

MONTGOMERY COUNTY

ORDINANCE REGULATING

THE SITING OF

WIND ENERGY CONVERSION SYSTEMS

Adopted by: Montgomery County

June 9, 2009

First Revision: November 10, 2020

Second Revision: August 10, 2021

Third Revision: June 13, 2023

Fourth Revision: February 13, 2024

Fifth Revision: July 9, 2024

Sixth Revision: August 13, 2024

I. INTRODUCTION

- A. **Title:** This Ordinance shall amend the original Montgomery County Ordinance Regulating the Siting of Wind Energy Conversion Systems dated June 9, 2009 and be known, cited and referred to as the Montgomery County Ordinance Regulating the Siting of Wind Energy Conversion Systems.
- B. **Purpose:** The purpose of this ordinance is to facilitate the construction, installation, operation, and decommissioning of Wind Energy Conversion Systems (WECS) in Montgomery County, Illinois in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. This ordinance will promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources. This ordinance shall not apply to personal or business wind energy development for the primary use of self-sustaining energy. This ordinance is not intended to replace safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not nullify any provisions of local, state, or federal law.

II. DEFINITIONS

- A. "Applicant" means the entity or person who submits to the County, pursuant to Section VI of this Ordinance, an application for the siting of any wind energy conversion system (WECS) or Substation.
- B. "Application" means the request for the Wind Energy Conversion System (WECS) permit must be submitted on the application form maintained by the County. Application may be modified from time to time by the County in order to provide sufficient information for permitting decisions to be made.
- C. "Authorized Agent" means personnel authorized by the Montgomery County Board Chairman.
- D. "Capability" means the ability, knowledge, experience, resources and financial viability to complete the project.
- E. "Decommissioning" means to return the property or site back to its pre-installation state or better as approved in the decommissioning plan.
- F. "Deconstruction" means breaking an object down or disassembling a large object into smaller parts.
- G. "Distance" Measured as feet on a level plane.
- H. "Financial Assurance" means reasonable assurance from a credit worthy party or parties satisfactory to the County that any and all damages due to construction, operation, maintenance, and decommission/deconstruction caused by the wind energy project will be repaired and that the project will be decommissioned/deconstructed. Examples of such include a performance bond, surety bond, trust instrument, cash, escrow, and/or irrevocable letter of credit.
- I. "Hearing Facilitator" means the county may unilaterally engage the services of a hearing facilitator not affiliated with any pro wind or anti wind group to preside over any required hearings resulting from the siting approval application. *Process: The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the board and county but with no adjudicatory responsibility other than ruling on request for continuances, procedural matters, admissibility of evidence and the propriety of any arguments. Upon conclusion of the evidence and final arguments, the County Board Coordinating Committee with outside professional advice as required will prepare and submit "findings of fact" and a final recommendation to the county board. The hearing facilitator shall be an attorney, licensed to practice in the State of Illinois, jointly selected by the state's attorney (or his designee) and the Montgomery County Economic Development chairperson and appointed by the chairman of the county board with the consent of the county board. The applicant shall reimburse the county for the fees and costs charged by the facilitator.*
- J. "L.A." refers to "Local Authority". Local Authority is the representative of the applicable government body.

- K. "Licensed Illinois Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- L. "Licensed Illinois Structural Engineer" means a qualified individual who is licensed as a structural engineer in the State of Illinois.
- M. "Like-kind replacement" means a WECS tower which meets or exceeds the standards and specifications of the tower being replaced and complies with the applicable terms and conditions of this ordinance.
- N. "Maximum height" means the maximum height allowed under a Determination of No Hazard to Air Navigation by the FAA under 14 CFR Part 77
- O. "MET" means a measurement tower, or met mast as a free standing tower, or a removable mast, which carries measuring instruments with meteorological instruments such as thermometers and instruments to measure wind speed.
- P. "Nonfunctioning wind turbine" means a wind turbine or component that is not able to generate electricity for six continuous months
- Q. "Operating Permit" means a permit that must be issued after the project is substantially complete, according to approval by the County's designee, to produce and sell wind generated power.
- R. "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third-party subcontractors.
- S. "Owner" means the entity or entities with an equity interest in the WECS(s), including their respective successors and assignees or an entity that becomes an owner through foreclosure. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) at the earliest practicable date.
- T. "Primary Structure" means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. The term "primary structure" includes structures such as residences, commercial buildings, hospitals, churches, day care facilities, schools, and agricultural buildings/structures.
- U. "Rotor Diameter" means the diameter of the circle created by rotating turbine blade tips.
- V. "Set-Back" means the minimum distance from a property line, margins of any public road or high water mark of any lake available for public use, stream banks and drainage ditches from which the WECS tower and/or substation is located. The setback set forth herein shall be measured from the exterior of the foundation of the WECS tower.
- W. "Shadow Flicker" means the phenomenon that occurs when rotating wind turbine blades cast moving shadows upon stationary objects.
- X. "WECS (Wind Energy Conversion System) CONSTRUCTION Permit" means the formal approval of the application by the County Board or its designee.
- Y. "Substation" means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.
- Z. "Wind Energy Conversion System" ("WECS") means all necessary devices that together convert wind energy into electricity, including the rotor, blades, nacelle, generator, WECS Tower, electrical components, WECS foundation, oils, fluids, transformer, and electrical cabling from the WECS Tower to the Substations.
- AA. "WECS Project" means the collection of WECS and Substations as specified in the structural improvement application.
- BB. "WECS Tower" means the support structure to which the nacelle and rotor are attached
- CC. All other words have the meanings attributed to them in Public Act 102-1123

III. APPLICABILITY

This Ordinance governs the siting of WECS(s) and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of WECS(s) with an aggregate generating capacity of 3MW or less who locate the WECS(s) on their own property as an end user are not subject to this Ordinance.

