article shall provide the exclusive method for determining the eligibility of any Wind Operated Energy Device (commercial service) or Commercial Wind Energy Facility (CWEF) established for the purpose of producing electricity for sale to third parties.

Sec. 17.3. – Special Use.

A Commercial Wind Energy Facility shall be considered a special use in the AG-1 and I-1 & I-2 Districts as set forth in Article 7, if it meets all of the criteria set forth in this Article. The AG-1 and I-1 & I-2 designations are the only zoning districts in which CWEF or Supporting Facilities may be located.

Sec. 17.3.1 Definitions.

DEFINITIONS

- A. "Applicant" means the entity who submits to the County an application for the siting and operation of any Commercial Wind Energy Facility or Supporting Facilities. All references to Applicant in this Ordinance shall include Applicant's successors-in-interest and assigns, which includes a CWEF Permittee (as defined below).
- B. "Commercial Operation Date" means the calendar date on which the WECS Project produces power for commercial sale, not including test power.
- C. "Commercial Wind Energy Facility" or "Facility" means a wind energy conversion facility of equal to or greater than 500 kilowatts in total nameplate generating capacity. As used herein, "Facility" or "Project" or "CWEF" shall have the same meaning as Commercial Wind Energy Facility.
- D. "Financial Assurance" or "Financial Security" or "Decommission Security" means 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.
- E. "Locally Sourced" means from an entity or individual with a headquarters or office

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located within Moultrie County, Illinois, or within 100 miles of the Moultrie County seat. If a locally sourced entity or individual cannot be located for the requisite service or product, the Applicant or Facility Owner may utilize other sources for said service or product upon demonstration of reasonable efforts to locate the service or product from within Moultrie County or within the 100-mile radius.

- F. "Meteorological Tower" means those towers which are erected primarily to measure wind speed and direction plus other data relevant to siting or operation of a Commercial Wind Energy Facility. For purposes of this ordinance, Meteorological Towers do not include towers and equipment used by airports, the Illinois Department of Transportation, or other similar applications or government agencies, to monitor weather conditions.

- G. "Nonparticipating property" means real property that is not a participating property.

- H. "Nonparticipating residence" means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the Commercial Wind Energy Facility is filed with the county.

- I. "Occupied community building" means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the Commercial Wind Energy Facility is filed with the county: a school, place of worship, day care facility, public library, or community center. For the purposes of this ordinance and for the siting of any Commercial Wind Energy Facility, an occupied community building includes those buildings that may serve as places of worship, schools, libraries, day care facilities, or community centers due to religious beliefs even if their primary purpose is another use.

- J. "Operator" means the person or entity responsible for the day-to-day operation and maintenance of a Commercial Wind Energy Facility, including any third-party subcontractors. The Operator must be a qualified wind power professional. All references to Operator in the Ordinance shall include Operator's successors-in-interest and assigns.

- K. "Owner" or "Facility Owner" means (i) a person with a direct ownership interest in a Commercial Wind Energy Facility regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the facility, and (ii) at the time the facility is being developed, a person who is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of

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whether the person will own or operate the facility.

- L. "Participating property" means real property that is the subject of a written agreement between a Facility Owner and the owner of the real property that provides the Facility Owner an easement, option, lease, or license to use the real property for the purpose of constructing a Commercial Wind Energy Facility or supporting facilities. "Participating property" also includes real property that is owned by a Facility Owner for the purpose of constructing a Commercial Wind Energy Facility or supporting facilities.
- M. "Participating residence" means a residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the Commercial Wind Energy Facility is filed with the county.
- N. "Professional Engineer" means 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 terms of this Ordinance, a Professional Engineer may serve as the structural engineer if he or she has the appropriate structural engineering certification.
- O. "Protected Lands" means real property that is: (1) subject to a permanent conservation right consistent with the Real Property Conservation Rights Act; or (2) registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.
- P. "Special Use Permit" means a permit approved by the County Board, after a public hearing, allowing a particular use at a specified location subject to compliance with certain specified special conditions as may be required by the County Board.
- Q. "Substation" means the apparatus that collects and connects the electrical collection system of the Commercial Wind Energy Facility and increases the voltage for connection with the utility's transmission lines.
- R. "Supporting Facilities" means the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the Commercial Wind Energy Facility. The Supporting Facilities are part and parcel of, and subject to the same requirements of, the Commercial Wind Energy Facility.
- S. "Wind Tower" means and includes a wind turbine tower, nacelle, and blades.
- T. "Wind Tower Height" means the distance from the rotor blade at its highest point to the top surface of the foundation.

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- U. "Wind Turbine" means 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.

