

Resolution No. 23-9

**RESOLUTION FOR THE AMENDMENT
OF THE DEWITT COUNTY CODE OF ORDINANCES
CHAPTER 153: COMMERCIAL WIND ENERGY CONVERSION**

(County of DeWitt
(STATE OF ILLINOIS

WHEREAS, the Illinois Legislature passed Public Act 102-1123, setting minimum siting requirements for Commercial Wind Energy Facilities, said law being codified as 55 ILCS 5/5-12020 with an effective date of January 27, 2023; and

WHEREAS, 55 ILCS 5/5-12020(j), states, except as otherwise provided, that a county shall not require standards for construction, decommissioning, or deconstruction of a commercial wind energy facility or related financial assurances that are more restrictive than those included in the Department of Agriculture’s standard wind farm agricultural impact mitigation agreement, template 81818, as applicable and in effect on December 31, 2022; and

WHEREAS, 55 ILCS 5/5-12020(d), states that a county with an existing zoning ordinance in conflict with this new state law shall amend the zoning ordinance to be in compliance with said statute within 120 days after the effective date the Legislature’s amendatory Act; and

WHEREAS, the DeWitt County Board seeks to keep its ordinances compliant with state law.

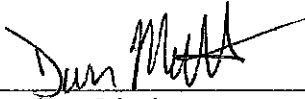
NOW BE IT DECLARED that the County Board of DeWitt County, Illinois passes the following amended ordinance to be codified in the DeWitt County Code of Ordinances, and that the other subsections in the stated ordinance shall remain unchanged:

Chapter 153: §153.01 et seq. as set forth in attached Exhibit A.

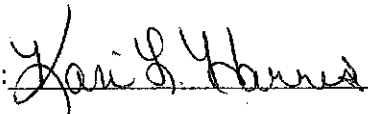
NOW BE IT ALSO DECLARED that the publishing company contracted by the County of DeWitt shall number the above ordinance or ordinances as appropriate during the annual publication of the DeWitt County Code of Ordinances. Until such time this ordinance shall be maintained by the County Clerk and be available for inspection or copying with the current publication of the DeWitt County Code of Ordinances, and shall be referred to as the “Amended Commercial Wind Energy Conversion Ordinance” until a number is permanently assigned. This change to the current ordinance/ordinances shall take effect immediately.

Pursuant to a roll-call vote of 12 ayes and 0 nays, such vote being a majority of the members of the DeWitt County Board in attendance and such vote having the required majority of members in attendance voting in favor, this resolution is hereby passed on this 18 day of May, 2023.

<u>Y</u> Deerwester	<u>Y</u> Matthews	<u>Y</u> Ferguson	<u>Y</u> Myers
<u>Y</u> Witte	<u>Y</u> Ryan	<u>Y</u> Prestegaard	<u>Y</u> Riddle
<u>Y</u> Farris	<u>Y</u> Werts	<u>Y</u> Tilley	<u>Y</u> Carter

County Board Chairman 
Dan Matthews

Subscribed and sworn to me this 18th day of May, 2023.

County Clerk: 

CHAPTER 153: COMMERCIAL WIND ENERGY CONVERSION

Section

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GENERAL PROVISIONS

§ 153.01 TITLE.

This chapter shall be known as, referred to or cited as the “DeWitt County Commercial Wind Energy Conversion Ordinance of DeWitt County, Illinois”.

(Ord. passed 4-23-2009)

§ 153.02 STATUTORY AUTHORIZATION.

These regulations are adopted under the authority of state statutes. The County Board does hereby ordain this chapter.

(Ord. passed 4-23-2009)

§ 153.03 PURPOSE.

This chapter is adopted for the following purposes:

(A) To promote the use of renewable energy sources if cost effective and technically feasible; and

(B) It is in the best interests of the citizens of the county that zoning and other regulations be promulgated so as to implement restrictions on the placement and operation of wind energy conversion systems within the county, which preserve and/or protect the public health and/or safety of all citizens residing in the county.

(Ord. passed 4-23-2009)

§ 153.04 INTENT.

The intent of this chapter is to provide a means to regulate and restrict the locations within the county where wind energy systems and facilities can be constructed.

(Ord. passed 4-23-2009)

§ 153.05 DEFINITIONS.

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

APPLICANT. A person or entity applying for a special use permit to construct a wind energy conversion system or facility in the county.

