

CHAPTER 26

WIND ENERGY CONVERSION SYSTEMS

- ART. I Regulating Wind Energy Conversion Systems With a Rated Capacity of More Than 100 Kilowatts (kW)
- ART. II Regulating Wind Energy Conversion Systems With a Rated Capacity of Not More Than 100 Kilowatts (kW)

ARTICLE I.

REGULATING WIND ENERGY CONVERSION SYSTEMS WITH A RATED CAPACITY OF MORE THAN 100 KILOWATTS (kW)

SECTION ONE

STATEMENT OF PURPOSE

It is the purpose of this Section to:

1. Assure that any structures used in the commercial development and production of wind-generated electricity in the City of Arcola, Illinois and within the 1.5 mile radius surrounding its zoning jurisdiction is safe and effective.
2. Facilitate economic opportunities for local residents.
3. Promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy source.
4. This Ordinance shall only apply to devices that together convert wind energy into electricity with a rated capacity of more than 100 kilowatts (kW).

SECTION TWO

DEFINITIONS

Definitions. The following words and terms when used in the interpretation and administration of this Ordinance shall have the meaning set forth herein except where otherwise specifically indicated.

1. **Applicant:** Shall mean the entity or person who submits to the City an application for the siting of any WECS or Substation.
2. **Financial Assurance:** Shall mean reasonable assurance from a credit-worthy party; examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit.

3. **Operator:** Shall mean the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.

4. **Owner:** Shall mean the entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (1) the property owner from whom the land is leased for locating the WECS, unless the property owner has an equity interest in the WECS; or (2) any person holding a security interest in the WECS 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 at the earliest practicable date.

5. **Professional Engineer:** Shall mean a qualified individual who is licensed as a professional structural engineer in the State of Illinois.

6. **Primary Structure:** Shall mean, for each property, the structure that one or more persons occupy the majority of the time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes such structures as hunting sheds, storage sheds, pool houses, unattached garages and barns.

7. **Shadow Flicker:** Shall mean the visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.

8. **Substation:** Shall mean the apparatus that connects the electrical collection system of the WECS and increases the voltage for connection with the utility's transmission lines.

9. **Wind Energy Conversion System (WECS):** Shall mean all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS tower to the Substation. This Ordinance shall only apply to devices that together convert wind energy into electricity with a rated capacity of more than 100 kilowatts (kW).

10. **WECS Project:** Shall mean the collection of WECS(s) and substations specified in the siting approval application pursuant to this ordinance.

11. **WECS Tower:** Shall mean the support structure to which the nacelle and rotor are attached.

12. **WECS Tower Hub Height:** Shall mean the distance from the center of the rotor hub to the top surface of the WECS Tower foundation.

13. **WECS Tower Tip Height:** Shall mean the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

14. **City of Arcola Wind Energy Regulation Fund:** Shall mean the lien item account into which application fees shall be deposited. Expenses of City departments related to the inspection process related to WECS shall be disbursed from this account. By enacting this Ordinance the City is directing the creation of said line item fund account.

SECTION THREE

APPLICABILITY

This Ordinance governs the special use of WECS and WECS Projects. This Ordinance shall only apply to devices that together convert wind energy into electricity with a rated capacity of more than 100 kilowatts (kW).

SECTION FOUR

PROHIBITION

No WECS or WECS Project governed by this Ordinance shall be constructed, erected, installed, or located within the City of Arcola Illinois, unless prior approval has been obtained for each individual WECS and Substation pursuant to this Ordinance.

SECTION FIVE

SITING APPROVAL APPLICATION

1. To obtain approval to build any structure within the jurisdiction of this ordinance, the Applicant must first submit a permit approval application to the City. The application shall be filed with the City of Arcola City Clerk and shall be accompanied by all supporting documentation at the time of submittal.