IV. PROHIBITION

No WECS or substation governed by Section III of this Ordinance shall be transported, constructed, erected, installed, located or operated within Montgomery County, unless:

- A. WECS Construction Permit Application Approval has been granted by the County Board or its designee and WECS Construction Permit has been issued by the Montgomery County Assessor's Office;
- B. Road Upgrade and Maintenance Agreements have been entered into for each applicable governmental agency;
- C. a WECS Construction Permit has been obtained for each individual WECS tower and Substation pursuant to this Ordinance;
- D. applicant has provided the County with notification of MET towers being placed.

V. PERMITTING AND HEARINGS

The County Board or their authorized agent shall not approve any permit until a public hearing is held. A public hearing will only be held within **60** days of when a properly submitted and completed application is accepted by the County. Notice of the hearing shall be published by the Montgomery County Clerk's Office on the Montgomery County website as well as in a newspaper of general circulation in Montgomery County at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall be published the first time not less than ten (10) days or more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included. A WECS project or any WECS project component development in the un-incorporated areas of Montgomery County shall be required to obtain permits and provide fees as applicable to Montgomery County. The County Board or its authorized agent may request final site inspection(s) before the operating permit is issued. An emergency contact name and phone number must be posted at the point of access on all WECS project developments. The County will schedule inspections with the operator at the Chairman of the County Board's discretion. The cost of such inspection will be borne by the operator. The permit holder will allow the County or its Authorized Agent access to the property within 30 days of an inspection request by the County. In the event of an emergency, the County or its Authorized Agent has the right to access the premises. The provisions of this Ordinance shall be administered and enforced by personnel of the Montgomery County Board or their Authorized Agents.

VI. WECS CONSTRUCTION PERMIT APPLICATION

- A. The Applicant must submit an application to the County Development & Personnel Committee for review and recommendation to County Board. Approval or Denial of application will be made by the full County Board. A request for siting approval for a WECS, or modification of an approved WECS, shall be approved if the request follows the standards and condition imposed within the law and the conditions imposed under state and federal statutes and regulations.
- B. The Application shall contain or be accompanied by the following information:
- a. A WECS Project summary, including, to the extent available: (1) a general description of the project; the potential equipment manufacturers, types of WECS(s), number of WECS(s), and name plate generating capacity of each WECS; the maximum height of the WECS Towers and maximum diameter of the WECS(s) rotors; the general location of the project; and (2) a description of the Applicant, Owner and Operator, including their respective business structure;
 - b. The names, addresses, and phone numbers of the applicant(s), owner(s) and operator(s), and all property owners who have signed a lease agreement; and information as to whether the petitioner or applicant is acting for himself or herself or as an agent, alter ego, or representative of a principal and the name and address of the principal; whether the petitioner or applicant is a corporation and of all stockholders or shareholders owning any interest in excess of 20 percent of all of the outstanding stock or shares of the corporation; whether the petitioner or applicant, or his or her principal, is a business or entity doing business under an assumed name, and if so, the name and residence of all actual owners of the business or entity; whether petitioner or applicant, or his or her principal, is a partnership, joint venture, syndicate, or an unincorporated voluntary association, and if so, the names and addresses of all partners or member of the partnership, joint venture, syndicate, or unincorporated voluntary association.
 - c. A site plan for the installation of WECS(s) showing the planned location of each WECS tower, guy lines and anchor bases, primary structures, property lines (including identification of adjoining properties), setback lines, public and private access roads and turnout locations, substations, electrical cabling from the WECS tower to the substations, ancillary equipment, third party transmission lines, any above or below ground transmission lines related to the project, operations and maintenance building(s), layout of all structures within the geographical boundaries of any applicable setback, and the location of any construction staging areas including concrete batch plants. The size and locations of any road(s), lake(s), pond(s), or streams touching on said parcel or parcels of land shall be included.
 - d. Individual inventory designations for each separate WECS and Substation for reference in WECS Construction Permits;
 - e. All required studies, reports, certifications, waivers and approvals demonstrating compliance with the provisions of this Ordinance.
 - f. An Ecological Compliance Assessment Tool (EcoCAT) compliance.
 - g. A decommissioning plan.
 - h. Any other information normally required by the County as part of its Siting Ordinance.
 - i. Sufficient documentation that the applicant, owner, company and parent company/companies have the capability to complete the WECS project as proposed.