Sec. 17.4. – Special Use and Building Permits Required.

- A. No wind turbine or CWFEP subject to the requirements of this Article shall be constructed within the County unless zoning clearance, building permits, and approval pursuant to the requirements of this Article have first been obtained by the Facility Owner or Operator authorizing the construction of such facility.
- B. The County shall establish a fee to be charged for the application process and issuance of zoning clearance and all applicable permits pursuant hereto and for the amendment of a previously issued permit or zoning clearance. Any applicable fee shall be payable in full at the time of filing the request for the permit or amendment thereto.
- C. Any material modification of the CWFEP after the issuance of zoning clearance shall require a modification of said clearance, subject to review for compliance with the provisions of this Article and accompanied by the requisite fee. Non-material modifications shall not require a clearance modification. The determination as to whether a modification is material for purposes of this Section shall be made by the Planning and Zoning Officer, in said officer's sole but reasonably exercised discretion.
- D. The special use permit application shall contain, at a minimum, all the following information:
 - 1. A narrative statement describing the proposed project, including:
 - a. An overview of the project.
 - b. Name of the applicant, and state (or country) of incorporation or organization (as applicable).
 - c. The location of the project in general terms.
 - d. The approximate nameplate generating capacity of the project.
 - e. The number and location of wind turbines to be included within the project.

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- f. The type (manufacturer), hub height, blade diameter, and nameplate capacity of the wind turbines to be included in the project.
 - g. A general description of Supporting Facilities.
 2. Evidence of agreement with the owners of all property within the project area indicating that the Facility Owner or Operator has the authority to apply for a permit pursuant to this Article and has site control over all such areas for the relevant period of operation, including access easements, utility easements and site leases.
 3. Specific identification of all properties on which the CWF will be located. For purposes of this Section, identification shall be deemed satisfactory if it lists, for all parcels within the project area:
 - a. Name(s) of owner(s) of record;
 - b. Address of the property;
 - c. Address of property owner (if different from property address); and
 - d. Property tax identification number(s).

Legal descriptions shall be required only if a portion of an entire tax parcel is initially under contract for the project.
 4. Specific identification of all properties adjacent to the CWF project area. For purposes of this Section, identification shall be deemed satisfactory if it lists, for all parcels within the project area:
 - a. Name(s) of owner(s) of record; and either
 - b. Property tax identification number(s); or
 - c. Legal description(s).
 5. A site plan, prepared by a locally sourced professional engineer or land surveyor licensed in the State of Illinois with at least ten (10) years of experience doing comparable work, showing at a minimum, the location and layout of each of the following:
 - a. Wind turbines.
 - b. Supporting Facilities.
 - c. Property lines within the project area.
 - d. Applicable setback lines.
 - e. Delineating distances of 1.1x the height of each wind turbine tower as measured from the center of the base of tower.

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- f. Access driveways and vehicular use areas.
 - g. Substation(s), if any.
 - h. Transmission lines, whether above-ground or buried.
 - i. All occupied buildings that are either (i) within the project area; or (ii) outside of the project area, but within one-thousand two-hundred (1,200) feet of any wind turbine.
 - j. A topographic map of all property within the project area, and for a distance of no less than one-thousand two-hundred (1,200) feet of land surrounding the project area.
 - k. Boundaries of subject leased area for siting of wind turbine and/or Supporting Facilities, if applicable.
 - l. Operation and maintenance building(s), if applicable
6. A plat of survey at least 1 year in advance of the commercial operation date to enable GIS mapping and parcel number allotment for the tax assessor.
7. A decommissioning plan prepared by a locally sourced professional engineer licensed in the State of Illinois, with at least 10 years of experience doing comparable work, setting forth the proposed method of decommissioning and establishing an estimate of the total cost of decommissioning in compliance with the requirements of Section 17.9.
8. Design specifications for any proposed wind turbines, including:
- a. Certificates of design compliance written in English obtained by the manufacturer from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.
 - b. Proof of redundant braking systems in compliance with Section 17.5.3.D.
 - c. Stamped engineered drawings of all proposed structures.
9. A sound level study conducted by a locally sourced engineer licensed in the State of Illinois with significant experience conducting these studies who can confirm/certify that the site plan will comply with the Illinois Pollution Control Board regulations. The sound study will be done periodically during the life of the project, during different seasons each time, at the county's discretion by a locally sourced engineer licensed in the State of Illinois with significant experience conducting these studies.