COMMERCIAL WIND ENERGY FACILITY. A wind energy conversion facility of equal or greater than 500 kilowatts in total nameplate generating capacity. "Commercial wind energy facility" includes wind energy conversion facility seeking an extension or a permit to construct granted by a county or municipality before the effective date of this amendatory Act of the 102nd General Assembly.

FACILITY OWNER. (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 whether the person will own or operate the facility.

GOOD UTILITY PRACTICE. Any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. **GOOD UTILITY PRACTICE** is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the

region, including those practices required by Federal Power Act § 215(a)(4), being 18 C.F.R. § 215.

NON-PARTICIPATING PROPERTY. Real property that is not a participating property.

NON-PARTICIPATING RESIDENCE. A residence that is located on a non-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.

OCCUPIED COMMUNITY BUILDING. Any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the commercial wind energy facility is filed with the county: a school, place of worship, day care facility, public library, or community center.

PARTICIPATING PROPERTY. Real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a 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.

PARTICIPATING RESIDENCE. A residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the commercial wind energy facility is filed with the county.

PROTECTED LANDS. 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.

SUPPORTING FACILITIES. 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.

WIND ENERGY CONVERSION SYSTEMS (WECS). Equipment that converts and then stores or transfers energy from the wind into usable forms of energy.

WIND ENERGY SYSTEM FACILITY (WESF). All land and equipment used by the wind energy system and its support facilities including the wind turbine, tower, access roads, control facilities and all power collection and transmission systems.

WIND TURBINE. A mechanical device, which captures kinetic energy of the wind and converts it into electricity. The primary components of a **WIND TURBINE** are the blade assembly, electrical generator and tower.

WIND TOWER. Includes the wind turbine tower, nacelle, and blades.

TOWER HEIGHT. The distance from the tip of the rotor blade at its highest point to the top surface of the WECS foundation. For the purposes of this chapter, **TOTAL TOWER HEIGHT** and **TOTAL HEIGHT** shall be considered the same dimension as **TOWER HEIGHT**.

(Ord. passed 4-23-2009)

§ 153.06 INTERPRETATION.

The provisions of this chapter shall be interpreted and applied as minimum requirements; shall be liberally construed in favor of the county; and shall not be deemed a limitation or repeal of any other power granted by state statutes.

(Ord. passed 4-23-2009)

§ 153.07 JURISDICTION.

The jurisdiction of this chapter shall include all lands and waters within the county and within those municipalities not having in force their own wind energy conversion ordinance.

(Ord. passed 4-23-2009)

§ 153.08 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate, annul or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern that are not in conflict with State Statutes.

(Ord. passed 4-23-2009)

§ 153.09 INDEMNIFICATION.

(A) The applicant shall defend, indemnify and hold harmless the county and its officials, employees and agents 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 (the liabilities together known as "liability") arising out of the applicant's selection, construction, operation and removal of the wind turbines and affiliated equipment including, without limitation, liability for property or personal injury (including death), whether the liability is premised on contract or on tort (including, without limitation, strict liability or negligence).

(B) This general indemnification shall not be construed as limiting or qualifying the county's other indemnification rights available under the law.

(C) All costs incurred by the county shall be paid by the applicant, owner or operator. Cost incurred under this provision shall include, but not be limited to, the cost of experts and/or attorneys that may be used at any stage of the project, including the application review, hearing process, consideration of the application by the county (including County Board or Zoning Board of Appeals), permitting, operations phase and/or decommissioning phase. In addition, costs of any appeal or litigation resulting from any project, application, action, permit, or work undertaken or performed by the county shall

be paid by the applicant, owner or operator, including, but not limited to, the cost of experts and attorney's fees.

(Ord. passed 4-23-2009; Res. 2021-05, passed 1-21-2021)

§ 153.10 FEES CHARGED FOR BUILDING PERMIT.

(A) A special use permit is required prior to obtaining a building permit.

(B) A building permit is required for the installment of each tower located within the unincorporated lands within the boundaries of DeWitt county. The building permit must be submitted to the county Zoning Administrator on the approved application form.

(C) All WECS building/construction plans shall include a certification by an Illinois Licensed Structural Engineer that the foundation and tower design on the WECS is within accepted professional standards, given local soil and climate conditions.