- j. Financial Assurance in the form of an irrevocable letter of credit to assure the construction, installation and completion of the project or improvements. Such Financial Assurance (Irrevocable Letter of Credit) shall be provided by the Applicant prior to approval to the full County Board and shall be in such amount as is determined to be 110% of the estimated WECS Project cost.
- C. Prior to processing any Application for a WECS, the Applicant must submit a certified check to the County for the non-refundable Application Fee equal to \$2,500 per megawatt (MW) of proposed nameplate capacity, up to a maximum fee of \$250,000. These funds shall be placed in the General Fund. 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 final decisions shall be rendered on an Application if there are Application fees due to the County. The Applicant shall file ten copies of the application upon submittal of the application Fee.
- D. If the application is determined by County staff, the County Economic Development Committee, or the County Board not to be complete in all pertinent aspects of the section of the Montgomery County Ordinance, the application shall be rejected and a new application will need to be filed.
- E. The Application shall comply with the standards established by this Ordinance.
- F. All copies of the proposed project Construction documents (plans and project manual) must be submitted, signed and sealed by a professional engineer licensed in the State of Illinois.
- G. The Applicant shall promptly notify the County Board of any changes to the information provided in their WECS project plans/application that occur while the application is pending. The Applicant shall not be allowed to materially change the application after the hearing process has started. Whether a change is a material change or not shall be determined by the County Board Coordinating Committee.
- H. The County Board shall require an independent engineer, chosen by the County Board, to review plans at the petitioner's expense. Findings by the independent engineering firm are to be submitted to the County Coordinating Office.
- I. Any order, requirement, decision or determination of the Montgomery County Board and/or Authorized Agent adverse to the interest of an applicant for a WECS Construction Permit shall be provided to the applicant in writing by certified mail, return receipt requested.
- J. Following application approval, the Applicant is eligible to apply for WECS Construction Permit.
- K. Actual on site construction must commence within one year of application approval by the County Board; if not completed or otherwise, permits will no longer be valid.
- L. The Montgomery County Assessor's Office shall maintain a record of all Wind Energy Conversion Systems (WECS) Construction Permits and copies shall be furnished upon request to any interested person.
- M. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.
- N. The failure to obtain the required WECS Construction Permit shall be a Violation of this Ordinance. Further, WECS Construction permits shall be issued on the basis of applications approved by the Montgomery County Board and shall authorize only the use, arrangement, and construction applied for and approved. Any use, arrangement or construction not in compliance with that authorized shall be a violation of this Ordinance.

VII. DESIGN AND INSTALLATION

A. Design Safety Certification:

- a. WECS 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"), Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energy ("GL"), or an equivalent third party. For the avoidance of doubt, the provision of a design compliance certificate from anyone ANSI, UL, DNV, or GL shall be deemed to satisfy this requirement.
- b. Following the granting of application approval under this Ordinance, a Structural Engineer shall seal site specific design of the foundation and tower with local soil and subsurface conditions indicated on plans.
- c. To ensure that the subsurface conditions of the site will provide proper support for the WECS, the applicant at their expense, shall provide soil and geotechnical boring reports for each WECS Tower location to the independent engineer selected by the County Board for review and comment prior to the issuance of any WECS Construction Permit.

B. Controls and Brakes

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

C. Electrical Components

- a. All electrical components of the WECS shall conform to applicable local, state, and national codes and to relevant national and international standards (e.g. ANSI and International Electrical Commission). Utility lines connecting the towers, substations, etc., shall be placed underground where practical. All electrical wire and lines connecting WECS to another WECS or substation must be installed no less than 6 (six) feet deep. The owner/operator of the WECS Installation shall be a member of J.U.L.I.E and follow their rules and regulations. During the installation and before wires and lines are covered, there will be an inspection for compliance by an independent inspector chosen by the County and paid for by the Owner/Operator.

D. Color

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

E. Compliance with the Federal Aviation Administration

- a. The Applicant for the WECS shall comply with all applicable Federal Aviation Administration (FAA) requirements.

F. Warnings

- a. A reasonably visible warning sign concerning voltage must be placed at the base of all pad mounted transformers and Substations.
- b. An emergency sign listing the 911 address which conforms to the specifications of the County Ordinance. for size, color, and reflectivity shall be placed and maintained by the owner/operator at the entrance to each WECS access road from a public road. A sign or posting no more than four (4) square feet in area shall be placed and maintained in conjunction with, but in a subordinate position of, that same emergency sign and shall provide the tower number(s) and a toll-free telephone

number, answered by a live operator twenty-four hours a day seven days per week, for emergency calls and informational inquiries. A non-emergency phone number for the operator shall also be displayed. These phone numbers shall remain active with all calls being voice recorded for verification purposes and with comments and complaints logged and reported to the Montgomery County Coordinator on a monthly basis. The recorded calls shall be maintained for at least 12 months. Current phone numbers shall be maintained. Local Agency response shall be reimbursed by the project owner(s).

- c. Upon completion of the construction of an approved WECS project, a reasonable visible sign to warn people to not approach a turbine while operating must be placed at the entrance of each access road,
- d. Warning signs identifying underground wire locations shall be placed at all road crossings, creek, waterway, and ditch crossings, and at the base of WECS Towers. All underground wire locations shall be GPS mapped and given to the L.A.
- e. The signs in subparagraphs above shall be made with letters and numbers at least three inches in height.