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10. A baseline electromagnetic interference study, or a plan for conducting same, for purposes of determining levels of interference with electromagnetic signals, if any, attributable to the construction of the CWF. Said study shall be conducted and certified by a professional electrical engineer, licensed in the State of Illinois.
11. An identification of all state and local public roads within the project area and all other transportation routes located within the Moultrie County that will be used to get to the project area as identified within the Road Use Agreement.
12. Copies of signed waivers for any property owner who has waived any setback requirements pursuant to Section 17.6.10.
13. As part of the Application, Applicant shall provide a vibration study determining the impact the CWF or Supporting Facilities will have on local wells, mines or former mines, and pipelines. Said study shall be conducted and certified by a locally sourced professional engineer, licensed in the State of Illinois, with at least 10 years of experience doing comparable work. The vibration study shall encompass all properties within the Project footprint and within 1,000 feet of the outer edge of the Project footprint.
14. An approved interconnection agreement with the regional transmission organization (RTO) in charge of such applications. In the alternative, applicant may submit proof of having filed a request for interconnection, along with the expected date of a final agreement, with the understanding that building permits shall not be issued until proof of an approved RTO is provided to the County.
15. Wildlife/avian study(ies) pursuant to Section 17.5.7.
16. A Natural Resource Inventory Report (NRI) of the project area completed by the Moultrie County Soil and Water Conservation District.
17. Evidence that the CWF's project (project area) has been submitted to the Illinois Department of Natural Resources (IDNR) for their review and consultation under the Ecological Compliance Assessment Tool (EcoCAT) Process (a.k.a. Agency Action Report).
18. Evidence that the CWF's project (project area) has been submitted to all regulating agencies for their review and consultation.
19. Evidence pursuant to Section 17.6.8.H. (Bird and Bat Migrations Paths).
20. A letter or similar from the County Engineer or his assignee that indicates Section 17.5.9 (Use of Public Roads) has been adhered to and/or complied with. (Pre Road Use Agreement)

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21. Notwithstanding the foregoing, the County Planning and Zoning Officer or Building Officer may request such additional information relevant to the application as the administrator may deem necessary. Applicant shall further demonstrate compliance with all applicable, federal, state and local permitting requirements which may be imposed by administrative bodies other than the County which have jurisdiction over the CWF. Such requirements may include, but are not limited to, the Migratory Bird Treaty Act, the Endangered Species Act, the Bald and Golden Eagle Act, the Fish and Wildlife Coordination Act, and all rules and regulations established by the Federal Aviation Administration and Environmental Protection Agency. The appropriate governing agency or unit of government is responsible for the enforcement of such regulations. However, the County may at any time request information confirming compliance with any such requirements.

E. Upon receipt of the application, the Planning and Zoning Officer shall review the application to determine whether the application is complete. If incomplete, the Planning and Zoning Officer shall promptly advise the Applicant. Once a completed application is received, the Planning and Zoning Officer shall apprise the Zoning Board of Appeals within seven (7) days of the receipt of the complete application. Public Meetings and Special Use Hearings will be scheduled within forty-five (45) days of receipt of the completed application. In the event that the application is deemed insufficient, the Planning and Zoning Officer shall specify the nature of the deficiency, and the applicant shall be allowed to provide any additional information required within one (1) year of the date of the initial application in order to complete the application.

F. Construction shall be commenced on the CWF within one (1) year after the date the permit is issued. Provided, however, that in the event of a force majeure event, such as strike, act of war or terrorism, natural disaster, pending litigation, or other event which results in the commencement of the project being inadvisable or impossible, the period for construction shall be tolled from the commencement of such event until the conclusion of said event.

G. Thirty (30) days prior to the commencement of any construction for which a building permit was issued, Applicant or Owner shall, by first class mail, provide notice to the County and to the Woners of all properties identified in Section 17.4.D.4.

Sec. 17.5. - Design and Installation.

17.5.1 Design Safety Certification. The design of the CWF shall conform to applicable industry standards, including those of the American National Standards Institute, as such standards exist as of

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the date construction is commenced. The facility owner or operator shall submit certificates written in English of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organizations.

17.5.2 Uniform Construction Code. The CWF shall comply with applicable building and construction codes.

17.5.3 Turbine Requirements. All wind turbines shall comply with the requirements set forth in this paragraph.

- A. All wind turbines shall be newly manufactured as of the date of installation.
- B. No experimental or prototype wind turbines shall be allowed.
- C. All wind turbine towers shall be tubular in shape, and be self-supporting.
- D. Controls and Brakes: All CWFs 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.

17.5.4 Electrical Components. All electrical components of the CWF shall conform to applicable local, state and national codes, and applicable international standards. This includes all required safety lighting.