(D) Site plan with all of the following items to the extent that items mentioned below are identifiable by landowner of ALTA survey:

- (1) Electrical cabling from the WECS Tower to the substation;
- (2) Ancillary equipment;
- (3) Third party transmission lines;
- (4) Wells;
- (5) Septic fields;
- (6) Field tile location;
- (7) Existing easements;
- (8) Floodplain location and elevation, if applicable; and
- (9) Wetland location, if any.

(E) Letter from the FAA stating the project is in compliance with FAA height and lighting requirements.

(F) A building permit fee is required as stated in 155.126(C)(I) - Structures other than buildings.

(G) The owner or operator of the WECS must submit, on a yearly basis, a summary of:

- (1) The operation and maintenance reports;
- (2) Any physical modifications to the WECS; and
- (3) Complaints pertaining to setbacks, noise, appearance, safety, lighting, use of roads, shadow flickers, etc.

(Ord. passed 4-23-2009; Ord. passed 4-20-2017)

§ 153.11 PROPOSALS FOR ERECTED STRUCTURES.

Any wind tower or electric-generating wind device proposed to be erected within 1.5 miles of the corporate limits of an incorporated village or municipality shall be subject to the approval of said incorporated village or municipality before a special use permit shall be granted for said proposed wind tower or electric-generating device.

(Res. 2018-02, passed 4-19-2018)

§ 153.12 EFFECTIVE DATE.

This chapter shall immediately take effect upon passage as provided by law.

(Ord. passed 4-23-2009)

SPECIAL USE REGULATIONS

§ 153.25 SITING APPROVAL APPLICATION.

Wind energy system facilities and parts thereof shall meet the following requirements:

(A) Comply with application procedures required by Chapter 155 of this code of ordinances;

(B) Provide properly executed agreements:

(1) "Road upgrade and maintenance agreement" with each highway authority having jurisdiction over potentially impacted highways, roads and streets by the development of the WESF;

(C) (1) Submit a site plan for the installation of WESFs showing:

(a) Boundaries of the project;

(b) Location of each WECS tower, guy lines and anchor bases (if any);

(c) All WECS structures including, but not limited to, the project substations; interconnect substation; location and voltage of any buried and overhead transmission lines;

(d) Property lines (including identification of adjoining properties and owners);

(e) Setback lines;

(f) Public access roads and turnout locations;

(g) Location of all existing structures with principal residential structures identified; and

(h) Land use, zoning, public roads and structures indicating the required setbacks for the WECS site.

(2) The site plan shall include a legal description and plat of the WESF to be prepared by a licensed surveyor. The plat of survey to be furnished shall be a certified copy in recordable form.

(D) Submit all required federal, state and local regulatory agencies' studies, reports, certifications and approvals demonstrating compliance with the provisions of this chapter and other county ordinances;

(E) (1) Wind energy system facilities shall comply with all Federal Aviation Administration (FAA) and Federal Communication Commission (FCC) requirements. In addition, the WESF shall be required to use an FAA approved Aircraft Lighting Mitigation System to reduce the impacts of nighttime lighting on county residents and wildlife. The location of WESF components shall be modified or adjusted as necessary for an application to be accepted by FAA.

(2) If approved by the FAA the most effective system approved shall be utilized. In determining which system is more effective, sole discretion shall be vested with the DeWitt County Board, and shall be decided by majority vote. The County Board may grant a grace period in its discretion for the installation of lighting mitigation equipment by majority vote not to exceed a year upon the structure being constructed. No extensions may be granted beyond one year for any reason.

(3) If other multi-level structures excluding structures built and intended for family occupancy are built within 2,000 feet of existing WECS towers, a study shall be conducted as a pre-requisite to the issuing of a permit. Said study must show that there shall be no interference with existing lighting mitigation on currently standing WECS towers. If a study concludes that interference exists, then the builder of the structure must present proof that the interference is rectified prior to the issuance of a permit. Said study shall be conducted by an entity approved by the County Board of DeWitt County by majority vote, and the costs of said study shall be paid by the builder and/or owner of the proposed structure. The above requirements shall be a condition of any permit granted.

(4) The applicant shall prepare a shadow flicker study including the potential effects of each proposed WECS on all non-participating residences. The results will identify the locations and expected duration of shadow flicker over the course of a calendar year. This study shall be submitted as part of the special use permit application. Under no circumstances shall a WECS or testing facility produce shadow flicker or strobe effect on a non-participating residence in excess of 30 hours per calendar year. Non-participating property owners may waive these requirements in writing.