G. Climb Prevention

- a. All WECS Towers must be unclimbable by design or protected by anti-climbing devices such as:
 - i. Fences with locking portals at least eight feet high; or
 - ii. Anti-climbing devices 12 feet vertically from the base of the WECS Tower.
- b. The fencing/gates shall be maintained in serviceable condition. Failure to maintain the fencing/gating required hereunder shall constitute a violation of this Ordinance.
- c. All gates to the fences of all WECS(s) towers, equipment, and any components shall be equipped with locks and shall remain locked at all times except for those times when the owner and/or operator or their respective agents is/are using the gate for ingress and/or egress or is/are otherwise present and monitoring the Wind Energy Conversion System and its equipment/components.

H. Manufacturer recommendations supersede the above requirements.

I. Lighting

- a. A lighting plan for each WECS and WECS Substation shall be approved by the designated engineer. The WECS Project shall utilize minimal lighting. No tower lighting other than normal security lighting shall be permitted except as may be required by the FAA. Such plan must describe all lighting that will be used, including any lighting that may be required by the FAA. Such a plan shall include but is not limited to the planned number and location of lights, light color and where any lights will be flashing. Strobe lights are discouraged; and if they are required by the FAA, they must be shielded from the ground. The lighting should be planned and developed in such a way as to minimize the visual impact of the structures. A consideration of synchronized lighting shall also be part of any lighting plan. This WECS substation lighting plan shall include plans as to how glare from these lights is being controlled.

J. Minimum Rotor or Wind Vane Clearance

- a. The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than 20 feet measured from the highest point of the terrain within one blade radius from the base of the tower.

VIII. OPERATION

- A. An operating permit shall be obtained from the county prior to start of operation of the WECS.
- B. Maintenance
 - a. The Owner or Operator of the WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County reasonably requests. It is understood that nothing in this Section VIII (B)(a) shall be construed so as to require any Owner or Operator of the WECS to violate any non-disclosure or confidentiality covenant that the Owner or Operator may have with (i) its equipment supplier(s), (ii) the purchasers of electricity and/or environmental attributes from the WECS, or (iii) any debt or equity financier of the WECS
 - b. To the extent that, under Section VIII (A) of this Ordinance, any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components so that such modification requires re-certification from the original third. party certifying entity of the WECS (i.e. DNV, GL, UL, etc.), then the Owner or Operator of the WECS shall obtain such re-certification certificates. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a likekind replacement), the owner or operator shall confer with a relevant third-party. certifying entity in accordance with this Ordinance to determine whether the physical modification requires re-certification.
 - c. Any replacement of equipment that is not a like-kind replacement shall require an amendment to the WECS Construction Permit.
 - d. The County Coordinating Office shall be advised in writing within ninety (90) days by the Wind Energy Conversion System (WECS) operator or property owners (whichever entity/party holds the development and building permits) in the event the project is sold or otherwise transferred to another entity/party and/or the current operator/owner abandons the project.
- C. Interference
 - a. The Applicant shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the project summary and site plan (or various project summaries and site plans if the Applicant should seek approval of differently sized projects and/or projects constructed with differing wind turbine generators) to the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s) and the United States Federal Communication Commission ("FCC") agrees with such demonstrated interference, then the Applicant shall take all measures prescribed by the FCC to mitigate or eliminate such anticipated interference in compliance with then-existing, FCC-promulgated regulations. If, after construction of the WECS, the Owner or Operator receives a written complaint from the FCC related to the above-mentioned, or any other type of interference with the regulated airwaves, the Owner or Operator shall take all steps required by the FCC to mitigate or eliminate such complaint. All interference issues must first be taken to the Owner or Operator for consideration before going to the FCC.
 - b. Prior to construction of the WECS, the owner or operator shall conduct a study related to interference with local broadcast residential television and wireless internet services; if it is demonstrated a likelihood of interference may result from the WECS, then the applicant shall take measures to mitigate such anticipated interference.

- c. If, after construction of the WECS, the Owner or Operator receives a written complaint related to interference with local broadcast residential television, wireless internet services, or any other regulated airwave, the Owner or Operator shall take all steps required by the FCC to respond to the complaint, such as providing alternate service to each individual resident or property owner affected until such a time that alternate equivalent quality and cost for service is available to owner.
- D. Coordination with Montgomery County Emergency Management Agency
- a. The Applicant, Owner or Operator shall submit to the local EMA a copy of the site plan. In addition to the site plan, a plan pertaining to the planning, response, recovery, and mitigation of any natural or manmade hazard that may affect the WECS development must be negotiated.
 - b. Upon request by the local fire department or EMA, the Owner or Operator shall cooperate with the local fire departments/EMA to develop an emergency response plan. In addition, at no cost to the local fire departments, the Owner or Operator shall provide to the local fire departments/EMA any and all specialized and necessary rescue or retrieve equipment occasioned by the use of the particular wind turbine generators being used at the project (I.e. gurney, body harnesses, etc.) In addition, the Owner or Operator shall have the responsibility to update--at no cost to the local fire departments/EMA--any such equipment in possession of the local fire departments/EMA as any updates are received by the Owner or Operator in the normal course of business.
 - c. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.
- E. Materials Handling, Storage, and Disposal
- a. All solid and liquid wastes related to the construction, operation, and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.
 - b. A list of all hazardous solids and/or liquids that may be used on site shall be provided. All hazardous materials both liquid and solid related to the construction, operation and maintenance of the WECS shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal laws.
 - c. Hazmat Directors shall be notified of the handling, storage, transportation, and disposal of any and all hazardous materials.