17.5.5 Engineer's Certificate. An engineer's certificate shall be completed by a structural engineer, a locally sourced professional engineer licensed in the State of Illinois, with at least 10 years of experience doing comparable work, certifying that the tower and foundation of the wind turbines are compatible with, and are appropriate for the particular model of wind turbine used, and that the specific sails at the site can support the wind turbine.

17.5.6 Aesthetics.

- A. Wind turbines shall be a non-obtrusive and non-reflective color such as white, off-white, gray, or black. The facility owner or operator shall maintain the paint on wind turbines at all times in good repair.
- B. Wind turbines shall not display advertising, except for reasonable identification of the turbine manufacturer, facility owner and operator. All signs shall be in accordance with County ordinances pertaining to signs.

- C. Within the project area, wind turbines shall be of a generally consistent size, design, and color, and shall be of similar height and rotor diameter and shall rotate in the same direction.
- D. Wind turbines shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable regulatory authorities.
- E. On-site transmission and power lines between wind turbines shall, to the maximum extent practicable, be placed underground, shall reach the property line, and shall be located and/or constructed in such a way as to minimize disruption to the property's primary purpose as well as to facilitate the interconnection of other Commercial Wind Energy Facilities.
- F. Non-essential appurtenances shall not be affixed to any wind turbine, including, but not limited to, cellular or radio antennae.
- G. A clearly visible warning sign advising persons of the presence of high voltage levels must be placed at the base of all pad-mounted transformers and substations.

17.5.7 Wildlife/Avian Survey and Mitigation Plan.

The Applicant, at its expense, shall have a third party, qualified professional (after submission of resume and relevant work experience) conduct an avian and wildlife impact study and submit said study to the County as part of the Special Use Permit application. Each Wind Turbine and the overall Facility shall be located, designed, constructed, and operated so as to avoid and if necessary mitigate the negative or detrimental impacts to wildlife.

Facility Owner shall also provide as part of the Special Use Permit Application (1) the results and recommendations from consultation with the Illinois Department of Natural Resources that are obtained through the Ecological Compliance Assessment Tool (EcoCAT) or a comparable successor tool; and (2) the 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 (i) the "U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines".

The Facility, at County's request, shall adhere to the recommendations provided by the Illinois Department of Natural Resources in an EcoCAT natural resource review report.

The Facility Owner shall as part of the Special Use application (1) demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Nature Preserve Commission; or (2) shall consider the recommendations of the Illinois Department of

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Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission.

CWEF17.5.8 Climb Prevention/Locks.

- A. Wind turbines shall not be climbable by non-authorized personnel.
- B. All access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.

17.5.9 Use of Public Roads.

- A. Prior to the issuance of a zoning clearance and building permit for any component of a CWEF, the facility owner or operator shall provide to the County Engineer:

1. A transportation plan prepared and certified by a locally sourced professional engineer licensed in the State of Illinois for a minimum of ten years performing comparable work, identifying by jurisdiction all state and local public roads to be used within the County to transport equipment and parts for construction, detailing expected load weights and frequency, and any improvements deemed necessary for roadbeds, surfaces, or other facilities which are expected to require modification or improvement prior to construction, and the proposed repair and/or reconstruction work expected to be necessary after construction is completed (the "Transportation Plan");

An engineering study certified by a professional engineer licensed in the State of Illinois for a minimum of ten years performing comparable work, documenting road conditions for any roads included in the Transportation Plan prior to construction.

While the Transportation Plan may indicate any road or highways that are under the State of Illinois and the Illinois State Toll Highway Authority jurisdiction, permits for the use of those roads/highways need not be submitted to the County Engineer. Whether the requirements of the engineering study and submission of road/highway permits are satisfied shall be determined solely by the Moultrie County Engineer; and

2. A traffic safety plan, including, but not limited to, provisions for access to county highways and roads located in Moultrie County including roads, used for construction traffic, warning signs, flaggers, and acceptable access times (the "Safety Plan")

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B. After receipt of the Transportation Plan, but prior to issuance of a zoning clearance and building permit for any component of a CWEF, the facility owner and operator shall enter into an agreement with the County by approval of the agreement by the Moultrie County Board and provide documentation evidencing approval by any other public entity having jurisdiction over a road or highway that is identified in the Transportation Plan or Safety Plan (excepting permits for the use of any road or highways that are under the State of Illinois and the Illinois State Toll Highway Authority) for the purposes of ensuring a safe and orderly construction phase. Said agreement shall include the following material provisions:

1. An approved final Transportation Plan.
2. An approved final Safety Plan.

3. A requirement of financial assurance to the County in the form of an Irrevocable Letter of Credit guaranteeing payment for road improvements and repairs in compliance with local standards, having an expiration date no less than one (1) year after conclusion of construction which Moultrie County may draw upon without requiring a representative of Moultrie County traveling more than ninety (90) miles outside of Moultrie County. The face value of the letter of credit shall be equal to the cost of either improving or restoring all roads specified in the final

Transportation Plan to their

original condition or better in the fashion designated in said final Transportation Plan (as determined using the average cost of materials and labor in the County as of a date sixty (60) days prior to the date of issue of the financial assurance), plus an additional twenty-five percent (25%) of said total cost; the Irrevocable Letter of Credit required in this section shall be issued by a bank having a rating by Standard and Poor's Financial Services of A- or better or if not rated by Standard and Poor's Financial Services then having an equivalent rating from another nationally recognized bank rating service approved by the County of Moultrie . There shall be language included on the face of the Irrevocable Letter of Credit held by Moultrie County as a beneficiary stating that should the bank's Standard and Poor's rating or equivalent rating fall below A- then Moultrie County may draw on the Irrevocable Letter of Credit up to the full amount of the face value without additional cause for surety against default. There shall also be language included on the face of the Irrevocable Letter of Credit held by Moultrie County as beneficiary stating that if after the first year and every year thereafter the

Irrevocable Letter of Credit does not automatically renew then Moultrie County may within fifteen(15) days before its stated expiration date draw on the Irrevocable Letter of credit up to the full amount of the face value without additional cause for surety against default. The cost of Moultrie County receiving such ratings information initially and annually, or more frequently when reasonably requested by the County of Moultrie , shall be reimbursed to Moultrie County by the Applicant.

Permits from all agencies having jurisdiction over roads or highways identified in the Transportation Plan or Safety Plan except any road or highways that are under the State of Illinois

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and the Illinois State Toll Highway Authority jurisdiction that are identified in the Transportation Plan or the Safety Plan.

5. Such other and further terms which the County Engineer may require in his/her sole, but reasonably exercised, discretion.

17.5.10 Emergency Services. The facility owner or operator shall, prior to commencement of construction:

- A. Provide a copy of the permit application, including site plan, to local emergency services, including paid or volunteer fire department(s).
- B. Cooperate with any request from emergency service providers and first responders to develop and coordinate implementation of an emergency response plan for the CWF.
- C. Register the CWF with the local 911 operator.
- D. Provide and fund all emergency training for the CWF with local emergency services, including paid or volunteer fire department(s), all mutual aid responders, and first responders.

17.5.11 Fire Prevention. Facility owner and operator shall, at all times during construction and operation of the CWF:

- A. Adhere to all applicable electrical codes and standards.
- B. Remove and maintain all fuel sources, including, but not limited to, vegetation and flammable materials, from the immediate vicinity of electrical equipment.
- C. Install twistable cables on all wind turbines.
- D. On or before the commercial operation date, the Facility Owner or Operator shall provide all local emergency service providers a copy of the as-built drawings for each parcel on which CWF equipment is located.

17.5.12 Waste Management. Facility owner and operator shall, at all times during construction and operation of the CWF:

- A. Solid Waste. All solid waste generated in conjunction with the construction or operation of the CWF shall be removed from the project area in a timely fashion and disposed of offsite in an appropriate manner according to applicable laws and regulations.
- B. Hazardous Waste. Any hazardous waste generated in conjunction with the construction or operation of the CWF shall be removed from the project area and disposed of consistent with applicable Federal, State, and local requirements for such materials.

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17.5.13 Septic and Well. Any buildings constructed within the CWF which use water or discharge waste shall comply with existing well and septic requirements as required by the Moultrie County Health Department and the State of Illinois Department of Public Health.

17.5.14 Access Driveways and Vehicular Use Areas. All access driveways and other vehicular use areas incident to any CWF or Supporting Facilities shall be located entirely upon private easements or leaseholds, and shall be the sole responsibility of the facility owner and/or operator to maintain. To the maximum extent practicable, all such driveways and vehicular use areas shall be located in such a way as to minimize the disruption to the property's primary purpose. Notwithstanding anything to the contrary contained herein, or in any other provision of this Ordinance, said access driveways and vehicular use areas may be of a gravel base and surface. Provided, all access driveways shall be maintained at all times in good repair and accessible by emergency vehicles.

17.5.15 Memorandum of Use. The owner of any property upon which a wind turbine or Supporting Facilities is located shall cause to be recorded with the Office of the Recorder of Moultrie County a Memorandum of Use, or similar document, clearly indicating that a wind turbine or Supporting Facilities is located on the parcel, including a brief description of the type, number, and general location of said structures.. A Memorandum of Lease or Easement Agreement recorded with the Office of the Recorder of Moultrie County shall be deemed sufficient to satisfy the requirements of this subsection, so long as said document is sufficient to adequately place third-parties on notice of the nature and location of wind turbines or Supporting Facilities within the parcel.