2. To assist in the incidental costs of the application process, each applicant shall be required to pay a non-refundable application fee of \$2,500.00 per structure. All fees shall be due at the time the application is submitted to the City Clerk and shall be deposited into the City of Arcola Wind Regulation Fund. When, in the opinion of the City, third party review, tests, inspection, or engineering review, tests, or inspections by the City Engineer, or third party engineering firms is required to determine or verify compliance with the adopted codes of the city or state, those additional costs shall be paid by the applicant separate and apart from the application fee.

3. The City shall have the authority to create and require the use of any application or information form necessary or useful in execution of this ordinance. However, no application, which substantially complies with the requirements of this ordinance, shall be refused appropriate review.

4. The permit approval 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, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), number of WECSs, and name plate generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS(S) rotor(s); the general location of the project; and (2) a description of the Applicant, Owner and Operator, including their respective business structures;

b. The name(s), address (es), and phone number(s) of the Applicant(s), Owner(s) and Operator(s), and all property owner(s);

c. A site plan for the installation of a WECS Project showing the planned location of each WECS Tower, guy lines and anchor bases (if any), Primary Structure(s), property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), electrical cabling from the WECS Tower to the Substation(s), ancillary equipment, transmission lines, and layout of all structures within the geographical boundaries of any applicable setback. Any staging or layout area, where equipment will be gathered for installation, will be identified and approved by the City. It should be labeled on permit or site plan.

d. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance and all applicable State and Federal laws;

e. Any other information required by the City as part of its permit process, including an executed Road Agreement, the form of which will be developed by the City. The City shall develop a written application cover sheet with a checklist of required and requested information to assist in presentation of the application. The Committee may request information concerning the background and experience of any owner, operator, or construction group involved. The City may reject any application which does not substantially and in good faith, contain the required or requested information.

f. The application shall be reviewed by the City. Once the permit application is received and reviewed by the City, the City attorney may direct changes in the application. Prior to submission to the City Council, the City shall determine if any changes have been made to the project described in the application. Prior to its submission to the City Council, the application shall have as much specific location and other information as available. If such changes are made and accepted or if the application is accepted as presented, the City shall forward the same to the City Council, if the City does not recommend that application, it shall be sent to the City Council with a negative recommendation. The City Council may accept a permit application by a majority vote if the application is recommendation by the City. Despite any other factors the City Council shall weigh in making its determination, the Council should not grant or approve an application or permit where when all factors are taken as a whole, the City Council finds that the WECS Permit at issue would not promote and protect the public health, safety, morals, comforts and general welfare of the citizens of the City of Arcola and that the negative attributes and

characteristics of a proposed project outweigh the possible benefits. The granting or denial of a permit application is a final decision of the City of Arcola City Council and may be appealed as provided for in the Illinois Administrative Review Act, 735 ICLS 5/1301.

g. The applicant shall notify the City of any changes to the information provided that occur while the permit approval application is pending. Any material deviation between the specifications of the application and the actual construction are a violation of this ordinance, unless waived, in writing, by the City.

h. When proposed siting infringes upon or prevents a non-participating adjacent property owner or his agent from participating in accepted agricultural aerial application practices, the applicants must negotiate in good faith with said landowners prior to final site approval by the committee for lost opportunity and expected benefits of such applications. This issue must be satisfied before the City will consider the application.

i. When an applicant believes that a provision of this Ordinance prevents an otherwise safe, viable, and beneficial project from proceeding, the applicant may seek a variance from that provision from the City.

(Ordinance No. 11-C-8, amended August 01, 2011)

SECTION SIX

DESIGN AND INSTALLATION

1. DESIGN SAFETY CERTIFICATION.

- a. WECSs 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 Energie (GL), or an equivalent third party. The city shall have the discretion to refuse any certification or require additional certification. Any dispute as to the sufficiency of the certification shall first be addressed by informal consultation between the Applicant, Owner/Operator, and the City. If the informal consultation does not resolve the dispute then the dispute shall be resolved by application to the City Council. Any appeal for the decision of the Council shall be as provided in the Administrative Review Act, 735 ILCS 5/3-1301. WECS shall be maintained and operated within applicable industry standards during construction and operation until their decommissioning as set out in this Ordinance.
- b. A Professional Engineer shall certify, as part of the building permit application that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