IX. SET BACK PROHIBITIONS AND REQUIREMENTS

<u>A. Setback Description</u>	<u>Setback Distance</u>
Occupied Community	2.1 times the maximum blade tip Buildings height of the wind tower to the nearest point on the outside wall of the structure
Participating Residences	1.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Nonparticipating Residences	2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure
Boundary Lines of Participating Properties	None
Boundary Lines of Nonparticipating Properties	1.1 times the maximum blade tip height of the wind tower to the nearest point on the property line of the nonparticipating property
Public Road Rights-of-Way	1.1 times the maximum blade tip height of the wind tower to the center point of the public road right-of-way
Overhead Communication and Electronic 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 wind tower to the nearest edge of the property line, easement, or right of way containing the overhead line.
Overhead Utility Service Lines to Individual Houses or Outbuildings	None
Fish and Wildlife Areas	2.1 times the maximum blade and Illinois Nature tip height of the wind tower Preserve Commission to the nearest point on the Protected Lands property line of the fish and wildlife area or protected land

B. A wind tower of a commercial wind energy facility to be sited so that industry standard computer modeling indicates that any occupied community building or nonparticipating residence will not experience more than 30 hours per year of shadow flicker under planned operating conditions;

- C. Sound limitation: Sounds for wind towers in commercial wind energy facilities shall not exceed the sound limitations established by the Illinois Pollution Control Board under 35 Ill. Adm. Code Parts 900, 901, and 910.
- D. The facility owner shall provide as part of the permit process:
 - a. 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
 - b. 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" and (ii) any applicable United States Fish and Wildlife Service solar wildlife guidelines that have been subject to public review.
 - c. The recommendations provided by the Illinois Department of Natural Resources in an EcoCAT natural resource review report under 17 Ill. Admin. Code Part 1075. And;
 - i. demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Nature Preserve Commission; or
 - ii. consider the recommendations of the Illinois Department of Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission.

X. LIABILITY INSURANCE

- A. The Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$10 million per occurrence and \$40 million in the aggregate, with an annual certificate of insurance being provided to the Montgomery County Coordinator's Office, with the county being added as an additional insured, with the designation of primary and non-contributory. The Applicant shall promptly increase such liability insurance if such amount is increased in the WECS Ordinance and the applicant is notified in writing of same by the county. The applicant shall provide evidence of such increased insurance to the Montgomery County Coordinator. Insurance coverage shall be maintained without interruption from the date of permitting through the lifetime of the WECS project. Certificates of insurance acceptable to the county and in compliance with this section shall be filed with the county prior to the commencement of any work on the WECS and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required under this section shall contain a provision that coverages afforded under the policies shall not be cancelled or allowed to expire until at least 60 days' written notice has been given to the county. Applicant shall also, to the fullest extent permitted by law, indemnify, and hold the county, its employees, board members, and agents harmless for any action due to or arising out of the construction, maintenance, decommissioning, deconstruction, and/or operation of the WECS, including the payment of any attorney's fee and costs arising out of any action due to or arising out of the construction, maintenance, decommissioning, and/or operation of the WECS.

XI. FEE SCHEDULE

- A. Prior to processing any Application for a WECS, the Applicant must submit a certified check to the County for the non-refundable Application Fee equal to \$2,500 per megawatt (MW) of proposed nameplate capacity, up to a maximum fee of \$250,000. These funds shall be placed in the General Fund. 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 final decisions shall be rendered on an Application if there are Application fees due to the County. The Applicant shall file ten copies of the application upon submittal of the application Fee.
- B. The Operating Permit Fee for WECS shall be \$5,000.00.
- C. If actual onsite construction has not started within one year of the approved application, the permits are no longer valid and all fees are forfeited.

XII. PUBLIC NUISANCE DEFAULTS AND REMEDIES

- A. Any WECS declared to be unsafe by the Montgomery County Board or its designee by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, or abandonment is 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.
- B. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Ordinance.
- C. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).
- 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. Each violation shall be a separate offense. Each day a violation occurs or continues shall be a separate offense. A court may set any 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 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 quickly and safely resolve any and all infractions, It is the intent that any dispute between the parties be resolved promptly and where possible by informal discussions as outlined elsewhere in this ordinance.
- F. The County reserves the right to hire outside Counsel to enforce this Ordinance. The Owner/Operator is liable for payment of reasonable Attorney's fees in this regard.
- G. 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.

XIII. SEVERANCE

- A. 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.