17.5.16 Lighting: The Commercial Wind Energy Facility 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, the Applicant shall install Aircraft Detection Lighting Systems ("ADLS") or other similar technology to reduce light pollution and visual impacts caused by the Wind Towers. If a Facility Owner does not install an ADLS or similar technology, the Facility Owner shall provide proof of reasonable efforts to obtain FAA approval and reasonable efforts to obtain an ADLS system.

Sec. 17.6. - Setbacks.

B. Sec. 17.6 Setback Requirements

CWF Towers shall be sited as follows, with setback distances measured from the center of the base of the CWF Tower;

- a. Occupied Community Buildings: 2.1 times the maximum blade tip

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- height of the CWF 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 CWF Tower to the nearest point on the outside wall of the structure;
 - c. Nonparticipating Residences: 2.1 times the maximum blade tip height of the CWF 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 CWF 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 CWF Tower to the center point of the public road right-of-way.
 - g. Overhead Communication 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 CWF 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.
 - i. Fish and Wildlife Areas and Illinois Nature Preserve Commission Protected Lands: 2.1 times the maximum blade tip height of the CWF Tower to the nearest point on the property line of the fish and wildlife area or protected land.

The setback requirements may be waived by the written consent of the owner(s) of each affected property. The Applicant does not need 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 Recorder of Deeds of the County.

17.6.8 Bird and Bat Migration Paths. All wind turbines at time of application shall be located out of bird and bat migration pathways/corridors to which wind turbine construction would pose a substantial

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risk as identified in Section 17.5.7. Adherence to this requirement shall be addressed in the impact study and mitigation plan required in Section 17.5.7, by a locally sourced qualified wildlife expert having no less than ten (10) years' experience. Evidence supporting adherence to this requirement, which may include a letter from the Illinois Department of Natural Resources or the US Department of Interior, Division of Fish and Wildlife Service, shall be provided upon CWEF submittal. No wind turbine(s) shall be allowed to negatively, and substantially, impact a migratory bird or bat population.

17.6.9 Land Resource Management Plan. All wind turbines, and supporting facilities and equipment, shall be located only in areas zoned as agricultural or industrial areas according the Moultrie County Zoning Map.

17.6.10 Waiver of Setbacks.

- A. Landowners may waive the setback requirements in Section 17.6.1 .B by signing a waiver that sets forth the applicable setback provision(s) and the proposed changes thereto.
- B. Any such waiver shall be recorded in the Recorder of Deeds Office for the County where the property is located. The waiver shall describe the properties benefited and burdened, and advise all subsequent purchasers of the burdened property that the waiver of setback shall run with the land.

Sec. 17.7. - Nuisance Abatement.

Signal Interference. The facility owner or operator shall make reasonable efforts to avoid any disruption or loss of radio, weather radar utilized for public safety, telephone, television or similar signals, and shall mitigate any disruption or degradation (as measured from the baseline study required by Sec. 17.4.D.9) of signals caused by the CWEF in a manner reasonably calculated to remedy such signal degradation, including, but not limited to, providing alternative methods of delivery of signals to affected households at facility owner or operator's expense. The foregoing provision shall not in any way be interpreted to excuse compliance with any regulations, codes, or laws specifically governing electronic transmissions.

17.7.2 Sound Levels. The facility owner or operator shall comply with all applicable codes and ordinances regulating sound generation, including, but not limited to the requirements of the Illinois Pollution Control Board. In the event that any sound levels from a Wind Turbine are found by the Illinois Pollution Control Board to be in excess of permissible levels at the residence of any non-participating landowner, the facility owner or operator shall take such measures as are necessary to bring sound levels down to a level acceptable to the Illinois Pollution Control Board.

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17.7.3 Shadow Flicker. The Applicant must present to the County during the public hearing a model study on potential shadow flicker. The Applicant shall appropriately demonstrate to the County through industry standard modeling that no occupied community building or non-participating residence will experience more than 30 hours per year of shadow flicker under planned operating conditions. An occupied community building owner or a non-participating participating residence owner may waive this shadow flicker limitation. 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 non-participating residence owner and filed with the County Recorder of Deeds Office against title to the affected real property.

Sec. 17.8. - Liability Insurance.