- c. All structures other than WECS which may be built in conjunction with the operation of the WECS shall comply with applicable safety and building codes and if there are no codes which are found to be applicable then they shall comply with the International Building Code standards insofar as practical.
2. **CONTROLS AND BRAKES.** All WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
3. **ELECTRICAL COMPONENTS.** All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards e.g., ANSI and International Electrical Commission.
4. **COLOR.** Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color. No advertisement or signs shall be allowed.
5. **COMPLIANCE WITH THE FEDERAL AVIATION ADMINISTRATION.** The applicant for the WECS shall comply with all applicable FAA requirements. Evidence of said compliance shall be submitted at the time of the siting request.
6. **WARNINGS:**
 - a. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
 - b. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of fifteen (15) feet from the ground.
7. **CLIMB PREVENTION.** All WECS towers must be unclimbable by design or protected by anti-climbing devices including, but not limited to:
 - a. Fences with locking portals at least six (6) feet high; or
 - b. Anti-climbing devices twelve (12) feet vertically from the base of the WECS tower.
8. **AREA IN WHICH WECS TOWERS ARE NOT PERMITTED.** No WECS tower shall be constructed or permitted within the area depicted in blue or grey on the Map attached hereto as "Exhibit A" and incorporated herein by reference, which includes the corporate boundaries of the City of Arcola as of the date of passage of this Ordinance and the area immediately surrounding the corporate boundaries as indicated on Exhibit A and more specifically described as follows:

- a. The West Half of Section 2, Township 14 North, Range 8 East of the Third Principal Meridian, Douglas County, Illinois;
- b. Section 3, Township 14 North, Range 8 East of the Third Principal Meridian, Douglas County, Illinois;
- c. Section 4, Township 14 North, Range 8 East of the Third Principal Meridian, Douglas County, Illinois;
- d. The East Half of Section 5, Township 14 North, Range 8 East of the Third Principal Meridian, Douglas County, Illinois;
- e. The East Half of Section 8, Township 14 North, Range 8 East of the Third Principal Meridian, Douglas County, Illinois;
- f. Section 9, Township 14 North, Range 8 East of the Third Principal Meridian, Douglas County, Illinois;
- g. Section 10, Township 14 North, Range 8 East of the Third Principal Meridian, Douglas County, Illinois;
- h. The West half of Section 11, Township 14 North, Range 8 East of the Third Principal Meridian, Douglas County, Illinois;
- i. The Southeast Quarter of Section 32, Township 14 North, Range 8 East of the Third Principal Meridian, Douglas County, Illinois;
- j. The South Half of Section 33, Township 14 North, Range 8 East of the Third Principal Meridian, Douglas County, Illinois;
- k. The South Half of Section 34, Township 14 North, Range 8 East of the Third Principal Meridian, Douglas County, Illinois;
- l. The Southwest Quarter of Section 35, Township 14 North, Range 8 East of the Third Principal Meridian, Douglas County, Illinois;

The City shall not accept, nor shall it be required to review any application which seeks the construction of or permission to construct a WECS tower within the designated area. No variances shall be given to construct a WECS tower within the designated area pursuant to Section Five, Paragraph (4)(i) of this Article.

9. SETBACKS. All WECS towers shall provide the following minimum setbacks:
 - a. From Primary Structure(s): A distance equal to one and a half (1.5) times the tower hub height from any Primary Structure. The distance shall be measured from the point of the Primary Structure foundation closest to the

WECS tower to the center of the WECS tower foundation. The owner of the Primary Structure may waive this setback requirement, without the applicant seeking a variance from the City, but in no case shall a WECS tower be located closer to a Primary Structure than 1.10 times the WECS tower's tip height.