XIV. DECOMMISSIONING

- A. The Developer or property owner shall include a decommissioning plan consistent with those included in the Department of Agriculture's standard wind farm agricultural impact mitigation agreement, template 81818, or standard solar agricultural impact mitigation agreement, version 8.19.19, as applicable and in effect on December 31, 2022. The amount of any decommissioning payment shall be limited to the cost identified in the decommissioning or deconstruction plan, as required by those agricultural impact mitigation agreements.

XV. LEGAL PROVISION

- A. Amendments: The Montgomery County Board may periodically amend the terms of this ordinance.
- B. Penalties for Violations: After the effective date of this ordinance, any persons who, being the owner or agent of the owner of any land, or project developer, located within the territorial jurisdiction of this ordinance, thereafter proceeds with development of a WECS prior to being approved under the terms of this ordinance shall be fined. Further, violators of this ordinance shall be subject to fine of \$1,000 for the first violation and \$500 for each additional month the violation is not corrected. The County Coordinating office will be notified of any violations and the County Chair will enforce penalties.
- C. After the effective date of this ordinance, no proposed WECS, as defined in this ordinance and within Montgomery County's jurisdiction, shall proceed with construction until it has been submitted to and approved by the Montgomery County Board and/or Designee in accordance with the provisions of this Ordinance.

- Appendix A: EXAMPLE Wind Application
- Appendix B: EXAMPLE Construction Permit
- Appendix C: EXAMPLE Operating Permit

NOW, THEREFORE BE IT ORDAINED that the Montgomery County Board hereby adopts said Wind Farm Ordinance.

BE IT FURTHER ORDAINED that the effective date is immediately upon adoption.

Passed and Adopted, this _____ day of _____, A.D. 2024, by the County Board of Montgomery County.

Doug Donaldson, Chairman

Attest: _____
Sandy Leitheiser, County Clerk

MONTGOMERY COUNTY
PETITION / APPLICATION / REQUEST PROCESS
for a WECS Permit

APPENDIX A: WECS Application (Montgomery County Board Admin, 8-12 weeks)

1. Applicant completes and submits (APPENDIX A) application with supporting docs and fees.
2. County Board Administration accepts the application as “Properly Filed.”
3. County Board Administration schedules public hearing within 60 days of accepting application.
 - a. County Board Admin notifies applicant, schedules public notices, publishes on website.
 - b. Applicant notifies required property owners.
4. County Board Administration forwards application to independent engineer for review.
 - a. Engineer Review to focus on Environmental and Safety Concerns – NEPA process
 - b. EcoCat submittal – Cultural/Biological Clearances
 - c. Wetlands Mapper Clearance
 - d. Parcel Identification –Location to be provided to determine offset concerns/impacts to adjacent property owners
 - e. Identify Topographical concerns – Drainage, Streams, Clearing, Access points (Sight Distance Concerns)
 - f. Road Use Agreements – (County or Township)
 - g. Decommission Bonding Agreements
5. County Board Development & Personnel Committee conducts Public Hearing.
 - a. County Board Admin schedules verbatim recording.
6. County Board Development & Personnel Committee makes recommendation to County Board.
 - a. Recommendation may include Findings of Fact and Permit Conditions.
7. County Board makes decision within 30 days of Public Hearing conclusion.

APPENDIX B: Construction/Improvement Permit (Supervisor of Assessments, 6-8 weeks)

1. Applicant completes WECS Site survey per statute 35 ILCS 200/10-740.
2. Engineer Review of Construction Documents
 - a. Adherence to the Solar Ordinance
 - b. Sealed licensed Documents by an Illinois PE
 - c. Approval – Recommendation of review to County Board
3. County GIS Department completes parcel split and assigns new parcel numbers.
 - a. Applicant is responsible for Plat Act Fee
4. Applicant records new lease with updated parcel number, site address, legal description and completed, signed Plat Act Affidavit with County Recorder.
5. Applicant files Structural Improvement Permit (APPENDIX B) with Supervisor of Assessments.
6. Supervisor of Assessments mails approved permit to applicant.

APPENDIX C: Operating Permit (Supervisor of Assessments, 2-4 weeks)

1. Applicant completes application (APPENDIX C) and submits to Supervisor of Assessments.
2. County Independent Engineer reviews site operation with inspections to ensure adherence to approved construction documents.
3. Supervisor of Assessments issues Operating Permit.
4. Applicant displays Operating Permit on site.

APPENDIX A

MONTGOMERY COUNTY PETITION / APPLICATION / REQUEST For a Wind Energy Conversion System (WECS) Construction Permit

It is the responsibility of petitioners or requesters of actions placed before the Montgomery County Board to provide specific information and supporting data regarding proposed actions/projects in sufficient detail that will allow a decision to be made or a final course of action chosen. The Board shall not accept a petition or request as properly filed that is not sufficiently detailed, is missing information required by Ordinance, or does not provide sufficient sealed and signed professional studies, reports, and construction documents to support the request or petition based on the reasoned judgment of the Board. The Board is not responsible to make corrections or revise requests/petitions. Incomplete Applications will be returned.

Certain requests, such as a petition / application for a WECS Construction Permit, require the Board to conduct a Public Hearing on the matter. No Hearings will be scheduled until such time that petitions/requests have been "Accepted as Properly Filed." Similarly, Petitions/Requests shall not be placed on a Board meeting agenda until such time that the petition/request has been "Accepted as Properly Filed" by the Board.