Commencing with the issuance of a Building Permit for a Commercial Wind Energy Facility, the Facility Owner shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with coverage amounts of at least Five Million Dollars (\$5,000,000.00) per occurrence and Twenty Million Dollars (\$20,000,000.00) in the aggregate during the life of the Commercial Wind Energy Facility. The Applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a Building Permit, corresponding policies and endorsements to be provided within sixty (60) days of issuance, and at each subsequent renewal, at least annually thereafter.

The Applicant and Facility Owner shall defend, indemnify and hold harmless the County and its officers, appointed and elected officials, employees, attorneys, engineers and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relating to or arising out of the issuance of the Special Use Permit or the construction, operation, maintenance and removal of the Commercial Wind Energy Facility and affiliated equipment including or supporting facilities 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, the Owner or the Operator under this Ordinance or the Special Use Permit, except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the negligence or intentional acts of such Indemnified Parties. This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under the law.

Sec. 17.9 Decommissioning and Site Reclamation Plan Required

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Applicant (or Facility Owner, if different from Applicant) must submit a Decommissioning Plan with cost estimation to the County as part of the siting application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the application. Prior to receiving any building permit for the Commercial Wind Energy Facility, the Applicant or Owner shall provide a Decommissioning Agreement and post the required Financial Assurances for the benefit of the County. The Decommissioning Agreement and Financial Assurances shall comply with 55 ILCS 5/5-12020. Periodically, and as required by the Agricultural Impact Mitigation Agreement, the Owner must update the Decommissioning Plan, cost estimations and provide updated Financial Assurances to the benefit of the County.

Sec. 17.10 Annual Report. The Facility Owner must submit, on an annual basis on the anniversary date of the siting approval application, an operation and maintenance report to the County. The report shall contain the following information: (i) a general description of any physical repairs, replacements or modification(s) to the Facility and/or its infrastructure; (ii) complaints pertaining to setbacks, noise, shadow flicker, appearance, safety, lighting and use of any public roads and the resolution of such complaints; (iii) calls for emergency services; (iv) status of liability insurance; and (v) a general summary of service calls to the Facility. Failure to provide the annual report shall be considered a material violation of this Ordinance and subject to Article XI (Remedies).

Sec. 17.11 Re-Certification. Any physical modification to the Commercial Wind Energy Facility or Supporting Facilities that alters the mechanical load, mechanical load path, or major electrical components shall require re-a new Special Use Permit. 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. Like-kind replacements does not include changing tower heights, or replacing Wind Turbines with new Wind Turbines requiring a change in tower heights, blade length, or increasing the nameplate capacity of the individual wind turbine. Prior to making any physical modification (other than a like-kind replacement or other modifications made in the ordinary course of operations), the Facility Owner shall confer with the County who may, at Facility Owner’s expense, consult with a qualified engineer to determine whether a new Special Use Permit is required. Any costs of consultation by the County with third-party consultants shall be reimbursed by the Facility Owner.

17.12 FEE SCHEDULE AND PERMITTING PROCESSES

- 1. Application Fees
 - a. Prior to processing any Application for a Commercial Wind Energy Facility, the Applicant must submit a certified check to the County for the Application Fee equal to \$1,000,000.00 or \$5,000.00 per megawatt (mW) of proposed

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nameplate capacity, whichever is greater. These funds shall be placed in an FDIC insured account and will be used to cover the county's cost incurred in processing the Application.

- b. Should the actual costs to the County exceed the submitted Application Fee, the Applicant shall be responsible for those additional costs and shall remit additional funds to the County within 15 days of receipt of a request from the County. No hearings on an Application shall be conducted nor final decisions rendered on an Application if there are Application fees due to the County.
- c. Any unused amounts of the Application Fee shall be refunded to the Applicant within six months of the County Board rendering a final decision on the matter, unless any pending litigation, disputes or negotiations involving the County exist regarding the Commercial Wind Energy Facility, in which case any amounts owed to the Applicant shall be refunded within six months of the conclusion of the litigation, disputes or negotiations. An Applicant may request any unused Application Fee be applied toward the Building Permit Fees for the Facility.

2. Building Permit Fees

- a. Prior to the issuance of building permits, the Building Permit Applicant must deposit a Building Permit Fee equating to \$5,000.00 per megawatt (mW) of nameplate capacity. If the total nameplate capacity is less than 1 mW, the building permit fee shall be reduced pro rata.

3. All Costs to be Paid by Applicant or Owner

- a. In addition to all fees noted above, the Applicant or Owner shall pay all costs incurred by the County, including but not limited to, those costs associated with all offices, boards and commissions of the County, and third-party costs incurred by the County. This includes, but is not limited to, the direct or indirect costs associated with the hearing, permitting, operations, inspections, decommissioning, litigation, disputes, and/ or negotiations.