- b. From public roads, third party transmission lines, and communication towers: 1.10 times the WECS tower's tip height.
- c. From adjacent property lines not part of the project: All WECS towers shall be setback a distance of at least 1.10 times the WECS tower's tip height. The affected adjacent property owner may waive this setback requirement without the applicant seeking a variance from the City.
- d. The Applicant does not need to obtain a variance from the City upon waiver by either the City or property owner of any of the above setback requirements. Any waiver of any of the above setbacks shall run with the land and be recorded as part of the chain of title in the deed of the subject property.

10. COMPLIANCE WITH ADDITIONAL REGULATIONS. Nothing in this Ordinance is intended to preempt other applicable county, state, or federal laws and regulations.

11. USE OF PUBLIC ROADS.

- a. An applicant, owner, or operator proposing to use any City of Arcola roads for the purpose of transporting WECS or substation parts and/or equipment for construction, operation, or maintenance of the WECSs or substations, shall:
 - i. Identify all such public roads; and
 - ii. Obtain applicable weight and size permits from relevant government agencies prior to construction.
- b. To the extent an applicant, owner, or operator must obtain a weight or size permit from the City, the applicant, owner, or operator shall:
 - i. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
 - ii. Secure financial assurance, in a reasonable amount agreed to by the relevant parties, for the purpose of repairing any damage to

public roads caused by constructing, operating, or maintaining the WECS.

- iii. Enter into a Roadway Use and Repair Agreement approved by the City. Said agreement shall at a minimum comport with the requirements of a Road Agreement Form to be approved by the City.

(Ordinance No. 11-C-8, amended August 01, 2011)

SECTION SEVEN

OPERATION

1. 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 City. In addition to the above annual summary, the owner or operator must furnish such operation and maintenance reports as the City reasonably requests.
- b. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under this ordinance. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than like-kind replacements) the owner or operator shall confer with a third-party certifying entity identified in this Ordinance to determine whether the physical modification requires re-certification.

2. INTERFERENCE.

- a. The Applicant shall provide the applicable microwave transmission providers and local emergency service providers and local emergency providers (e.g., 911 operators) copies of the project summary and site plan, as set forth in this Ordinance. The Applicant shall provide evidence that any potential interference has been resolved to the satisfaction of the providers. If, after construction of the WECS, the Owner or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall take reasonable steps to resolve the complaint.
- b. If, after construction of the WECS, the Owner or Operator receives a written complaint related to interferences with local broadcast residential television, the Owner or Operator shall take reasonable steps to resolve the complaint.

3. COORDINATION WITH LOCAL FIRE DEPARTMENTS:

- a. The Applicant, Owner or Operator shall submit to the local fire department(s) a copy of the site plan.
- b. Upon request by the local fire department(s), the Owner or Operator shall cooperate with the fire department(s) to develop the fire department's emergency response plan.
- c. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

4. MATERIALS HANDLING, STORAGE AND DISPOSAL:

- a. All solid 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. All hazardous materials 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.

SECTION EIGHT

NOISE LEVELS AND SHADOW FLICKER

1. Noise levels from each WECS or WECS Project shall be in compliance with applicable Illinois Pollution Control Board regulations. The applicant, through the use of a qualified professional, as part of the Special Use Permit application approval process, shall appropriately demonstrate compliance with the above noise requirements. Notwithstanding the foregoing, audible sound from a WECS shall not exceed fifty-five (55) dBA, as measured at the property line of a Non-Participating Landowner.
2. Reasonable efforts shall be made to minimize shadow flicker to any occupied building on a non-participating landowner's property.

SECTION NINE

BIRDS AND OTHER NATURAL RESOURCE AND WILDLIFE ISSUES

1. A qualified professional, such as an ornithologist or wildlife biologist, shall conduct an avian habitat study, as part of the Special Use Permit application approval process, to determine if the installation of WECSs will have a substantial adverse impact on birds and/or bats. The applicant must take reasonable action to mitigate such adverse impacts on habitat and migration. Consultation with the Illinois Department of Natural Resources as required pursuant to 17 Ill.adm. Code Part 1075 shall be included by any

applicant. The burden to conduct such consultations shall be upon the applicant and shall be reviewed by the City. The City shall weigh the recommendations of the Illinois Department of Natural Resources, if any, but shall not be bound by them and the City shall exercise independent judgment on the acceptance or rejecting of such recommendations, unless such recommendations are required by law to be implemented.