(F) WESFs are permitted only in the Agricultural (A), Industrial (I) and Rural Development-1 (RD-1) Zoning Districts by special use permit;

(G) (1) A special use permit is required for towers constructed or erected as part of the WESF with a special use application fee of:

- (a) Two hundred dollars if two acres or less;
- (b) Two hundred and fifty dollars if greater than two acres, but less than ten acres;
- (c) Three hundred dollars if ten acres or greater, but less than 26 acres; and

(d) Twenty-six acres and over \$100 plus \$10 per acre.

(2) A single special use application may be submitted for multiple towers.

(3) This fee calculation shall supersede any other fee calculation for special use permits.

(H) All work on the approved WESF must be completed within three years of the date work begins on the first tower foundation of the permitted phase; and

(I) The Zoning Administrator and other agents, as designated by the County Board, shall have access to the WESF at all times during construction and maintenance to conduct inspections of the work being performed.

(Ord. passed 4-23-2009; Ord. passed 4-20-2017; Res. 2018-08, passed 8-22-2018; Res. 2021-01, passed 1-21-2021; Res. 2021-04, passed 1-21-2021; Res. 2021-06, passed 1-21-2021)

Cross reference:

For road upgrade and maintenance agreement adopted pursuant to § 153.25, see T.S.O. I

§ 153.26 STANDARDS.

(A) *Construction standards.* WESF shall be constructed in compliance with good utility practice for WESF. The applicant shall provide, as part of the building permit application, engineering drawings of the proposed foundation and tower design sealed by a licensed professional structural engineer.

(B) *Construction observation.* The applicant shall retain, at the applicant's expense, the services of an independent engineering consultant to observe construction of the WESF. The consultant shall be approved by the County Board prior to beginning any work on the WESF. The consultant shall be a state licensed professional engineering firm pre-qualified with the State Department of Transportation in the following categories: structures (typical), highways (roads and streets), special services (land survey) and construction inspection. The consultant shall visit the site at intervals appropriate to the stage of construction, or as otherwise directed by the county, in order to observe the progress and quality of work completed by the contractor. The consultant shall prepare reports for each visit to the site detailing observations of the work performed and forward those reports to the Zoning Administrator within three business days following the date of the site visit.

(C) *Compliance.* If the county concludes that any part of the WESF was not constructed in compliance with the details of the permit application, good utility practice or constitutes a danger to persons or property, then upon notice being provided by the County Board, the applicant shall have 90 days to bring the non-compliant WESF(s) into compliance with the standards specified herein. If 90 days is insufficient time to cure the non-compliance, the applicant shall present a plan to the county describing the reason for the delay and the time frame for the cure to be put in place. Failure to bring the non-compliant WESF(s) into compliance or failure to provide a plan for compliance within 90

days shall constitute grounds for the county to demand removal of the WESF(s) at the applicant's expense and all construction work on the WESF(s) shall cease until the non-compliances are resolved to the satisfaction of the County Board. The following minimum safety standards shall apply to the construction of the WESF.

- (1) All wiring between the wind turbines shall be underground.
- (2) The outside of the WECS shall not be climbable.
- (3) All access doors to the turbines and electrical equipment shall be locked.

(D) *Performance standards.* Any wind energy conversion system or wind energy system facility shall be operated and maintained consistent with good utility practice for comparable facilities.

(E) *State and federal standards.* Construction of WESF(s) shall meet or exceed current standards and regulations, if any, of any other agency of the state or federal government with the authority to regulate wind powered generators. If the standards and regulations are changed and retroactive application is required for the change, then the applicant shall bring the WESF(s) into compliance with the applicable revised standards and regulations within six months of the effective date of the standards and regulations, unless a different compliance schedule is permitted by the controlling state or federal agency or approved by the county. A determination of "no hazard" for each wind turbine must be obtained from the FAA as a condition precedent for the installation of each turbine.

(Ord. passed 4-23-2009)

§ 153.27 TECHNICAL REQUIREMENTS.

(A) *Height.* There shall be no restriction on the height of any WESF, provided all other requirements of this chapter are met.