The Date on which the Petition / Application / Request is "Accepted as Properly Filed" constitutes the Legal Beginning Date of any such Construction for all purposes of defining whether a project has been initiated or was in progress in Montgomery County, Illinois.

This petition/application/request for a WECS Construction Permit shall be completed in its entirety and submitted to the Montgomery County Board, #1 Courthouse Square, Hillsboro, IL, 62049. Once the petition / application for a WECS Construction Permit is Accepted as Properly Filed by the Board, the application for a WECS will be reviewed by an independent engineer, appointed by the County at the Petitioners expense, to determine the impact of the use on public utilities, traffic volume and circulation, impact on near-by properties, compliance with Ordinances and laws, and other lawful factors as may be determined reasonable by the Board based on the individual Petition/Application. The Board, following a Public Hearing, prepares its Findings of Facts and may then take action regarding issuance of a Construction Permit.

Notice of the Public Hearing

The County Board shall hold a Public hearing within sixty (60) days of receiving reviewed information from the independent engineer. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, place, and the nature of the proposed WECS Construction Application, shall be given, before the hearing by:

1. First class mail to the applicant, and to all parties whose property would be directly affected by the proposed use; and
2. Publication in a newspaper of general circulation within this County; and
3. Publication on a state-wide web site.

The Petitioner / Applicant / Requestor is responsible to mail the notices to the last known property tax bill address by PIN number, and submit a Post Office certificate of mailing record to the County but only after receiving the approved text of the Notice from the County. This is at the Petitioner's / Applicant's / Requestor's sole expense.

Properly completed Applications for a WECS Construction, complete with supporting documentation, are to be submitted to the County Board with sufficient lead time for review based on the complexity of the individual request.

All petitioners, or their representative, must attend the County Board meeting(s) considering their request. If there is no representation the application may be removed from the agenda and rescheduled.

The Montgomery County Board shall make a decision within 30 days of the Public Hearing.

If you have any questions, please contact the Montgomery County Coordinating office at 217-532-9577.

SECTION BELOW TO BE FILLED OUT BY COUNTY OFFICIAL:

Date first Received by the Office of The Montgomery County Board: _____

Date(s) County Board Date Returned application for more information (if applicable): _____

Date County Board requested revisions were received (if applicable): _____

Date accepted by County Board as properly filed: _____

Filing fee/application fee: _____ Date paid: _____ Check # _____

Date County acceptance letter is sent to Petitioner: _____

Date of required Public Hearing Notice sent to Petitioner: _____

Date(s) published and where published: _____

Date notices sent: _____ Public hearing date: _____

County Board determination: _____

APPLICANT & PROPERTY OWNER INFORMATION (Print or Type):

Applicant/Petitioner information: _____

Company Name: _____

Contact Name and Title: _____

Phone number: _____

Mailing address for all official correspondence unless a Legal Representative is designated in which case all correspondence and contact will be made with that Legal Representative:

_____ Zip: _____

Property Owner Name(s): _____

Phone number: _____

Mailing address: _____ Zip: _____

Designated Legal Representative (*licensed to practice law in the State of IL*) of Applicant (*if any*)

Name: _____ Phone: _____

Address: _____ Zip: _____

Designated Contact Person (*if different from Applicant*), to whom all phone calls, requests for information, clarifications, and coordinator for all actions regarding this Petition, who has the authority to act on behalf of the Petitioner in regard to this Petition/Application/Request. *This does not apply if a Legal Representative has been designated in which case all contact will be made through that Legal Representative.*

Name: _____ Phone: _____

Address: _____ Zip: _____

PROPERTY INFORMATION:

Note: If additional space is needed, please attach additional sheets to the application and reference attachment description in application.

1. Location of the proposed use or structure, and its relationship to existing adjacent uses or structures:

2. Legal Description and Acreage:

3. Area and Dimensions of the Site for the Proposed Structure(s) or Uses:

4. Present Use of Property:

5. Present Land usage:

6. Proposed Land Use Activity / Nature of the Proposed Use, including type of activity, manner of operation, number of occupants or employees, and similar matters:

7. Height, Setbacks, and Property Lines of the Proposed Uses and/or Structure(s):

8. Location and Number of Proposed Parking/Loading Spaces by Type of Vehicles, to Include Weight Classifications and Size of Access Drives/Ways:

9. Existing and Proposed Screening, Lighting (including intensity) Landscaping, Erosion Control, and Drainage Features on the Site, Including the Parking Areas:

10. Disclosure of Any Potential Environmental Issues, and Methods for Dealing with Them:

11. Disclosure of Any Activities Requiring Outside Agency Permits, and the Names, Addresses, and Phone Numbers of the Agency Points of Contact, and How Those Requirements are Being Met:

12. Indicate the Suitability of the Property in Question for Construction:

13. Adjacent Land Use:

A. North: _____

B. South: _____

C. East: _____

D. West: _____

14. Should this Use be Valid Only for a Specific Time Period? Yes _____ No _____

If Yes, what length of time? _____

15. Does the Proposed Permit Meet the Following Standards? Yes _____ No _____

A. Will the proposed design, location and manner of operation of the proposed WICS (Wind Energy Conversion System) adequately protect the public health, safety and welfare, and the physical environment?