SECTION TEN

PUBLIC PARTICIPATION

Nothing in the ordinance is meant to augment or diminish existing opportunities for public participation.

SECTION ELEVEN

LIABILITY INSURANCE AND INDEMNIFICATION

1. Commencing with the issuance of construction permits, the Applicant, Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$5 million per occurrence and \$30 million in the aggregate. Such insurance may be provided, pursuant to a plan of self insurance, by a party with a net worth of \$50 million or more. The City shall be named as an additional insured on the policy to the extent the City is entitled to indemnification.

2. Applicant, Owner or Operators shall defend, indemnify and hold harmless the City of Arcola, and their officials, employees and agents (collectively and individually, the “indemnified Parties”) from and against any and all claim, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney’s fees arising out of Applicant, Owner, or Operators selections, construction, operation and removal of the WECS and affiliated equipment including, without limitation, liability for property damages, or personal injury (including death), whether said liability is premised on control or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limiting or qualifying the County’s other indemnification rights available upon law.

SECTION TWELVE

DECOMMISSIONING PLAN

Prior to receiving permit approval under this Ordinance, the City and the Applicant, Owner, and/or Operator must formulate a Decommissioning Plan to ensure that the WECS Project is properly decommissioned. The Decommissioning Plan shall include:

1. Provisions describing the triggering events for decommissioning the WECS project;
2. Provisions for the removal of structures, debris and cabling, including those below the soil surface;
3. Provisions for the restoration of soil and vegetation;
4. An estimate of the decommissioning costs certified by a professional structural engineer;
5. Financial Assurance, acceptable to the City, secured by the Owner or Operator, for the purpose of adequately performing decommissioning, in an amount equal to the professional structural engineer's certified estimate of the decommissioning costs;
6. Identification of and procedures for City of Arcola to access the Financial Assurances;
7. A provision that the terms of the decommissioning Plan shall be binding upon the Owner or Operator and any of their successors, assigns, or heirs; and
8. A provision that the City shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

SECTION THIRTEEN

REMEDIES

1. 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.
2. Prior to implementation of the existing City procedures for the resolution of such default(s), the appropriate City 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 sixty (60) days, for good faith negotiations to resolve the alleged default(s).
3. Any violation of this Ordinance shall be an offense punishable by a fine not to exceed \$10,000.00. Each day a violation goes un-remedied after the Owner/Operator is put on notice of the violation is a separate offense via letter to Applicant/Owner /Operator by registered mail to Applicant/Owner/Operator's Illinois registered agent. It is the goal of this ordinance to promote structural safety to protect the public and the court in setting any appropriate fine shall consider the nature of the offense, the degree of public safety involved, the efforts

of the City and the responsible owner or applicant to quickly and safely resolve the infraction.

4. It is understood that if the City has to take action to enforce the Ordinance against the Applicant/Owner/Operator, any expertise necessarily hired by the City – including but not limited to Attorneys Engineering experts, should the City prevail, said Applicant/Owner/Operator shall reimburse the County all funds paid by the City to said Attorneys, Engineers or other experts.

SECTION FOURTEEN

CITY AUTHORITY TO ENTER AND INSPECT

To accomplish the purpose of this Ordinance, the City, its officials, agents, and employees shall have the right to enter upon any land upon which a WECS or structure related to the operation or maintenance of such WECS, is situated. If entry is denied, the City may seek an administrative search warrant to enter and inspect the land and structures.

(Ordinance 10-C-1, passed May 03, 2010)

ARTICLE II.

REGULATING WIND ENERGY CONVERSION SYSTEMS WITH A RATED CAPACITY OF NOT MORE THAN 100 KILOWATTS (kW)

SECTION ONE

STATEMENT OF PURPOSE

It is the purpose of this Section to:

1. Assure that any structures used in the commercial development and production of wind-generated electricity in the City of Arcola, Illinois and within the 1.5 mile radius surrounding its zoning jurisdiction is safe and effective.
2. Facilitate economic opportunities for local residents.
3. Promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy source.
4. This Ordinance shall only apply to devices that together convert wind energy into electricity with a rated capacity of not more than 100 kilowatts (kW).