(B) *Setback.* A wind tower of a commercial wind energy facility shall have the following minimum setback distances measured from the center of the base of the wind tower. These setback requirements may be waived subject to the written consent of the owner of each affected nonparticipating property.

(1) Wind towers shall be setback 2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure from occupied community buildings.

(2) Wind towers shall be setback 1.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure from participating residences.

(3) Wind towers shall be setback 2.1 times the maximum blade tip height of the wind tower to the nearest point on the outside wall of the structure from nonparticipating residences.

(4) There are no wind tower setback requirements regarding the boundary lines of participating property.

(5) Wind towers shall be setback 1.1 times the maximum blade tip height of the wind tower to the nearest point on the property line of the nonparticipating property.

(6) Wind towers shall be set back 1.1 times the maximum blade tip height of the wind tower to the center point of a public road right-of-way.

(7) Wind towers shall be set back 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 to overhead communication and electric transmission and distribution facilities.

(8) There are no wind tower setback requirements regarding overhead utility service lines to individual houses or outbuildings.

(9) Wind towers shall be set back 2.1 times the maximum blade tip height of the wind tower to the nearest point on the property line of a fish and wildlife area or protected land.

(C) *Noise.* The WESF shall comply with State Pollution Control Board noise regulations at all times.

(D) *Color.* Except as may be required by the FAA, the coloration of the exterior components and each wind turbine tower shall be off-white, light gray or other neutral color, including the blades. The finish shall be flat or matte. The applicant shall maintain the required coloration and finish throughout the term of this permit.

(E) *Signage.*

(1) The applicant shall provide reasonable signage at the WESF, identifying the premises as being part of the WESF and providing appropriate safety notices and warnings against trespassing. The no trespassing signs shall be posted around the entire premises at an appropriate distance for posting, but no less than two conspicuous places for every 40 acres within the facility.

(2) No advertising material or signage other than warning, equipment information or indicia of ownership shall be allowed on the wind turbines. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.

(F) *Public records.* The applicant shall, prior to the initiation of construction and use of public roads for hauling materials and equipment, consult with the County Engineer, the Highway Authority (Township Road Commissioner), the State Police and the County Sheriff's Office for load paths and restrictions on their respective impacted roads or bridges. The applicant shall obtain, at the applicant's expense, all necessary permits including the "road maintenance and upgrade agreement" from all applicable highway authorities and from the County Engineer.

(G) *Reporting and complaint resolution.* The applicant shall report to the county as follows.

(1) *Extraordinary events.* Within 24 hours of any extraordinary event, Applicant shall notify the County Sheriff's Office. **EXTRAORDINARY EVENTS** shall include tower

collapse, catastrophic turbine failure, unauthorized entry to the tower base, thrown blade or hub, or other event that, in the applicant's opinion, reasonably impacts the public health and safety of the county.

(2) *Complaints.* The applicant of the WESF shall, at the applicant's expense and in coordination with the county, develop a system for logging and investigating all complaints related to the operational standards set forth in this chapter. If the county determines it is reasonable and necessary, it may undertake an investigation of the alleged operation violation by a qualified individual mutually acceptable to the county and the owner of the wind energy system facility. The reasonable cost and fees incurred by the county in retaining the qualified individual shall be reimbursed by the owner of the wind energy system facility. After the investigation, if the County Board reasonably concludes the operation violations are shown to be caused by the wind energy system facility, the applicant shall use reasonable efforts to mitigate the problems on a case by case basis.

(H) *Proximity to existing power transmission lines.* The WESF shall be sited near existing power transmission lines capable of accepting the power generated by the facility. The applicant shall provide the following:

(1) A report detailing the excess capacity available in the power transmission lines the WESF will use to connect to the power grid; and

(2) A map exhibit showing the location of the existing power transmissions lines relative to the proposed WESF site, the proposed route of connection to the existing power transmission lines and all affected landowners.

(Ord. passed 4-23-2009; Ord. passed 4-20-2017; Res. 2018-03A, passed 4-19-2018; Res. 2021-02, passed 1-21-2021)

§ 153.28 OPERATION.

(A) *Startup.* The applicant shall not begin producing energy for commercial sale prior to receiving written approval to start operation by the Zoning Administrator. The applicant shall make the request to the Zoning Administrator in writing. The applicant shall certify the WESF has been constructed in accordance with this chapter.