17.13 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 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 facilitator.

17.14 HEARING FACTORS

The County Board may approve a Commercial Wind Energy Facility Special Use Permit application if it finds the evidence complies with state, federal and local law and regulations, and with the standards of this zoning code 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 Facility will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- b. The Facility 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 property values of surrounding properties;
- c. The establishment of the Facility 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 Facility is not contrary to the objectives of the current comprehensive plan of the County (if any); and
- g. The Facility shall, in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is located (if a zoning ordinance is in effect), except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the County Board.

Sec. 17.15 Remedies.

The Applicant's failure to materially comply with any of the provisions under the Special Use Permit, 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 Permit by the County Board.

Prior to implementation of the applicable County procedures for the resolution of default(s), the County Board must first provide written notice to the Applicant and Operator, setting forth the alleged default(s) and provide an opportunity for the Applicant or the Operator to cure the default(s) within a thirty (30) calendar day period from the date of the notice. Should the Applicant commence the cure

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within that 30-day cure period, and diligently pursues a cure, then the Applicant shall receive an additional sixty (60) days to continue to pursue the cure before the County pursues procedures for the resolution of default. If the default relates to a life safety issue or interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant or the Operator shall take all necessary and available commercial measures to immediately cure the default. If the Applicant or Operator cannot cure the default(s) or resolve the alleged default(s) within the cure period, then applicable County ordinance provisions addressing the resolution of such default(s) shall govern.

Sec. 17.16. Complaints and Complaint Procedure

Prior to the Commencement of Construction of the Project and during the entire term of the special use and any extension, Company shall establish a telephone number hotline for the general public to call with any complaints, comments or questions (the "Comment Hotline"). The Comment Hotline number shall be publicized to the satisfaction of the Zoning Administrator in order to ensure that the general public is aware of the Comment Hotline number. The Comment Hotline number shall be posted at the operations and maintenance center and the construction marshalling yard. The Comment Hotline number shall be manned at all times during regular business hours or allow for recording of messages during other times. Each call to the Comment Hotline shall be logged by the Company, and such log shall identify the name, address, to the extent provided, and reason for the call. Company shall maintain a Facebook or other social media site with links to the procedures for using the Comment Hotline. Company shall provide the Zoning Administrator with the call log on a monthly basis to the extent allowed by law, and Company shall retain copies of the log for a minimum of two years. Company shall take reasonably necessary actions to resolve all legitimate complaints. If the Company shall, in the reasonable discretion of the Zoning Administrator, fail to take reasonably necessary action to resolve any legitimate complaint, the Zoning Administrator may direct Company to take such reasonably necessary action. During the construction of the Project, the Company shall maintain updated contact information on file with the Zoning Administrator for addressing complaints related to construction activities. The Company shall designate a contact person who will respond to inquiries from the Zoning Administrator. Once the project has reached commercial operation following the conclusion of construction activities, the Company shall maintain permanent contact information with the Zoning Administrator including a designated representative of the Company along with a phone number and email address, and a 24-hour emergency contact phone number (the "Emergency Number"). The Emergency Number shall be manned at all times. Company shall also provide these phone numbers and email addresses to the Moultrie County emergency telephone service. If the Zoning Administrator or County Board retains any expert or consultant relating to such complaints, Company shall reimburse the County for all reasonable expenses. In the event of a disagreement between the Zoning Administrator and the Company and/or the person making the complaint concerning resolution of the complaint, then the Company and/or the person making the complaint may appeal the decision of the Zoning Administrator to the Zoning Board of Appeals.

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Subject to any other provision of these conditions, any alleged breach or violation of the conditions listed herein, including an alleged failure to comply with any federal, state or local regulation now or hereafter in effect, and any penalty herein, including termination of rights granted by or the invalidity of the special use permit, as a result of such breach or violation, shall be subject to the Company curing or commencing to cure and thereafter diligently pursuing cure of such breach or violation within sixty (60) days after receipt of written notice from the County of such breach or violation.

Sec. 17.17 Severability.

If any section, paragraph, clause, phrase or part of this Ordinance is for any reason held invalid by any court or competent jurisdiction, such decision shall not affect the validity of the remaining provisions of these regulations.



STATE OF ILLINOIS
COUNTY OF MOULTRIE

I, Linda S. Qualls, County Clerk and Recorder within, and for said County and State aforesaid, do hereby certify that this is a true and exact copy of an instrument filed and recorded in this office. Dated at Sullivan, Illinois this 26th day of May A.D. 2023

Linda S. Qualls
COUNTY CLERK & RECORDER

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