B. Will the proposed WICS (Wind Energy Conversion System) have any known negative impact on the value of neighboring property?

C. Will the proposed WICS (Wind Energy Conversion System) have a negative impact on public utilities and on traffic circulation?

D. Will the proposed WICS (Wind Energy Conversion System) have an impact on the facilities near the proposed WICS, such as schools or hospitals or airports that require special protection?

ATTACHMENTS REQUIRED:

1. At the time the application is filed, an application fee is to be paid by the applicant via certified check.
2. For entities governed by governing boards, a copy of the Board Resolution or Board Meeting Minutes authorizing the governing board’s approval to carry out the requested project and to authorize the submission to Montgomery County by a designated entity officer of the required specific requests / applications / petitions is required to be submitted.
3. An area map and site plan from a certified Illinois licensed Engineer.
4. List of the names, current property tax addresses and property tax PIN numbers of property owners located within five hundred feet (500’) of the property.
5. A Decommissioning Plan as required by the ordinance (see section XIV.)

CERTIFICATION OF A WECS PERMIT PETITION / APPLICATION / REQUEST:

I/We the undersigned, agree that the information herein and attached is true. I/We, the undersigned, do hereby permit officials and/or consultants of Montgomery County, to enter the property described herein to complete a thorough review of this application.

Applicant’s Printed/Typed Name: _____

Signature: _____ Date: _____

Property Owner’s Printed/Typed Name: _____

Signature: _____ Date: _____

Applicant's Legal or other Representative's Printed/Typed Name (*if applicable*):

Signature: _____ Date: _____

STATEMENT OF CONFORMANCE:

I/We, the undersigned, in making a Petition/ Application / Request to Montgomery County for approval of a WECS Construction Permit described in this application have reviewed the laws and regulations of Montgomery County to the extent that they are applicable to this proposal and understand that: I/We, the undersigned have no reasonable expectation of approval of this request until such time that a WECS Construction Permit is actually issued by the Montgomery County and have been so notified of issuance in writing. I/We hereby acknowledge, attest to, and accept the following as conditions of obtaining a WECS Construction Permit in Montgomery County, Illinois.

- **NO** building, construction, alteration, or use may be started prior to the issuance of a WECS Construction Permit.
- **All** building construction and all site construction must conform to the plans and specifications approved by the Montgomery County Board. No deviation from or revision to an approved plan may take place without the prior written approval of the Montgomery County Board.
- Any Permit, once issued, is non-transferrable to any other legal entity without the express prior written approval of the Montgomery County Board.
- That **ALL** actions associated with this Permit process shall be taken, processed, and interpreted under the Laws of the State of Illinois and Montgomery County and any legal remedies sought by any party in connection with this WECS Construction Permit shall be brought forth in the Courts of Montgomery County, Illinois for adjudication.
- That if the applicant is an Agent representing the actual owners of multiple properties, or is a lessor, that the Agent has in his/her possession signed documentation that the actual property owners are aware of their legal responsibilities to be personally liable for the costs associated with Decommissioning if said lessor or Agent fails for any reason to meet this requirement of the WECS Construction Permit.

Applicant's Printed/Typed Name: _____

Signature: _____ Date: _____

Applicant's Legal or other Representative's Printed/Typed Name (*if applicable*):

Signature: _____ Date: _____

NOTE: It is the responsibility of the Applicant to notify the Montgomery County Coordinating Office at each stage of work completed once the Permit is issued. Call 217-532-9577 or 217-532-9588 or email cbadmins@montgomerycountyil.gov

APPENDIX C

MONTGOMERY COUNTY WECS OPERATING PERMIT

Upon completing construction of the facility, the Applicant/Petitioner must inform the Assessor's office and request an Operating Permit, prior to any production or sale of WECS generated power.

*All developers in unincorporated areas of Montgomery County shall be required to post an on-site, laminated, WECS Operating Permit at the front entrance of the construction area, visible to County employees. Failure to file a WECS Operating Permit, prior to production or sale of generated WECS power, shall constitute an offense punishable by a fine up to \$500.00 each day in which work proceeds and each day following completion of the structure shall constitute a separate offense, **TO BE ENFORCED BY THE COUNTY BOARD CHAIR.***

Date: _____ Approved Disapproved

Operating Permit Number _____

Signature: _____ Title: _____

DO NOT WRITE ABOVE THIS LINE

Property Information:

Address: _____ City: _____ State: IL Zip: _____

Legal Description:

Company Name:

Project Name:

Contact Name and Title:

Mailing Address: _____

Phone Number: _____ Email: _____

Land Owner Name(s) if different from Company Name:

Mailing Address: _____

Phone Number: _____ Email: _____

Conditions of Permit:

In applying for and obtaining a WECS Operating Permit from Montgomery County, the Applicant agrees to comply with the laws, rules and regulations set forth by the State of Illinois and the Montgomery County WECS Installations Ordinance. The permit is subject to revocation for failure to comply with laws, rules, regulations and fines.