(B) *Electromagnetic interference.* Applicant shall not operate the facility so as to cause microwave, television, radio, radar systems or navigation interference. Any complaints received by the county shall be handled in accordance with § 153.27(G)(2).

(C) *Modification.* Any modification that alters the mechanical load, mechanical load path or major electrical components shall require it to be re-permitted under the terms and conditions of this chapter. Prior to making any physical modification (other than like-kind replacement), the owner or operator of the WESF shall hire an independent licensed professional civil, mechanical or electrical engineer to determine whether the physical modification requires re-permitting. Like-kind replacements shall not require re-permitting.

(D) *Damages.* Between initial construction and decommissioning, the WESF owner shall, at his, her or their expense, repair or replace, all soil compaction, drainage tile,

utilities, public and private property damaged as part of on-going maintenance or other activities related to operation of the WESF.

(Ord. passed 4-23-2009; Res. 2021-03, passed 1-21-2021)

§ 153.29 INSURANCE.

All applicants shall maintain the following insurance coverages commencing upon construction of the facility.

(A) The dollar amounts listed herein are based on 2008 dollars. These sums shall be adjusted by the County Board for inflation in accordance with the Consumer Price Index as published by the United States Department of Labor, Bureau of Labor Statistics, to reflect the present value at the time of construction and shall be subject to re-evaluation by the County Board every three years thereafter.

(B) The applicant shall, at its expense, maintain a current broad form comprehensive general liability coverage insurance policy insuring the applicant and participating landowners against loss or liability caused by the applicant's occupation and use of the property under the lease, in an amount not less than \$10,000,000 of combined single-limit liability coverage per occurrence, accident or incident. All policies other than workers' compensation shall be written on an occurrence and not a claim-made basis. The county and participating landowners shall be named as an additional insured on the policy on a primary and non-contributory form.

(C) Workers' compensation coverage in an amount required by state law. The applicant shall require subcontractors and others not protected under its insurance to obtain and maintain workers' compensation and employer's liability insurance at \$1,000,000/\$1,000,000/\$1,000,000 limits. The policy shall contain "waiver of subrogation" in favor of the county and participating landowners.

(D) Certificates of insurance evidencing compliance with these requirements shall be provided upon request of the county. The insurer will provide notice to the county in the event there is a lapse in coverage exceeding 30 days. All policies other than workers' compensation shall be written on an occurrence and not on a claim made basis. The WESF owner shall provide certificates of insurance to the Zoning Administrator on an annual basis.

(E) The applicant shall maintain "environmental - pollution liability" coverage with a limit of not less than \$5,000,000.

(Ord. passed 4-23-2009)

§ 153.30 DECOMMISSIONING PLAN.

(A) The application for a WESF project must contain a decommissioning plan to ensure the WESF will be properly decommissioned upon the end of the project life or facility abandonment.

(B) The decommissioning plan shall include:

(1) Removal of all structures (including transmission equipment and fencing) and debris to depths as required by the signed Agricultural Impact Mitigation Agreement;

(2) Restoration of the soil and restoration of vegetation as required by the signed Agricultural Impact Mitigation Agreement;

(3) An estimated cost of decommissioning provided by a mutually agreed upon licensed professional engineer (at the expense of the applicant);

(4) The financial resources to be used to accomplish decommissioning;

(5) The financial agent with which the resources shall be deposited;

(6) An agreement between the applicant and the county that:

(a) The financial resources for decommissioning shall be in the form of a reclamation bond, an irrevocable letter of credit or shall be deposited in an escrow account with an escrow agent acceptable to the Zoning Enforcement Officer, Final approval on the form of the financial resource shall rest solely with the County Board or its designee. The financial resource shall be deposited with the chosen financial agent at the intervals and in the amounts as outlined in the AIMA Agreement.

(b) A written financial agreement will be prepared establishing upon what conditions the funds will be disbursed;

(c) The county shall have access to the financial account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within six months of the end of project life or facility abandonment;

(d) The county is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning; and

(e) The county is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the county's right to seek reimbursement from the applicant or applicant's successor for decommissioning costs in excess of the amount deposited in financial account and to file a lien against any real estate owned by the applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce the lien.

(7) Financial provisions shall not be so onerous as to make wind power projects unfeasible.

(Ord. passed 4-23-2009; Am. Res. 2018-04, passed 4-19-2018)