SECTION TWO

DEFINITIONS

Definitions. The following words and terms when used in the interpretation and administration of this Ordinance shall have the meaning set forth herein except where otherwise specifically indicated.

1. Small Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100kW.

2. Tower Height: The height above grade of the fixed portion of the tower, excluding the wind turbine itself.

SECTION THREE

APPLICABILITY

This Ordinance shall only apply to devices that together convert wind energy into electricity with a rated capacity of not more than 100 kilowatts (kW).

SECTION FOUR

PROHIBITION

No WECS or WECS Project governed by this Ordinance shall be constructed, erected, installed, or located within the City of Arcola, Illinois, unless prior approval has been obtained for each individual WECS and Substation pursuant to this Ordinance.

SECTION FIVE

PERMITTED USE

Small wind energy systems shall be a permitted use in all zoning classifications where structures of any sort are allowed; subject to certain requirements as set forth below:

- a. Tower Height: For property sizes between ½ acre and one acre the tower height shall be limited to 100 ft. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
- b. Set-back: No part of the wind system structure, including guy wire anchors, may extend closer than ten (10) feet to the property boundaries of the installation site.

- c. Noise: Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.
- d. Approved Wind Turbines: Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
- e. Compliance with Uniform Building Code: Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer. Wet stamps shall not be required.
- f. Compliance with FAA Regulations: Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
- g. Compliance with National Electric Code: Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.
- h. Utility Notification: No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- i. Additional Expense: When, in the opinion of the City, third party review, tests, inspection, or engineering review, tests, or inspections by the City Engineer, or third party engineering firms is required to determine or verify compliance with the adopted codes of the city or state, those additional costs shall be paid by the applicant separate and apart from the application fee.
- j. Application Process: The City shall have the authority to create and require the use of any application or information form necessary or useful in execution of this ordinance. However, no application, which substantially complies with the requirements of this ordinance, shall be refused appropriate review. The City, may require, in its discretion, additional information not contemplated in this Ordinance or on the aforementioned form in reviewing any application for a building permit of a small wind energy system. When an applicant believes that a provision of this Ordinance prevents an otherwise safe, viable, and beneficial project from proceeding, the applicant may seek a variance from that provision from the City.

SECTION SIX

REMEDIES

1. 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.
2. Prior to implementation of the existing City procedures for the resolution of such default(s), the appropriate City 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 sixty (60) days, for good faith negotiations to resolve the alleged default(s).
3. Any violation of this Ordinance shall be an offense punishable by a fine not to exceed \$1,000.00. Each day a violation goes un-remedied after the Owner/Operator is put on notice of the violation is a separate offense via letter to Applicant/Owner/Operator by registered mail to Applicant/Owner/Operator's Illinois registered agent. It is the goal of this ordinance to promote structural safety to protect the public and the court in setting any appropriate fine shall consider the nature of the offense, the degree of public safety involved, the efforts of the City and the responsible owner or applicant to quickly and safely resolve the infraction.
4. It is understood that if the City has to take action to enforce the Ordinance against the Applicant/Owner/Operator, any expertise necessarily hired by the City – including but not limited to Attorneys Engineering experts, should the City prevail, said Applicant/Owner/Operator shall reimburse the County all funds paid by the City to said Attorneys, Engineers or other experts.

SECTION SEVEN

CITY AUTHORITY TO ENTER AND INSPECT

To accomplish the purpose of this Ordinance, the City, its officials, agents, and employees shall have the right to enter upon any land upon which a WECS or structure related to the operation or maintenance of such WECS, is situated. If entry is denied, the City may seek an administrative search warrant to enter and inspect the land and structures.

(Ordinance No 10-C-2, passed May 03, 2010)

Exhibit A:

