

Instrument #: 2023-04976
06/06/2023 08:57:23 AM Total Pages: 43
ORDNC ORDINANCE
Recording Fee: \$ 0.00

Patrick F. Gill, Auditor/Recorder, Woodbury County Iowa



Cover Sheet

Type of Document: Ordinance

Preparer Information: Daniel Priestley - Comm Economic Development
(complete name-address-phone number) 620 Douglas 60th
SC IA 51101
279-6609

Return Document to:
(complete name-address)

Taxpayer Information:
(complete name-address)

Grantor(s): See Pg 2

Grantee(s): See Pg 2

Legal Description: See See pg 2

ORDINANCE NO. 72
WOODBURY COUNTY, IOWA

AN ORDINANCE AMENDING PORTIONS OF WOODBURY COUNTY ORDINANCE #56: AN AMENDMENT TO MODIFY SECTION 6.1.A: WIND TURBINES SET BACK REQUIREMENTS TO INCREASE CERTAIN SETBACK REQUIREMENTS IN THE ORDINANCE REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY.

NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF SUPERVISORS OF WOODBURY COUNTY, IOWA THAT THE BELOW AMENDMENTS BE MADE:

AMENDMENT #1:

On page 10, Section 6.1.A, to repeal and replace the Wind Turbine Set Back Requirement for the City Limits Protected Area from 600 feet to 2 miles.

AMENDMENT #2:

On page 10, Section 6.1.A, to repeal and replace the Wind Turbine Set Back Requirement for the Public Conservation Protected Area from 600 feet or 110% of total height (whichever is greater) to 1 mile.

Adopted this 23rd day of May, 2023

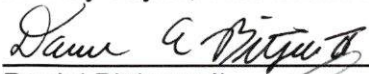
THE WOODBURY COUNTY, IOWA BOARD OF SUPERVISORS




Matthew Ung, Chairman




Jeremy Taylor, Vice Chairman



Daniel Bittinger II

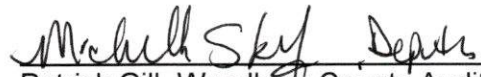


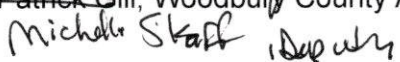
Mark Nelson



Keith Radig

ATTEST:



Patrick Gill, Woodbury County Auditor

Michelle Skiff, Deputy

Adoption Timeline

<u>May 9, 2023</u>	: Public Hearing and 1 st Reading
<u>May 16, 2023</u>	: Public Hearing and 2 nd Reading
<u>May 23, 2023</u>	: Public Hearing and 3 rd Reading
<u>May 23, 2023</u>	: Adopted
<u>May 27, 2023</u>	: Published/Effective Date

*** Proof of Publication ***

STATE OF IOWA
COUNTY OF WOODBURY

The undersigned, of said County, being duly sworn, on oath states the undersigned is an employee of the Sioux City Journal printed and published by Journal Communications, in Sioux City in said County and issued daily and Sunday

Woodbury County Community & Economic Development

620 DOUGLAS ST, 6TH FLOOR - DAN PRIESTLEY
SIOUX CITY IA 51101

ORDER NUMBER 59355

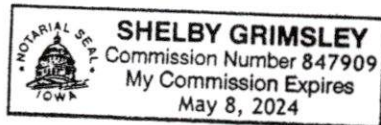
Subscribed and sworn before me in Sioux City, in said County,

this 31st day of May, 2023.



Shelby Grimsley Notary Public

In and for Woodbury County.



Section: Legal

Category: 015 Attorneys & Legals

PUBLISHED ON: 05/27/2023

TOTAL AD COST: 39.23

FILED ON: 5/31/2023

NOTICE OF ADOPTION AND EFFECTIVE DATE OF ORDINANCE #72, AN AMENDMENT MODIFYING ORDINANCE #56, SECTION 6.1.A: WIND TURBINES SET BACK REQUIREMENTS TO INCREASE CERTAIN SETBACK REQUIREMENTS IN THE ORDINANCE REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY.

The Woodbury County Board of Supervisors held public hearings on the following Ordinance #72, as included below, on Tuesday, May 9, 2023 at 4:45 PM, Tuesday, May 16, 2023 at 4:45 PM and Tuesday, May 23, 2023 at 4:45 PM. Said hearings were held at the Woodbury County Courthouse, 620 Douglas Street, Sioux City, Iowa, in the Board of Supervisors' meeting room in the basement of the courthouse. The Woodbury County Board of Supervisors approved and adopted Ordinance #72 on Tuesday, May 23, 2023. The ordinance becomes effective upon publication on May 27, 2023.

ORDINANCE NO. 72
WOODBURY COUNTY, IOWA
AN ORDINANCE AMENDING PORTIONS OF WOODBURY COUNTY ORDINANCE #56: AN AMENDMENT TO MODIFY SECTION 6.1.A: WIND TURBINES SET BACK REQUIREMENTS TO INCREASE CERTAIN SETBACK REQUIREMENTS IN THE ORDINANCE REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY.

NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF SUPERVISORS OF WOODBURY COUNTY, IOWA THAT THE BELOW AMENDMENTS BE MADE:

AMENDMENT #1:
On page 10, Section 6.1.A, to repeal and replace the Wind Turbine Set Back Requirement for the City Limits Protected Area from 600 feet to 2 miles.

AMENDMENT #2:
On page 10, Section 6.1.A, to repeal and replace the Wind Turbine Set Back Requirement for the Public Conservation Protected Area from 600 feet or 110% of total height (whichever is greater) to 1 mile.

Adopted this 23rd day of May, 2023
THE WOODBURY COUNTY, IOWA BOARD OF SUPERVISORS

Matthew Ung, Chairman
Jeremy Taylor, Vice Chairman
Daniel Bittinger II
Mark Nelson
Keith Radg

ATTEST:
Michelle Skaff, Woodbury County Auditor Deputy
Adoption Timeline
May 9, 2023 : Public Hearing and 1st Reading
May 16, 2023 : Public Hearing and 2nd Reading
May 23, 2023: Public Hearing and 3rd Reading
May 23, 2023: Adopted
May 27, 2023 : Published/Effective Date

***** Proof of Publication *****

STATE OF IOWA
COUNTY OF WOODBURY

The undersigned, of said County, being duly sworn, on oath states the undersigned is an employee of the Sioux City Journal printed and published by Journal Communications, in Sioux City in said County and issued daily and Sunday

Woodbury County Community & Economic Development

620 DOUGLAS ST, 6TH FLOOR - DAN PRIESTLEY
SIOUX CITY IA 51101

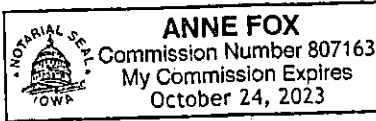
ORDER NUMBER 58496

Subscribed and sworn before me in Sioux City, in said County,

this 4th day of May, 2023.

Shelby Grimley

[Signature] Notary Public
In and for Woodbury County.



Section: Legal
Category: 015 Attorneys & Legals
PUBLISHED ON: 05/04/2023

TOTAL AD COST: 25.98

FILED ON: 5/4/2023

**NOTICE REGARDING PUBLIC HEARINGS
WOODBURY COUNTY BOARD OF
SUPERVISORS**

The Woodbury County Board of Supervisors will hold public hearings on the following item of business, hereafter described in detail, on Tuesday, May 9, 2023 at 4:45 PM, Tuesday, May 16, 2023 at 4:45 PM and Tuesday, May 23, 2023 at 4:45 PM or as soon as possible thereafter as the matter may be considered. Pursuant to Iowa Code Section 331.302, the second and third public hearings may be waived by the Board of Supervisors.

Said hearings shall be held at the Woodbury County Courthouse, 620 Douglas Street, Sioux City, Iowa, in the Board of Supervisors' meeting room in the basement of the courthouse. Persons wanting to participate in the public hearings may attend in person during the meetings to comment.

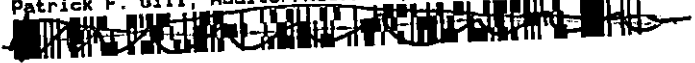
Copies of said item may now be examined in the Woodbury County Auditor's office in said Courthouse by any interested persons.

All persons who wish to be heard in respect to this matter should appear to participate in the aforesaid hearing.

Item One (1)
SUMMARY OF PROPOSED REVISIONS TO WOODBURY COUNTY ORDINANCE #58: AMENDMENTS TO MODIFY SECTION 6.1.A: WIND TURBINES SET BACK REQUIREMENTS TO INCREASE CERTAIN SETBACK REQUIREMENTS TO THE ORDINANCE REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY.

Instrument #: 2021-09811
07/15/2021 02:41:18 PM Total Pages: 18
ORDNC ORDINANCE
Recording Fee: \$ 0.00

Patrick F. Gill, Auditor/Recorder, Woodbury County Iowa



Cover Sheet

Type of Document: Ordinance

Not Preparer Information: Daniel Priestley - Community & Economic Development
(complete name-address-phone number) 620 Douglas St - 6th Floor
Return to Sioux City, IA 51101

Return Document to:
(complete name-address)

Taxpayer Information:
(complete name-address)

Grantor(s): See Page 2

Grantee(s): See Page 2

Legal Description: See Page 2

WOODBURY COUNTY, IOWA
ORDINANCE # 56

**AN ORDINANCE REGULATING COMMERCIAL
WIND ENERGY CONVERSION SYSTEMS
IN UNINCORPORATED WOODBURY COUNTY**

WHEREAS, it is deemed advisable and recommended by the Woodbury County Board of Supervisors to create and enforce an ordinance in Woodbury County addressing the site plan review and application approval process for the construction and ongoing maintenance of large-scale commercial wind energy conversion systems proposed to be erected in unincorporated Woodbury County; and

WHEREAS, the Woodbury County Board of Supervisors wish to adopt and enforce this Commercial Wind Energy Conversion Systems Ordinance to better promote the County's General Development Plan and its Economic Development Goal of fully exploring alternative renewable energy sources, particularly wind generation facilities both as a contribution to the total energy needs of the country and as a new source of income for property owners; and

WHEREAS, this Commercial Wind Energy Conversion Systems Ordinance is a separate county ordinance and shall be a "stand alone" enactment authorized under County Home Rule under Iowa Code Section 331.302(1). These provisions only relate to the application for a wind energy conversion systems project with a total nameplate generating capacity of more than 100kW.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that this Commercial Wind Energy Conversions Systems Ordinance is hereby adopted within Woodbury County, Iowa and includes the following provisions:

Section 1 - Purpose

The purpose of this Ordinance is to establish guidelines for the effective and efficient development and use of large-scale Commercial Wind Energy Conversion Systems (C-WECS) projects by regulating and requiring a C-WECS Special Use Permit for the siting, design, construction, operation, and decommissioning of these wind energy conversion systems (WECS) to protect the public health, safety, and general welfare of the County's residents and businesses. The requirements of this Ordinance shall apply to all C-WECS after the effective date of this Ordinance.

Because of the significant, long-lasting impacts on the County's residents and infrastructure resulting from large-scale C-WECS projects, the Woodbury County Board of Supervisors believes it is in the public's best interest that the Supervisors retain the final authority over the issuance of any C-WECS Special Use Permit for large-scale C-WECS projects and shall adhere to all the standards, procedures and fees as set forth in this Ordinance.

Section 2 – Jurisdiction

This Ordinance is adopted by the Woodbury County Board of Supervisors and governs all lands within the unincorporated areas of Woodbury County, Iowa. This Ordinance and its provisions shall not apply to those properties or projects occurring within the incorporated cities of Woodbury County.

Section 3 – Definitions

For use in this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Wind Energy Conversion System (WECS) shall mean any device, such as a wind charger or wind turbine, which converts the kinetic energy of wind to a form of usable electric energy.

Commercial Wind Energy Conversion Systems (C-WECS) A large-scale WECS or a group of WECS in the same location with a generating nameplate capacity of 100 kW or greater and is used for production of electric power to be interconnected into the local utility electrical grid and built to produce energy primarily for on-grid utility customers located off the property. Individual turbines are usually interconnected to a power collection system and then connected to an existing or proposed high voltage transmission system. C-WECS projects may consist of a single WECS or multiple wind turbines, and cover small areas to extended areas of many square miles.

Commercial Wind Energy Conversion Systems (C-WECS) Special Use Permit shall mean the Resolution approved by the Board of Supervisors granting the ability to allow the siting, design, construction, operation, and decommissioning of any C-WECS in unincorporated Woodbury County.

Commercial Wind Energy Conversion Systems (C-WECS) Building Permit shall mean the permit required to construct any C-WECS in unincorporated Woodbury County, pursuant to Section 7 of this Ordinance.

Applicant shall mean the person or entity submitting the application for siting and operation of any WECS to the County under this Ordinance, which is normally expected to be the owner or operator of a WECS, or the owner of the C-WECS development project.

Communication Antenna shall mean only those antennae which are licensed with the Federal Communications Commission.

Components shall mean all the physical facilities comprising a WECS; including turbines (i.e. – the tower, nacelle, hub, motor, and blades), turbine foundations, transformers, crane pads, feeder lines, and any accessory buildings and equipment. Components shall include any substations that are constructed in conjunction with a C-WECS project.

Confinement Feeding Operation Building shall have the same meaning as found in Iowa Code §459.102(15).

Development Plan shall mean the plan with all the required information and documentation to be submitted as a part of an application for the C-WECS Special Use Permit.

Final Development Plan shall mean the plan with all the required information and documentation to be submitted as a part of an application for the C-WECS Building Permit.

Feeder Line shall mean any above or below-ground line that carries electrical power from one or more wind turbines or individual transformers associated with wind turbines to the point of interconnection. Feeder lines may be placed on private property or on public rights-of-way. Changes in public rights-of-way may be made as long as approval has been obtained from the governmental unit responsible for the affected right-of-way. When placing feeders on private property, the permittees shall place the feeder in accordance with the easement negotiated with the affected landowner.

Meteorological ("MET") Tower shall mean a tower which is erected primarily to measure wind speed and directions, plus other atmospheric/weather data relevant to siting and operating a WECS. Meteorological towers do not include towers and equipment used by airports, the Iowa Department of Transportation, or other applications to monitor weather conditions.

Non-Participating Landowner shall mean any landowner not under agreement with the owner or operator of the WECS.

Occupied Non-Residential Building shall mean any building (other than a residence) that is regularly occupied by humans, and that is open to the public, sells goods or services, or a public, religious, or other non-profit institution.

Occupied Residence shall mean a building designed for, and occupied on a regular basis (50% or more of the year, and is currently occupied or has been occupied in the last two years) as an abode.

Operator shall mean the person or entity responsible for the day-to-day operation and maintenance of the WECS.

Owner shall mean the person or entity or entities with an interest in the WECS, including their respective successors and assigns. Owner does not mean (1) the property owner from whom a lease, easement or other property rights are acquired 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 practical date.

Participating Landowner shall mean a landowner under lease, easement or other property agreements with the owner or operator of the WECS.

Professional Engineer shall mean a qualified individual who is licensed in the State of Iowa as a professional engineer.

Project Area shall mean the geographic area encompassing all components of a C-WECS project.

Property Line shall mean the legal boundary between separately-owned real estate parcels, and between privately-owned parcels and publicly-owned land or public right-of-way.

Public Conservation Areas shall mean land owned by County, State or Federal agencies and managed for conservation/preservation purposes, including but not limited to Wildlife Management Areas, Conservation Areas, Parks, Preserves, Wildlife Refuges, and Waterfowl Production Areas. For purposes of this Ordinance, Public Conservation Areas also include land owned by non-profit conservation organizations and other privately-owned lands upon which permanent conservation easements have been granted to public agencies or non-profit conservation organizations, all as defined in Iowa Code 457A. Public Conservation Areas do not include land enrolled in the Conservation Reserve Program.

Rotor Diameter shall mean the diameter of the circle described by the turbine's moving rotor blades.

Setback shall mean the minimum required distance from a certain object, structure or point to the center point of the foundation of the wind turbine at the natural ground level.

Structure shall mean anything constructed or erected on the ground or attached to the ground, including but not limited to antennas, buildings, sheds, cabins, residences, signs, storage tanks, towers, wind turbines, and other similar objects.

Substation shall mean the apparatus that connects the electrical connection system of the WECS and increases the voltage for connection with the utility's, transmission owner's or WECS owner's transmission lines and shall be located entirely outside of the road right-of-way.

Tower shall mean the vertical structure that supports the electrical generator, rotor blades, or meteorological equipment.

Tower Height shall mean the total height of a turbine as measured from the ground to the tip of the blade when fully extended.

Transmission Line shall mean those electrical power lines that carry voltages of at least 69,000 volts (69 kV) and are primarily used to carry electrical energy over medium to long distances rather than directly interconnecting and supplying electrical energy to customers.

Turbine shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils, blades, or similar devices to capture the wind.

Section 4 – Applicability

It shall be unlawful to construct, erect, install, alter or locate any WECS within unincorporated Woodbury County, without first obtaining a C-WECS Special Use Permit from the Woodbury County

Board of Supervisors as outlined in this Ordinance.

1. No application for a C-WECS Special Use Permit shall be granted without first submitting all required information and documentation, and paying all associated fees to the County.

Section 5 – C-WECS Special Use Permit Application Review and Approval Process

1. **General.** Before any construction activities related to a C-WECS project can begin in unincorporated Woodbury County, a C-WECS Special Use Permit must be issued by the Woodbury County Board of Supervisors. For purposes of this paragraph, the installation of MET towers and access roads associated with a C-WECS project shall not be deemed construction activities requiring a C-WECS Special Use Permit; provided that any such tower or road must be installed in compliance with all other applicable county ordinances and regulations.
2. **Application.** The Woodbury County Community and Economic Development (CED) Department will supply a permit application form to be used by any person seeking to construct a C-WECS project. Each project shall require a separate application. The application shall contain:
 - A. The name and address of the applicant, as well as the proposed owners or operators of the project, including the contact information (name, address, telephone and email) of their authorized representatives. The application shall designate the entity who will be the permit holder of the C-WECS Special Use Permit.
 - B. A Certified Abstractor's list of the names and addresses of all property owners located within 5,280 feet of any turbine in the project.
 - C. A Development Plan for the project, which shall contain aerial images of the entire proposed project area, showing the approximate proposed location of the turbines, private access roads, feeder lines, substations and all other components of the project. The Plan shall show property lines and setback distances under Section 6, as well as all public roads and public drainage district facilities (i.e. – ditches and underground tiles) in the project area. The Plan shall also identify any other turbines, communication antennae, and airports (including private airstrips) located within five (5) miles of the project area; and all lakes, permanent water courses and Public Conservation Areas within three (3) miles of the project area boundaries. In providing the above information, the Plan shall use a GPS coordinate system that is compatible with the County's geographical information and data systems. The Plan shall also include a mailing address for the owner of each communication antenna identified.

- D. Project details, including the name of the project, anticipated number, generating capacity, tower height, and rotor diameter of the turbines must be provided with the Development Plan. The final number, generating capacity, tower height, and rotor diameter must be provided in the Final Development Plan during the C-WECS Building Permit application process.
 - E. Documentation of applicant's legal control over the private property necessary for the project, signed by the property owner. Such legal control must vest in the permit holder of the C-WECS Special Use Permit at the time of its issuance.
 - F. A description of the public roads anticipated to be used during all phases of construction, as well as for access to material storage sites and staging areas. As set forth in Section 6, before construction commences on a project, all public road and public drainage district crossings must be provided to the County Engineer, and approved for compliance with the County's Road Use and Public Drainage System Protection Agreements
 - G. A permit fee equal to \$1,000.00 for each C-WECS project, to be paid upon receipt of the final C-WECS Special Use Permit application.
 - H. Any Federal Aviation Administration (FAA), Federal Communications Commission (FCC), or other federal or state permits or approvals that are necessary for the project. Applicant shall submit a copy of the actual permit application, or proof that the permit has been filed with the appropriate agency.
 - J. A decommissioning plan pursuant to Section 7.
 - K. Such additional information as the County may request due to the unique circumstances with the project. Applicants are encouraged to have on-going discussions with the County CED staff and County Engineer during preparation of the application.
3. **County Staff Review.** Completed C-WECS Special Use Permit applications shall be filed with the CED Department. The CED staff shall promptly provide a copy of the application to the County Engineer, County Finance Controller, County Conservation Director, County Emergency Management Director, and any other relevant county staff for review. Upon determination by the CED Director that the requirements of this Ordinance have been satisfied, the completed C-WECS Special Use Permit application and any/all necessary supporting documentation shall be presented to the Woodbury County Board of Supervisors for approval. If the CED Director determines that the application lacks the required information provided in Section 5, the CED Director shall then provide the applicant's authorized representative written Notice of the deficiency. The applicant may refile an amended application once the deficiencies have been resolved.

4. **Public Hearing Required.** Upon completion of the County's review of the application, the County shall schedule a public hearing to be held no later than thirty (30) days after the County has deemed the application complete. Representatives of the C-WECS Special Use Permit holder who are familiar with all aspects of the project must be present at the public hearing.
5. **Notice of Public Hearing.** In accordance with Iowa Code Chapter 21, the CED Department shall provide a notice of the filing in substantially the following form for each public hearing:

PUBLIC NOTICE

Notice is hereby given that (name of applicant) has filed a completed application with Woodbury County to build a commercial windfarm to be located in (list Township names and section numbers). The windfarm is projected to have _____ individual turbines that are being reviewed by the County. The Woodbury County Board of Supervisors shall hold a Public Hearing on this application in the Woodbury County Courthouse, Board of Supervisors Meeting Room, located in the basement of 620 Douglas Street, Sioux City, IA 51101, on: (Day, Month, Year) at (Time).

The Notice of Filing shall be:

- A. Published by the CED Department once for two consecutive weeks in one or more newspapers, as defined in Iowa Code Section 618.3, published in and having general circulation in Woodbury County, which has been identified as the following currently existing newspaper: Sioux City Journal; and
 - B. Mailed by the CED Department to each landowner identified in the application pursuant to paragraph 2. B. and to each city located within one (1) mile of the project area; and
 - C. Mailed by the CED Department to the owners of the Public Conservation Areas and all communication and other antenna identified in the application.
 - D. All costs of mailing and publication shall be paid by applicant to the CED Department in advance.
6. **Approval by Board of Supervisors.** In considering whether to approve an application for a C-WECS Special Use Permit, the Board of Supervisors shall proceed according to the following format:
 - A. Within thirty (30) days following the C-WECS Special Use Permit application being deemed complete, the Supervisors shall review it for completeness and compliance with this Ordinance.
 - B. The Supervisors shall establish findings of fact based upon information contained in the application, the staff report, and information gathered at the public hearings.

- C. The Supervisors shall consider such reasonable requirements or conditions to the C-WECS Special Use Permit as will ensure the development will satisfy the requirements of this Ordinance.
 - D. If the Supervisors conclude that all such criteria in the application and Development Plan have been met, the C-WECS Special Use Permit may be approved by Resolution.
 - E. Without limiting the foregoing, the Supervisors may attach to a C-WECS Special Use Permit conditions it deems necessary to protect the health, safety, and general welfare of the public; and, if the applicant is agreeable to such conditions, the Supervisors may approve the application by Resolution.
 - F. The Resolution shall direct the CED Director to issue an approved C-WECS Special Use Permit to the applicant and grant them the ability to apply for a C-WECS Building Permit with the submission of a Final Development Plan which shall be reviewed and approved by the CED Director within 24 months of being issued the C-WECS Special Use Permit.
7. **C-WECS Building Permit Requirement.** In addition to the requirements of the C-WECS Special Use Permit, each C-WECS project must obtain an approved C-WECS Building Permit by the CED Director prior to the start of any construction. An approved C-WECS Building Permit shall be valid for 24 months from the date of its issuance. The CED Department will supply a C-WECS Building Permit application form to be used by any person or entity seeking to construct a C-WECS project. The application shall contain:
- A. The name and address of the applicant, as well as the proposed owners or operators of the project, including the contact information (name, address, telephone and email) of their authorized representatives. The application shall designate the entity who will be the permit holder of the C-WECS Building Permit.
 - B. A Certified Abstractor's list of the names and addresses of all property owners (i) located within 5,280 feet of any turbine in the project.
 - C. A Final Development Plan for the project, which shall contain aerial images of the entire proposed project area, showing the approximate proposed location of the turbines, private access roads, feeder lines, substations and all other components of the project. The Plan shall show property lines and setback distances under Section 6, as well as all public roads and public drainage district facilities (i.e. – ditches and underground tiles) in the project area. The Plan shall also identify any other turbines, communication antennae, and airports (including private airstrips) located within five (5) miles of the project area; and all lakes, permanent water courses and Public Conservation Areas within three (3) miles of the project area boundaries. In providing the above information, the Plan shall

use a GPS coordinate system that is compatible with the County's geographical information and data systems. The Plan shall also include a mailing address for the owner of each communication antenna identified.

- D. Project details, including the name of the project, the final number, generating capacity, tower height, and rotor diameter must be provided in the Final Development Plan.
 - E. Documentation of applicant's legal control over the private property necessary for the project, signed by the property owner. Such legal control must vest in the permit holder of the C-WECS Special Use Permit at the time of its issuance.
 - F. A description of the public roads anticipated to be used during all phases of construction, as well as for access to material storage sites and staging areas. As set forth in Section 6, before construction commences on a project, all public road and public drainage district crossings must be provided to the County Engineer, and approved for compliance with the County's Road Use and Public Drainage System Protection Agreements
 - G. A permit fee equal to \$750.00 for each turbine in a C-WECS project, to be paid upon receipt of the final C-WECS Building Permit application.
 - H. Any Federal Aviation Administration (FAA), Federal Communications Commission (FCC), or other federal or state permits or approvals that are necessary for the project. Applicant shall submit a copy of the actual permit application, or proof that the permit has been filed with the appropriate agency.
 - J. A decommissioning plan pursuant to Section 7.
 - K. Such additional information as the County may request due to the unique circumstances with the project. Applicants are encouraged to have on-going discussions with the County CED staff and County Engineer during preparation of the application.
8. **Modification.** The location of components may be modified from the Final Development Plan when necessary to address exigencies encountered during construction, subject to the following limitations:
- A. Any such modification shall remain subject to all setbacks and other requirements set forth in this Ordinance and the Ancillary Agreements in Section 8; and
 - B. The location of turbines and project substations can only be modified from the Final Development Plan with approval of the CED Director if the proposed relocation is 300 feet or less; or, for such modifications exceeding 300 feet, with

the approval of the Board of Supervisors. Approval of a turbine or project substation modification by the CED Director or the Board of Supervisors shall be deemed an approved amendment to the Final Development Plan and automatically amend the C-WECS Special Use Permit; and

- C. Within 180 days from the completion of the project, the C-WECS Building Permit holder shall revise the Final Development Plan to show the exact "as-built" coordinates for all components, including any modifications. Failure to timely provide such coordinates shall be a material violation of this Ordinance.

Section 6 – Siting and Design Standards

- 1. **Setbacks.** All turbines and project substations shall observe the following setbacks:

[Note – all measurements shall be from the center point of the tower (or from the nearest above-ground non-fence structure at a substation site) to the nearest point on any occupied residence, occupied non-residential building, or confinement feeding operation building; or to the nearest property line of any other protected area.]

A. Wind Turbines.

<u>Protected Area</u>	<u>Turbine Set Back Requirement</u>
Adjacent Property Lines	110% of total height
Occupied Residence	1,250 feet
Unoccupied Non-Residential Building	110% of total height
Confinement Feeding Operation Building	110% of total height
Public Road Right-of-Way	600 feet or 110% of total height (whichever is greater)
Public Drainage District Right-of-Way	
Open Ditch	300 feet
Tile (centerline)	100 feet
Public Conservation Area	600 feet or 110% of total height (whichever is greater)
Cemetery	600 feet
City Limits	600 feet
Airports (public and private)	FAA consultation and determination required

B. Public and Private Airports.

- 1. The following landing areas shall be considered for purposes of this Ordinance airports if, prior to the initial filing date of the Notice, are in operation or to which a sponsor has a valid Certificate of Site Approval as set forth in Iowa Administrative Code Rules 761-720.4 and 761-720.5:
 - A. A public-use airport as defined in Iowa Code Sections 329.1(1) and Iowa Administrative Code Rule 761-720.2; or
 - B. A private-use airport as defined in Iowa Code Section 329.1(1) and Iowa Administrative Code Rule 761-720.2 that had: (i) obtained all necessary local, state, and federal approvals to construct and operate as a private-use airport; and (ii) received an airport identification assignment from the Federal Aviation Administration ("FAA") pursuant to Federal Aviation Regulations Part 157.

2. The setback distance for airports shall be governed by the rules and regulations of the Federal Aviation Administration ("FAA") and/or any laws or rules of the State of Iowa that are applicable. An applicant shall not construct a turbine in violation thereof.

C. **Public Conservation Areas.**

1. For purposes of this Ordinance, Public Conservation Areas shall include any land enrolled in a conservation easement as defined in Iowa Code 457A.
2. Conservation easements shall be recorded as other instruments affecting real estate are recorded. Unrecorded and uninventoried conservation easements shall be deemed abandoned.
3. The United States Department of Agriculture Natural Resource Conservation Service of Iowa manages a database of conservation easements in Woodbury County on a publicly accessible website. Applicants are responsible for locating conservation easements within the project area and shall adhere to all State and Federal law as it relates to any violation or remedy with the terms of any conservation easement.

D. **Substations and Accessory Facilities.**

1. For purposes of this Ordinance, the setback distances for C-WECS substations and accessory facilities shall be 10 feet and measured from the nearest above-ground non-fence structure at a substation site to the nearest point on any occupied residence, occupied non-residential building, or confinement feeding operation building; or to the nearest property line of any other protected area, and shall be located entirely outside of the road right-of-way.
2. Feeder lines may be place on private property or on public rights-of-way. Changes in public rights-of-way may be made as long as approval has been obtained from the governmental unit responsible for the affected right-of-way. When placing feeders on private property, the permittees shall place the feeder in accordance with the easement negotiated with the affected landowner.

2. **Setback Waivers.** Property owners and municipalities may request a waiver from the setbacks as established in this Ordinance, except for the following protected areas: airports, cemeteries, public conservation areas, and public road rights-of-way.

PROVIDED, a waiver shall not alter any other non-waived setback requirement.

To effectuate such a waiver, the applicant must provide the CED Department with a recordable instrument signed by all owner(s) (or the controlling governmental entity) of the affected protected area that specifically identifies the nature and extent of the waiver. All waivers must be approved by the Board of Supervisors for compliance with this Ordinance; and upon such approval, shall be recorded in the office of the Woodbury County Recorder by the applicant.

3. **Color and finish.** All turbines and towers that are part of a C-WECS shall be white or grey. Finishes shall be matte or non-reflective.

4. **Lighting.** Lighting, including lighting intensity and frequency of strobes, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights are not permitted.
5. **Signage.** All turbine sites shall be required to have individual 911 rural address signs at each access road. All other signs except those required for safety and directional purposes (or otherwise authorized by the County) shall be prohibited in the project area.

Section 7 – Discontinuance/Decommissioning

A WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the CED Director outlining the steps and schedule for returning the WECS to service. Discontinued use does not apply to the pre-construction or construction period and shall be measured from the initial commercial energy production and operation of the C-WECS project. All C-WECS and accessory facilities shall be removed to a depth of four (4) feet below ground level within one (1) year of discontinuation of use.

1. Each project shall have decommissioning plan approved by the Board of Supervisors. Such plan shall contain:
 - A. A description of the project components, sequence and description of the activities and cost estimates required to remove same in compliance with this Section.
 - B. The cost estimates shall be made by a professional engineer licensed in the State of Iowa. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the C-WECS and accessory facilities. The County reserves the right to verify that adequate decommissioning terms are contained in the landowner's lease or easement.
 - C. Cash, an irrevocable letter of credit, or a performance bond running in favor of the County in an amount no less than the total estimated net removal/restoration costs as determined by said report. Said security must be in place at the time the project is completed, and must remain in effect until decommissioning is completed. No such security shall be cancelable without notice to the Board of Supervisors. Each year, the C-WECS Special Use Permit holder shall provide proof that such security is in effect at the same time as the annual report to the County Assessor is made for purposes of the real estate tax assessment.
 - D. The report prepared under c.) above shall be updated and provided to the Supervisors (i) at least every five (5) years, and (ii) upon any proposed transfer of the C-WECS Special Use Permit. Should any update indicate a change in the decommissioning costs, the security required under c.) above shall be adjusted accordingly.

- E. No transfer/assignment of the C-WECS Special Use Permit shall be effective without a corresponding transfer/assignment of the obligations and financial security required under the decommissioning plan, as approved by the Board of Supervisors.

Section 8 – Ancillary Agreements/Procedures

Issuance of a C-WECS Special Use Permit is strictly conditioned on the applicant executing and adhering to the following:

1. **Roads.** Applicants shall adhere to the Woodbury County Road Use and Repair Agreement, and in doing so, shall identify all roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authorities prior to construction.
2. **Existing Road Conditions.** Applicants shall conduct a pre-construction survey, in coordination with the impacted local road authorities to determine existing conditions of roads identified pursuant to Section 8.1. The survey shall include photographs or video and written documentation of the condition of the identified road facilities. The applicant is responsible for on-going road maintenance and dust control measures identified by the County Engineer during all phases of construction.
3. **Drainage System.** Applicants shall adhere to the Woodbury County Public Drainage System Protection Agreement, and in doing so, shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of WECS (where required).
4. **Post Completion Survey.** Applicants and the County Engineer will meet upon completion of the project and agree as to the necessary action needed to return roads to the existing road conditions as identified in Section 8.1 and 8.2.
5. **Required Financial Security.** Applicants shall be responsible for restoring or paying damages as agreed to by the applicable road authority sufficient to restore the identified roads, bridges, and associated infrastructure to preconstruction conditions. Financial security in a manner reviewed by the County Financial Controller and the County Engineer, and approved by the Board of Supervisors, shall be submitted covering 130% of the costs of all required improvements. This requirement may be waived or modified by the Board of Supervisors upon recommendation from the County Engineer.
6. **Safety.** All wiring between wind turbines and the C-WECS substation shall be underground. If the developer can demonstrate the need for an overhead line and the acceptance of landowners for this line, such option may be approved conditionally by the Board of Supervisors. Wind turbines and meteorological towers shall not be climbable up to fifteen (15) feet above ground level. All access doors to wind turbines and meteorological towers and electrical equipment shall be locked when not being serviced. Appropriate warning signage shall be placed on wind turbine towers,

electrical equipment, and C-WECS entrances. For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

7. **Guyed Towers.** For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of eight (8) feet above the ground. Visible fencing shall be installed around anchor points of guy wires.
8. **Emergency Response Plan.** An Emergency Response Plan (ER Plan) provided by applicant shall be reviewed by the County's Director of Emergency Management and the Director of Emergency Services, and shall be approved by the Board of Supervisors. Said ER Plan shall contain response procedures to be followed in the event of a fire, collapse, personal injury, or other emergency at a project. The ER Plan shall contain 24-hour emergency contact information for the project
9. **Electrical Codes and Standards.** All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
10. **Uniform Building Code.** All WECS shall comply with the State Building Code adopted by the State of Iowa.

Section 9 – Effect and Transferability of C-WECS Special Use Permit

1. No construction activities on a project may begin until a C-WECS Special Use Permit has been issued, except as permitted in Section 5.1.
2. Any material violation of any provision of this Ordinance that remains uncured after thirty (30) days' written notice from the County to the permit holder shall be grounds for revocation of the C-WECS Special Use Permit.
3. If construction on the project has not begun within twenty-four (24) months from the issuance date of the approved C-WECS Special Use Permit, the C-WECS Special Use Permit shall be automatically revoked without further action by the County. In such event, no work on the project may take place unless and until a new C-WECS Special Use Permit is issued, and any portion of the project then completed shall be deemed a discontinued use.
4. Only the holder of the C-WECS Special Use Permit shall own the project, and such holder shall be the entity responsible for observing all requirements of this Ordinance. The permit holder shall be responsible to maintain all components of the C-WECS project in good repair, and in compliance with this Ordinance and the Ancillary Agreements listed in Section 8.
5. No C-WECS Special Use Permit shall be transferred or assigned, voluntarily or involuntarily, without the written approval of the Woodbury County Board of Supervisors, which consent may be withheld unless and until the Board is satisfied that a proposed transferee has the financial and

operational responsibility to assume all obligations required of the permit holder under this Ordinance and the Ancillary Agreements listed in Section 8. Requests for approval of a C-WECS Special Use Permit transfer shall be directed to the CED Director.

Section 10 – Miscellaneous

1. **Condemnation Waiver.** Issuance of a C-WECS Special Use Permit shall be conditioned on the permit holder's enforceable promise, supported by the consideration of the issuance of the C-WECS Special Use Permit, that the permit holder shall never use, or seek to use, eminent domain to acquire any real property interests to construct or operate the project, except for transmission lines as regulated by Iowa Code 478.
2. In any action brought by the County against the permit holder of a C-WECS Special Use Permit to enforce the provisions of this Ordinance, the County shall be entitled to recover its reasonable attorney fees and court costs as may be awarded by the decision-making tribunal.

Section 11 – Severability Clause

If any of the provisions of this Ordinance are for any reason illegal or void, then the lawful provisions of this Ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the Ordinance contained no illegal or void provisions.

Section 12 – Repealer

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 13 – Date of Effect

This Ordinance shall become effective upon its passage by the Board at three meetings and published as required by Iowa Code §331.302(8). Adopted and passed by the Woodbury County Board of Supervisors on this 6th day of July 2021.

THE WOODBURY COUNTY, IOWA BOARD OF SUPERVISORS:

ATTEST:

Michelle K. Skiff, Deputy
 Patrick Gill, Woodbury County Auditor
Michelle Skiff, Deputy

<u>Adoption Timeline</u>
06/22/21: Public Hearing and 1 st Reading
06/29/21: Public Hearing and 2 nd Reading
07/06/21: Public Hearing, 3 rd Reading, Adopted
07/09/21: Published/Effective Date

[Signature]
 Rocky De Witt, Chairman

[Signature]
 Matthew Ung, Vice Chairman

[Signature]
 Mark Monson

[Signature]
 Keith Radig

[Signature]
 Justin Wright

**PROOF OF PUBLICATION
STATE OF IOWA
COUNTY OF WOODBURY**

NOTICE OF ADOPTION AND EFFECTIVE DATE OF ORDINANCE #58 REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY EFFECTIVE UPON PUBLICATION ON JULY 9, 2021

The Woodbury County Board of Supervisors held public hearings on the following Ordinance #58, as summarized below, on Tuesday, June 22, 2021 at 4:40 PM, Tuesday, June 29, 2021 at 4:45 PM and Tuesday, July 6, 2021 at 4:45 PM. Said hearings were held at the Woodbury County Courthouse, 620 Douglas Street, Sioux City, Iowa, in the Board of Supervisors' meeting room in the basement of the courthouse. The Woodbury County Board of Supervisors approved and adopted Ordinance #58 on Tuesday, July 6, 2021. The ordinance becomes effective upon publication on July 9, 2021.

ORDINANCE SUMMARY SUMMARY OF ORDINANCE #58 REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY: A Woodbury County ordinance that requires site plan review and an application approval process for the construction and ongoing maintenance of large-scale commercial wind energy conversion systems (C-WECS) proposed to be erected in unincorporated Woodbury County. This ordinance regulates and requires a C-WECS Special Use Permit and a C-WECS Building Permit for the siting, design, construction, operation, and decommissioning of these C-WECS to protect the public health, safety, and general welfare of the County's residents and businesses. The ordinance is a separate county ordinance and shall be a "stand alone" enactment authorized under County Home Rule under Iowa Code Section 331.302(1). Ordinance provisions apply to wind energy conversion

systems projects with total nameplate generating capacity of more than 100kW. No application for a C-WECS special use permit and building permit shall be granted without first submitting all required information, obtaining necessary permits, certifications and documentation, paying all associated fees to the County. In any action brought by Woodbury County against the permit holder of a C-WECS permit to enforce the provisions of this Ordinance, the County shall be entitled to recover its reasonable attorney fees and court costs as may be awarded by the decision-making tribunal. Published in the Sioux City Journal July 9, 2021. LGL#34423

The undersigned, of said County, being duly sworn, on oath states the undersigned is an employee of the Sioux City Journal printed and published by Journal Communications, in Sioux City in said County and issued daily and Sunday and that the annexed printed NOTICE OF

NOTICE OF ADOPTION AND EFFECTIVE DATE OF ORDINANCE #58 WIND ENERGY CONVERSION SYSTEMS

in said newspaper one Friday issue, the publication thereof being on the 9th day of July, 2021.

Beth Birdsall

Beth Birdsall

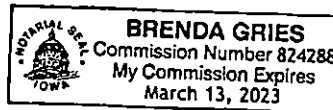
Subscribed and sworn before me in Sioux City, in said County,

This..... 12th day of..... July....., 2021.

Brenda Gries

Notary Public

In and for Woodbury County.



**PROOF OF PUBLICATION
STATE OF IOWA
COUNTY OF WOODBURY**

The undersigned, of said County, being duly sworn, on oath states the undersigned is an employee of the Sioux City Journal printed and published by Journal Communications, in Sioux City in said County and issued daily and Sunday and that the annexed printed NOTICE OF

Notice: Public Hearing

in said newspaper one consecutive Friday issues, the first publication thereof being on the 18th day of June, 2021.

Beth Birdsell

Beth Birdsell

Subscribed and sworn before me in Sioux City, in said County, this 18th day of June....., 2021,

Brenda Gries

Notary Public

In and for Woodbury County.



NOTICE REGARDING PUBLIC HEARINGS
WOODBURY COUNTY BOARD OF SUPERVISORS
The Woodbury County Board of Supervisors will hold public hearings on the following item of business, hereafter described in detail, on Tuesday, June 22, 2021 at 4:40 PM, Tuesday, June 23, 2021 at 4:45 PM and Tuesday, July 6, 2021 at 4:45 PM at or as soon as possible thereafter to the matter may be considered.
Said hearings shall be held at the Woodbury County Courthouse, 620 Douglas Street, Sioux City, Iowa, in the Board of Supervisors' meeting room in the basement of the courthouse. Persons wanting to participate in the public hearings may attend in person during the meetings to comment.
Copies of said item may now be examined in the Woodbury County Auditor's office in said Courthouse by any interested persons.
All persons who wish to be heard in respect to this matter should appear to participate in the aforesaid hearing.
Item One (1)
SUMMARY OF PROPOSED ORDINANCE REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY:
A proposal to create and enforce an ordinance in Woodbury County addressing the site plan review and application approval process for the construction and ongoing maintenance of large-scale commercial wind energy conversion systems (C-WECS) proposed to be erected in unincorporated Woodbury County. This ordinance regulates and requires a permit for the siting, design, construction, operation, and decommissioning of these C-WECS to protect the public health, safety, and general welfare of the County's residents and businesses. This proposal is a separate county ordinance and shall be a "stand alone" enactment authorized under County Home Rule under Iowa Code Section 331.302(1). These provisions only relate to the application for a wind energy conversions systems project with a total nameplate generating capacity of more than 100kW. No application for a C-WECS permit shall be granted without first submitting all required information, obtaining necessary permits, certifications and documentation, paying all associated fees to the County. In any action brought by the County against the permit holder of a C-WECS permit to enforce the provisions of this Ordinance, the County shall be entitled to recover its reasonable attorney fees and court costs as may be awarded by the decision-making tribunal.
Published in the Sioux City Journal June 18, 2021. LGL#34350

Instrument #: 2022-11409
09/14/2022 01:15:33 PM Total Pages: 21
ORDNC ORDINANCE
Recording Fee: \$ 0.00

Patrick F. Gill, Auditor/Recorder, Woodbury County Iowa



ORDINANCE NO. 67
WOODBURY COUNTY, IOWA

AN ORDINANCE AMENDING PORTIONS OF WOODBURY COUNTY ORDINANCE #56: AN AMENDMENT TO MODIFY SECTION 6.1.A: WIND TURBINES SET BACK REQUIREMENTS IN THE ORDINANCE REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY.

NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF SUPERVISORS OF WOODBURY COUNTY, IOWA THAT THE BELOW AMENDMENT BE MADE:

AMENDMENT:

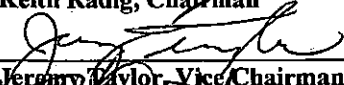
On page 10, Section 6.1.A, to repeal and replace the Wind Turbine Set Back Requirement for the Occupied Residence Protected Area from 1,250 feet to 2,500 feet.

Adopted this 23rd day of August, 2022

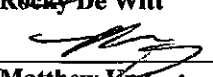
ATTEST:

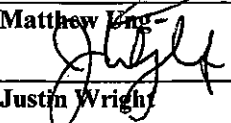

Patrick Gill, Woodbury County Auditor


Keith Radig, Chairman


Jeremy Taylor, Vice Chairman


Rocky De Witt


Matthew Eng


Justin Wright

Adoption Timeline

August 9, 2022: Public Hearing and 1st Reading

August 16, 2022: Public Hearing and 2nd Reading

August 23, 2022: Public Hearing and 3rd Reading

August 23, 2022: Adopted

August 27, 2022: Published/Effective Date

STATE OF IOWA
COUNTY OF WOODBURY

The undersigned, of said County, being duly sworn, on oath states the undersigned is an employee of the Sioux City Journal printed and published by Journal Communications, in Sioux City in said County and issued daily and Sunday

Woodbury County Planning & Zoning
Accounts Payable
620 DOUGLAS STREET 6TH FLOOR
SIOUX CITY IA 51101

ORDER NUMBER 50925

Subscribed and sworn before me in Sioux City, in said County,

this 29 day of August, 2022

Lindley J Simpson

Michelle Graham Notary Public

In and for Woodbury County.



Section: Legal
Category: 015 Attorneys & Legals
PUBLISHED ON: 08/27/2022

TOTAL AD COST: 27.22
FILED ON: 8/29/2022

NOTICE OF ADOPTION AND EFFECTIVE DATE OF ORDINANCE #67, AN AMENDMENT MODIFYING ORDINANCE #56, SECTION 8.1A: WIND TURBINES SET-BACK REQUIREMENTS IN THE ORDINANCE REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY
The Woodbury County Board of Supervisors held public hearings on the following Ordinance #67, as included below, on Tuesday, August 9, 2022 at 4:40 PM, Tuesday, August 16, 2022 at 4:40 PM and Tuesday, August 23, 2022 at 4:40 PM. Said hearings were held at the Woodbury County Courthouse, 620 Douglas Street, Sioux City, Iowa, in the Board of Supervisors' meeting room in the basement of the courthouse. The Woodbury County Board of Supervisors approved and adopted Ordinance #67 on Tuesday, August 23, 2022. The ordinance becomes effective upon publication on August 27, 2022.

ORDINANCE NO. 67
WOODBURY COUNTY, IOWA
AN ORDINANCE AMENDING PORTIONS OF WOODBURY COUNTY ORDINANCE #56: AN AMENDMENT TO MODIFY SECTION 8.1A: WIND TURBINES SET BACK REQUIREMENTS IN THE ORDINANCE REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY.
NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF SUPERVISORS OF WOODBURY COUNTY, IOWA THAT THE BELOW AMENDMENT BE MADE:

AMENDMENT:
On page 10, Section 8.1.A. to repeal and replace the Wind Turbine Set Back Requirement for the Occupied Residence Protected Area from 1,250 feet to 2,500 feet.
Adopted this 23rd day of August, 2022
Keith Rading, Chairman
Jeremy Taylor, Vice Chairman
Rocky De Witt
Matthew Ling
Justin Wright
ATTEST:
Patrick Gill, Woodbury County Auditor
Adoption Timeline
August 9, 2022: Public Hearing and 1st Reading
August 16, 2022: Public Hearing and 2nd Reading
August 23, 2022: Public Hearing and 3rd Reading
August 23, 2022: Adopted
August 27, 2022: Published/Effective Date

STATE OF IOWA
COUNTY OF WOODBURY

The undersigned, of said County, being duly sworn, on oath states
the undersigned is an employee of the Sioux City Journal printed and
published by Journal Communications, in Sioux City in said County
and issued daily and Sunday

Woodbury County Planning & Zoning
Accounts Payable
620 DOUGLAS STREET 6TH FLOOR
SIOUX CITY IA 51101

ORDER NUMBER 49789

NOTICE REGARDING PUBLIC HEARINGS
WOODBURY COUNTY BOARD OF
SUPERVISORS

The Woodbury County Board of Supervisors will hold public hearings on the following item on business, hereafter described in detail, on Tuesday, August 9, 2022 at 4:40 PM, Tuesday, August 16, 2022 at 4:40 PM and Tuesday, August 23, 2022 at 4:40 PM or as soon as possible thereafter as the matter may be considered. Pursuant to Iowa Code Section 331.302, the second and third public hearings may be waived by the Board of Supervisors.

Said hearings shall be held at the Woodbury County Courthouse, 620 Douglas Street, Sioux City, Iowa, in the Board of Supervisors' meeting room in the basement of the courthouse. Persons wanting to participate in the public hearings may attend in person during the meetings to comment.

Copies of said item may now be examined in the Woodbury County Auditor's office in said Courthouse by any interested persons.

All persons who wish to be heard in respect to this matter should appear to participate in the aforesaid hearing.

Item One (1)
SUMMARY OF PROPOSED REVISION TO WOODBURY COUNTY ORDINANCE #68: AN AMENDMENT TO MODIFY SECTION 6.1.A: WIND TURBINES SET BACK REQUIREMENTS IN THE ORDINANCE REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY.

Subscribed and sworn before me in Sioux City, in said County,

this 4 day of August, 2022



Michelle Graham Notary Public

In and for Woodbury County.



Section: Legal
Category: 015 Attorneys & Legals
PUBLISHED ON: 08/04/2022

TOTAL AD COST: 21.66
FILED ON: 8/4/2022

Instrument #: 2021-09811
07/15/2021 02:41:18 PM Total Pages: 18
ORDNC ORDINANCE
Recording Fee: \$ 0.00

Patrick F. Gill, Auditor/Recorder, Woodbury County Iowa



Cover Sheet

Type of Document: Ordinance

Not Preparer Information:
(complete name-address-phone number)

Daniel Priestley - Community Economic Development
620 Douglas St - 6th Floor
Sioux City, IA 51101

Return to

Return Document to:
(complete name-address)

Taxpayer Information:
(complete name-address)

Grantor(s): See Page 2

Grantee(s): See Page 2

Legal Description: See Page 2

WOODBURY COUNTY, IOWA
ORDINANCE # 56

**AN ORDINANCE REGULATING COMMERCIAL
WIND ENERGY CONVERSION SYSTEMS
IN UNINCORPORATED WOODBURY COUNTY**

WHEREAS, it is deemed advisable and recommended by the Woodbury County Board of Supervisors to create and enforce an ordinance in Woodbury County addressing the site plan review and application approval process for the construction and ongoing maintenance of large-scale commercial wind energy conversion systems proposed to be erected in unincorporated Woodbury County; and

WHEREAS, the Woodbury County Board of Supervisors wish to adopt and enforce this Commercial Wind Energy Conversion Systems Ordinance to better promote the County's General Development Plan and its Economic Development Goal of fully exploring alternative renewable energy sources, particularly wind generation facilities both as a contribution to the total energy needs of the country and as a new source of income for property owners; and

WHEREAS, this Commercial Wind Energy Conversion Systems Ordinance is a separate county ordinance and shall be a "stand alone" enactment authorized under County Home Rule under Iowa Code Section 331.302(1). These provisions only relate to the application for a wind energy conversion systems project with a total nameplate generating capacity of more than 100kW.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that this Commercial Wind Energy Conversions Systems Ordinance is hereby adopted within Woodbury County, Iowa and includes the following provisions:

Section 1 - Purpose

The purpose of this Ordinance is to establish guidelines for the effective and efficient development and use of large-scale Commercial Wind Energy Conversion Systems (C-WECS) projects by regulating and requiring a C-WECS Special Use Permit for the siting, design, construction, operation, and decommissioning of these wind energy conversion systems (WECS) to protect the public health, safety, and general welfare of the County's residents and businesses. The requirements of this Ordinance shall apply to all C-WECS after the effective date of this Ordinance.

Because of the significant, long-lasting impacts on the County's residents and infrastructure resulting from large-scale C-WECS projects, the Woodbury County Board of Supervisors believes it is in the public's best interest that the Supervisors retain the final authority over the issuance of any C-WECS Special Use Permit for large-scale C-WECS projects and shall adhere to all the standards, procedures and fees as set forth in this Ordinance.

Section 2 – Jurisdiction

This Ordinance is adopted by the Woodbury County Board of Supervisors and governs all lands within the unincorporated areas of Woodbury County, Iowa. This Ordinance and its provisions shall not apply to those properties or projects occurring within the incorporated cities of Woodbury County.

Section 3 – Definitions

For use in this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Wind Energy Conversion System (WECS) shall mean any device, such as a wind charger or wind turbine, which converts the kinetic energy of wind to a form of usable electric energy.

Commercial Wind Energy Conversion Systems (C-WECS) A large-scale WECS or a group of WECS in the same location with a generating nameplate capacity of 100 kW or greater and is used for production of electric power to be interconnected into the local utility electrical grid and built to produce energy primarily for on-grid utility customers located off the property. Individual turbines are usually interconnected to a power collection system and then connected to an existing or proposed high voltage transmission system. C-WECS projects may consist of a single WECS or multiple wind turbines, and cover small areas to extended areas of many square miles.

Commercial Wind Energy Conversion Systems (C-WECS) Special Use Permit shall mean the Resolution approved by the Board of Supervisors granting the ability to allow the siting, design, construction, operation, and decommissioning of any C-WECS in unincorporated Woodbury County.

Commercial Wind Energy Conversion Systems (C-WECS) Building Permit shall mean the permit required to construct any C-WECS in in unincorporated Woodbury County, pursuant to Section 7 of this Ordinance.

Applicant shall mean the person or entity submitting the application for siting and operation of any WECS to the County under this Ordinance, which is normally expected to be the owner or operator of a WECS, or the owner of the C-WECS development project.

Communication Antenna shall mean only those antennae which are licensed with the Federal Communications Commission.

Components shall mean all the physical facilities comprising a WECS; including turbines (i.e. – the tower, nacelle, hub, motor, and blades), turbine foundations, transformers, crane pads, feeder lines, and any accessory buildings and equipment. Components shall include any substations that are constructed in conjunction with a C-WECS project.

Confinement Feeding Operation Building shall have the same meaning as found in Iowa Code §459.102(15).

Development Plan shall mean the plan with all the required information and documentation to be submitted as a part of an application for the C-WECS Special Use Permit.

Final Development Plan shall mean the plan with all the required information and documentation to be submitted as a part of an application for the C-WECS Building Permit.

Feeder Line shall mean any above or below-ground line that carries electrical power from one or more wind turbines or individual transformers associated with wind turbines to the point of interconnection. Feeder lines may be placed on private property or on public rights-of-way. Changes in public rights-of-way may be made as long as approval has been obtained from the governmental unit responsible for the affected right-of-way. When placing feeders on private property, the permittees shall place the feeder in accordance with the easement negotiated with the affected landowner.

Meteorological ("MET") Tower shall mean a tower which is erected primarily to measure wind speed and directions, plus other atmospheric/weather data relevant to siting and operating a WECS. Meteorological towers do not include towers and equipment used by airports, the Iowa Department of Transportation, or other applications to monitor weather conditions.

Non-Participating Landowner shall mean any landowner not under agreement with the owner or operator of the WECS.

Occupied Non-Residential Building shall mean any building (other than a residence) that is regularly occupied by humans, and that is open to the public, sells goods or services, or a public, religious, or other non-profit institution.

Occupied Residence shall mean a building designed for, and occupied on a regular basis (50% or more of the year, and is currently occupied or has been occupied in the last two years) as an abode.

Operator shall mean the person or entity responsible for the day-to-day operation and maintenance of the WECS.

Owner shall mean the person or entity or entities with an interest in the WECS, including their respective successors and assigns. Owner does not mean (1) the property owner from whom a lease, easement or other property rights are acquired 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 practical date.

Participating Landowner shall mean a landowner under lease, easement or other property agreements with the owner or operator of the WECS.

Professional Engineer shall mean a qualified individual who is licensed in the State of Iowa as a professional engineer.

Project Area shall mean the geographic area encompassing all components of a C-WECS project.

Property Line shall mean the legal boundary between separately-owned real estate parcels, and between privately-owned parcels and publicly-owned land or public right-of-way.

Public Conservation Areas shall mean land owned by County, State or Federal agencies and managed for conservation/preservation purposes, including but not limited to Wildlife Management Areas, Conservation Areas, Parks, Preserves, Wildlife Refuges, and Waterfowl Production Areas. For purposes of this Ordinance, Public Conservation Areas also include land owned by non-profit conservation organizations and other privately-owned lands upon which permanent conservation easements have been granted to public agencies or non-profit conservation organizations, all as defined in Iowa Code 457A. Public Conservation Areas do not include land enrolled in the Conservation Reserve Program.

Rotor Diameter shall mean the diameter of the circle described by the turbine's moving rotor blades.

Setback shall mean the minimum required distance from a certain object, structure or point to the center point of the foundation of the wind turbine at the natural ground level.

Structure shall mean anything constructed or erected on the ground or attached to the ground, including but not limited to antennas, buildings, sheds, cabins, residences, signs, storage tanks, towers, wind turbines, and other similar objects.

Substation shall mean the apparatus that connects the electrical connection system of the WECS and increases the voltage for connection with the utility's, transmission owner's or WECS owner's transmission lines and shall be located entirely outside of the road right-of-way.

Tower shall mean the vertical structure that supports the electrical generator, rotor blades, or meteorological equipment.

Tower Height shall mean the total height of a turbine as measured from the ground to the tip of the blade when fully extended.

Transmission Line shall mean those electrical power lines that carry voltages of at least 69,000 volts (69 kV) and are primarily used to carry electrical energy over medium to long distances rather than directly interconnecting and supplying electrical energy to customers.

Turbine shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils, blades, or similar devices to capture the wind.

Section 4 – Applicability

It shall be unlawful to construct, erect, install, alter or locate any WECS within unincorporated Woodbury County, without first obtaining a C-WECS Special Use Permit from the Woodbury County

Board of Supervisors as outlined in this Ordinance.

1. No application for a C-WECS Special Use Permit shall be granted without first submitting all required information and documentation, and paying all associated fees to the County.

Section 5 – C-WECS Special Use Permit Application Review and Approval Process

1. **General.** Before any construction activities related to a C-WECS project can begin in unincorporated Woodbury County, a C-WECS Special Use Permit must be issued by the Woodbury County Board of Supervisors. For purposes of this paragraph, the installation of MET towers and access roads associated with a C-WECS project shall not be deemed construction activities requiring a C-WECS Special Use Permit; provided that any such tower or road must be installed in compliance with all other applicable county ordinances and regulations.
2. **Application.** The Woodbury County Community and Economic Development (CED) Department will supply a permit application form to be used by any person seeking to construct a C-WECS project. Each project shall require a separate application. The application shall contain:
 - A. The name and address of the applicant, as well as the proposed owners or operators of the project, including the contact information (name, address, telephone and email) of their authorized representatives. The application shall designate the entity who will be the permit holder of the C-WECS Special Use Permit.
 - B. A Certified Abstractor's list of the names and addresses of all property owners located within 5,280 feet of any turbine in the project.
 - C. A Development Plan for the project, which shall contain aerial images of the entire proposed project area, showing the approximate proposed location of the turbines, private access roads, feeder lines, substations and all other components of the project. The Plan shall show property lines and setback distances under Section 6, as well as all public roads and public drainage district facilities (i.e. – ditches and underground tiles) in the project area. The Plan shall also identify any other turbines, communication antennae, and airports (including private airstrips) located within five (5) miles of the project area; and all lakes, permanent water courses and Public Conservation Areas within three (3) miles of the project area boundaries. In providing the above information, the Plan shall use a GPS coordinate system that is compatible with the County's geographical information and data systems. The Plan shall also include a mailing address for the owner of each communication antenna identified.

- D. Project details, including the name of the project, anticipated number, generating capacity, tower height, and rotor diameter of the turbines must be provided with the Development Plan. The final number, generating capacity, tower height, and rotor diameter must be provided in the Final Development Plan during the C-WECS Building Permit application process.
 - E. Documentation of applicant's legal control over the private property necessary for the project, signed by the property owner. Such legal control must vest in the permit holder of the C-WECS Special Use Permit at the time of its issuance.
 - F. A description of the public roads anticipated to be used during all phases of construction, as well as for access to material storage sites and staging areas. As set forth in Section 6, before construction commences on a project, all public road and public drainage district crossings must be provided to the County Engineer, and approved for compliance with the County's Road Use and Public Drainage System Protection Agreements
 - G. A permit fee equal to \$1,000.00 for each C-WECS project, to be paid upon receipt of the final C-WECS Special Use Permit application.
 - H. Any Federal Aviation Administration (FAA), Federal Communications Commission (FCC), or other federal or state permits or approvals that are necessary for the project. Applicant shall submit a copy of the actual permit application, or proof that the permit has been filed with the appropriate agency.
 - J. A decommissioning plan pursuant to Section 7.
 - K. Such additional information as the County may request due to the unique circumstances with the project. Applicants are encouraged to have on-going discussions with the County CED staff and County Engineer during preparation of the application.
3. **County Staff Review.** Completed C-WECS Special Use Permit applications shall be filed with the CED Department. The CED staff shall promptly provide a copy of the application to the County Engineer, County Finance Controller, County Conservation Director, County Emergency Management Director, and any other relevant county staff for review. Upon determination by the CED Director that the requirements of this Ordinance have been satisfied, the completed C-WECS Special Use Permit application and any/all necessary supporting documentation shall be presented to the Woodbury County Board of Supervisors for approval. If the CED Director determines that the application lacks the required information provided in Section 5, the CED Director shall then provide the applicant's authorized representative written Notice of the deficiency. The applicant may refile an amended application once the deficiencies have been resolved.

4. **Public Hearing Required.** Upon completion of the County's review of the application, the County shall schedule a public hearing to be held no later than thirty (30) days after the County has deemed the application complete. Representatives of the C-WECS Special Use Permit holder who are familiar with all aspects of the project must be present at the public hearing.
5. **Notice of Public Hearing.** In accordance with Iowa Code Chapter 21, the CED Department shall provide a notice of the filing in substantially the following form for each public hearing:

PUBLIC NOTICE

Notice is hereby given that (name of applicant) has filed a completed application with Woodbury County to build a commercial windfarm to be located in (list Township names and section numbers). The windfarm is projected to have _____ individual turbines that are being reviewed by the County. The Woodbury County Board of Supervisors shall hold a Public Hearing on this application in the Woodbury County Courthouse, Board of Supervisors Meeting Room, located in the basement of 620 Douglas Street, Sioux City, IA 51101, on: (Day, Month, Year) at (Time).

The Notice of Filing shall be:

- A. Published by the CED Department once for two consecutive weeks in one or more newspapers, as defined in Iowa Code Section 618.3, published in and having general circulation in Woodbury County, which has been identified as the following currently existing newspaper: Sioux City Journal; and
 - B. Mailed by the CED Department to each landowner identified in the application pursuant to paragraph 2. B. and to each city located within one (1) mile of the project area; and
 - C. Mailed by the CED Department to the owners of the Public Conservation Areas and all communication and other antenna identified in the application.
 - D. All costs of mailing and publication shall be paid by applicant to the CED Department in advance.
6. **Approval by Board of Supervisors.** In considering whether to approve an application for a C-WECS Special Use Permit, the Board of Supervisors shall proceed according to the following format:
 - A. Within thirty (30) days following the C-WECS Special Use Permit application being deemed complete, the Supervisors shall review it for completeness and compliance with this Ordinance.
 - B. The Supervisors shall establish findings of fact based upon information contained in the application, the staff report, and information gathered at the public hearings.

- C. The Supervisors shall consider such reasonable requirements or conditions to the C-WECS Special Use Permit as will ensure the development will satisfy the requirements of this Ordinance.
 - D. If the Supervisors conclude that all such criteria in the application and Development Plan have been met, the C-WECS Special Use Permit may be approved by Resolution.
 - E. Without limiting the foregoing, the Supervisors may attach to a C-WECS Special Use Permit conditions it deems necessary to protect the health, safety, and general welfare of the public; and, if the applicant is agreeable to such conditions, the Supervisors may approve the application by Resolution.
 - F. The Resolution shall direct the CED Director to issue an approved C-WECS Special Use Permit to the applicant and grant them the ability to apply for a C-WECS Building Permit with the submission of a Final Development Plan which shall be reviewed and approved by the CED Director within 24 months of being issued the C-WECS Special Use Permit.
7. **C-WECS Building Permit Requirement.** In addition to the requirements of the C-WECS Special Use Permit, each C-WECS project must obtain an approved C-WECS Building Permit by the CED Director prior to the start of any construction. An approved C-WECS Building Permit shall be valid for 24 months from the date of its issuance. The CED Department will supply a C-WECS Building Permit application form to be used by any person or entity seeking to construct a C-WECS project. The application shall contain:
- A. The name and address of the applicant, as well as the proposed owners or operators of the project, including the contact information (name, address, telephone and email) of their authorized representatives. The application shall designate the entity who will be the permit holder of the C-WECS Building Permit.
 - B. A Certified Abstractor's list of the names and addresses of all property owners (i) located within 5,280 feet of any turbine in the project.
 - C. A Final Development Plan for the project, which shall contain aerial images of the entire proposed project area, showing the approximate proposed location of the turbines, private access roads, feeder lines, substations and all other components of the project. The Plan shall show property lines and setback distances under Section 6, as well as all public roads and public drainage district facilities (i.e. – ditches and underground tiles) in the project area. The Plan shall also identify any other turbines, communication antennae, and airports (including private airstrips) located within five (5) miles of the project area; and all lakes, permanent water courses and Public Conservation Areas within three (3) miles of the project area boundaries. In providing the above information, the Plan shall

use a GPS coordinate system that is compatible with the County's geographical information and data systems. The Plan shall also include a mailing address for the owner of each communication antenna identified.

- D. Project details, including the name of the project, the final number, generating capacity, tower height, and rotor diameter must be provided in the Final Development Plan.
 - E. Documentation of applicant's legal control over the private property necessary for the project, signed by the property owner. Such legal control must vest in the permit holder of the C-WECS Special Use Permit at the time of its issuance.
 - F. A description of the public roads anticipated to be used during all phases of construction, as well as for access to material storage sites and staging areas. As set forth in Section 6, before construction commences on a project, all public road and public drainage district crossings must be provided to the County Engineer, and approved for compliance with the County's Road Use and Public Drainage System Protection Agreements
 - G. A permit fee equal to \$750.00 for each turbine in a C-WECS project, to be paid upon receipt of the final C-WECS Building Permit application.
 - H. Any Federal Aviation Administration (FAA), Federal Communications Commission (FCC), or other federal or state permits or approvals that are necessary for the project. Applicant shall submit a copy of the actual permit application, or proof that the permit has been filed with the appropriate agency.
 - J. A decommissioning plan pursuant to Section 7.
 - K. Such additional information as the County may request due to the unique circumstances with the project. Applicants are encouraged to have on-going discussions with the County CED staff and County Engineer during preparation of the application.
8. **Modification.** The location of components may be modified from the Final Development Plan when necessary to address exigencies encountered during construction, subject to the following limitations:
- A. Any such modification shall remain subject to all setbacks and other requirements set forth in this Ordinance and the Ancillary Agreements in Section 8; and
 - B. The location of turbines and project substations can only be modified from the Final Development Plan with approval of the CED Director if the proposed relocation is 300 feet or less; or, for such modifications exceeding 300 feet, with

the approval of the Board of Supervisors. Approval of a turbine or project substation modification by the CED Director or the Board of Supervisors shall be deemed an approved amendment to the Final Development Plan and automatically amend the C-WECS Special Use Permit; and

- C. Within 180 days from the completion of the project, the C-WECS Building Permit holder shall revise the Final Development Plan to show the exact "as-built" coordinates for all components, including any modifications. Failure to timely provide such coordinates shall be a material violation of this Ordinance.

Section 6 – Siting and Design Standards

- 1. **Setbacks.** All turbines and project substations shall observe the following setbacks:

[Note -- all measurements shall be from the center point of the tower (or from the nearest above-ground non-fence structure at a substation site) to the nearest point on any occupied residence, occupied non-residential building, or confinement feeding operation building; or to the nearest property line of any other protected area.]

A. Wind Turbines.

<u>Protected Area</u>	<u>Turbine Set Back Requirement</u>
Adjacent Property Lines	110% of total height
Occupied Residence	1,250 feet
Unoccupied Non-Residential Building	110% of total height
Confinement Feeding Operation Building	110% of total height
Public Road Right-of-Way	600 feet or 110% of total height (whichever is greater)
Public Drainage District Right-of-Way	
Open Ditch	300 feet
Tile (centerline)	100 feet
Public Conservation Area	600 feet or 110% of total height (whichever is greater)
Cemetery	600 feet
City Limits	600 feet
Airports (public and private)	FAA consultation and determination required

B. Public and Private Airports.

- 1. The following landing areas shall be considered for purposes of this Ordinance airports if, prior to the initial filing date of the Notice, are in operation or to which a sponsor has a valid Certificate of Site Approval as set forth in Iowa Administrative Code Rules 761-720.4 and 761-720.5:
 - A. A public-use airport as defined in Iowa Code Sections 329.1(1) and Iowa Administrative Code Rule 761-720.2; or
 - B. A private-use airport as defined in Iowa Code Section 329.1(1) and Iowa Administrative Code Rule 761-720.2 that had: (i) obtained all necessary local, state, and federal approvals to construct and operate as a private-use airport; and (ii) received an airport identification assignment from the Federal Aviation Administration ("FAA") pursuant to Federal Aviation Regulations Part 157.

2. The setback distance for airports shall be governed by the rules and regulations of the Federal Aviation Administration ("FAA") and/or any laws or rules of the State of Iowa that are applicable. An applicant shall not construct a turbine in violation thereof.

C. Public Conservation Areas.

1. For purposes of this Ordinance, Public Conservation Areas shall include any land enrolled in a conservation easement as defined in Iowa Code 457A.
2. Conservation easements shall be recorded as other instruments affecting real estate are recorded. Unrecorded and uninventoried conservation easements shall be deemed abandoned.
3. The United States Department of Agriculture Natural Resource Conservation Service of Iowa manages a database of conservation easements in Woodbury County on a publicly accessible website. Applicants are responsible for locating conservation easements within the project area and shall adhere to all State and Federal law as it relates to any violation or remedy with the terms of any conservation easement.

D. Substations and Accessory Facilities.

1. For purposes of this Ordinance, the setback distances for C-WECS substations and accessory facilities shall be 10 feet and measured from the nearest above-ground non-fence structure at a substation site to the nearest point on any occupied residence, occupied non-residential building, or confinement feeding operation building; or to the nearest property line of any other protected area, and shall be located entirely outside of the road right-of-way.
2. Feeder lines may be placed on private property or on public rights-of-way. Changes in public rights-of-way may be made as long as approval has been obtained from the governmental unit responsible for the affected right-of-way. When placing feeders on private property, the permittees shall place the feeder in accordance with the easement negotiated with the affected landowner.

2. **Setback Waivers.** Property owners and municipalities may request a waiver from the setbacks as established in this Ordinance, except for the following protected areas: airports, cemeteries, public conservation areas, and public road rights-of-way.

PROVIDED, a waiver shall not alter any other non-waived setback requirement.

To effectuate such a waiver, the applicant must provide the CED Department with a recordable instrument signed by all owner(s) (or the controlling governmental entity) of the affected protected area that specifically identifies the nature and extent of the waiver. All waivers must be approved by the Board of Supervisors for compliance with this Ordinance; and upon such approval, shall be recorded in the office of the Woodbury County Recorder by the applicant.

3. **Color and finish.** All turbines and towers that are part of a C-WECS shall be white or grey. Finishes shall be matte or non-reflective.

4. **Lighting.** Lighting, including lighting intensity and frequency of strobes, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights are not permitted.
5. **Signage.** All turbine sites shall be required to have individual 911 rural address signs at each access road. All other signs except those required for safety and directional purposes (or otherwise authorized by the County) shall be prohibited in the project area.

Section 7 – Discontinuance/Decommissioning

A WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the CED Director outlining the steps and schedule for returning the WECS to service. Discontinued use does not apply to the pre-construction or construction period and shall be measured from the initial commercial energy production and operation of the C-WECS project. All C-WECS and accessory facilities shall be removed to a depth of four (4) feet below ground level within one (1) year of discontinuation of use.

1. Each project shall have decommissioning plan approved by the Board of Supervisors. Such plan shall contain:
 - A. A description of the project components, sequence and description of the activities and cost estimates required to remove same in compliance with this Section.
 - B. The cost estimates shall be made by a professional engineer licensed in the State of Iowa. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the C-WECS and accessory facilities. The County reserves the right to verify that adequate decommissioning terms are contained in the landowner's lease or easement.
 - C. Cash, an irrevocable letter of credit, or a performance bond running in favor of the County in an amount no less than the total estimated net removal/restoration costs as determined by said report. Said security must be in place at the time the project is completed, and must remain in effect until decommissioning is completed. No such security shall be cancelable without notice to the Board of Supervisors. Each year, the C-WECS Special Use Permit holder shall provide proof that such security is in effect at the same time as the annual report to the County Assessor is made for purposes of the real estate tax assessment.
 - D. The report prepared under c.) above shall be updated and provided to the Supervisors (i) at least every five (5) years, and (ii) upon any proposed transfer of the C-WECS Special Use Permit. Should any update indicate a change in the decommissioning costs, the security required under c.) above shall be adjusted accordingly.

- E. No transfer/assignment of the C-WECS Special Use Permit shall be effective without a corresponding transfer/assignment of the obligations and financial security required under the decommissioning plan, as approved by the Board of Supervisors.

Section 8 -- Ancillary Agreements/Procedures

Issuance of a C-WECS Special Use Permit is strictly conditioned on the applicant executing and adhering to the following:

1. **Roads.** Applicants shall adhere to the Woodbury County Road Use and Repair Agreement, and in doing so, shall identify all roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authorities prior to construction.
2. **Existing Road Conditions.** Applicants shall conduct a pre-construction survey, in coordination with the impacted local road authorities to determine existing conditions of roads identified pursuant to Section 8.1. The survey shall include photographs or video and written documentation of the condition of the identified road facilities. The applicant is responsible for on-going road maintenance and dust control measures identified by the County Engineer during all phases of construction.
3. **Drainage System.** Applicants shall adhere to the Woodbury County Public Drainage System Protection Agreement, and in doing so, shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of WECS (where required).
4. **Post Completion Survey.** Applicants and the County Engineer will meet upon completion of the project and agree as to the necessary action needed to return roads to the existing road conditions as identified in Section 8.1 and 8.2.
5. **Required Financial Security.** Applicants shall be responsible for restoring or paying damages as agreed to by the applicable road authority sufficient to restore the identified roads, bridges, and associated infrastructure to preconstruction conditions. Financial security in a manner reviewed by the County Financial Controller and the County Engineer, and approved by the Board of Supervisors, shall be submitted covering 130% of the costs of all required improvements. This requirement may be waived or modified by the Board of Supervisors upon recommendation from the County Engineer.
6. **Safety.** All wiring between wind turbines and the C-WECS substation shall be underground. If the developer can demonstrate the need for an overhead line and the acceptance of landowners for this line, such option may be approved conditionally by the Board of Supervisors. Wind turbines and meteorological towers shall not be climbable up to fifteen (15) feet above ground level. All access doors to wind turbines and meteorological towers and electrical equipment shall be locked when not being serviced. Appropriate warning signage shall be placed on wind turbine towers,

electrical equipment, and C-WECS entrances. For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

7. **Guyed Towers.** For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of eight (8) feet above the ground. Visible fencing shall be installed around anchor points of guy wires.
8. **Emergency Response Plan.** An Emergency Response Plan (ER Plan) provided by applicant shall be reviewed by the County's Director of Emergency Management and the Director of Emergency Services, and shall be approved by the Board of Supervisors. Said ER Plan shall contain response procedures to be followed in the event of a fire, collapse, personal injury, or other emergency at a project. The ER Plan shall contain 24-hour emergency contact information for the project
9. **Electrical Codes and Standards.** All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
10. **Uniform Building Code.** All WECS shall comply with the State Building Code adopted by the State of Iowa.

Section 9 – Effect and Transferability of C-WECS Special Use Permit

1. No construction activities on a project may begin until a C-WECS Special Use Permit has been issued, except as permitted in Section 5.1.
2. Any material violation of any provision of this Ordinance that remains uncured after thirty (30) days' written notice from the County to the permit holder shall be grounds for revocation of the C-WECS Special Use Permit.
3. If construction on the project has not begun within twenty-four (24) months from the issuance date of the approved C-WECS Special Use Permit, the C-WECS Special Use Permit shall be automatically revoked without further action by the County. In such event, no work on the project may take place unless and until a new C-WECS Special Use Permit is issued, and any portion of the project then completed shall be deemed a discontinued use.
4. Only the holder of the C-WECS Special Use Permit shall own the project, and such holder shall be the entity responsible for observing all requirements of this Ordinance. The permit holder shall be responsible to maintain all components of the C-WECS project in good repair, and in compliance with this Ordinance and the Ancillary Agreements listed in Section 8.
5. No C-WECS Special Use Permit shall be transferred or assigned, voluntarily or involuntarily, without the written approval of the Woodbury County Board of Supervisors, which consent may be withheld unless and until the Board is satisfied that a proposed transferee has the financial and

operational responsibility to assume all obligations required of the permit holder under this Ordinance and the Ancillary Agreements listed in Section 8. Requests for approval of a C-WECS Special Use Permit transfer shall be directed to the CED Director.

Section 10 – Miscellaneous

1. **Condemnation Waiver.** Issuance of a C-WECS Special Use Permit shall be conditioned on the permit holder’s enforceable promise, supported by the consideration of the issuance of the C-WECS Special Use Permit, that the permit holder shall never use, or seek to use, eminent domain to acquire any real property interests to construct or operate the project, except for transmission lines as regulated by Iowa Code 478.
2. In any action brought by the County against the permit holder of a C-WECS Special Use Permit to enforce the provisions of this Ordinance, the County shall be entitled to recover its reasonable attorney fees and court costs as may be awarded by the decision-making tribunal.

Section 11 – Severability Clause

If any of the provisions of this Ordinance are for any reason illegal or void, then the lawful provisions of this Ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the Ordinance contained no illegal or void provisions.

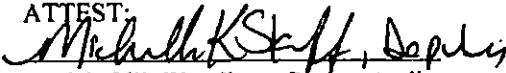
Section 12 – Repealer

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.


Section 13 – Date of Effect

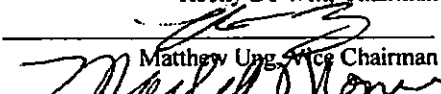
This Ordinance shall become effective upon its passage by the Board at three meetings and published as required by Iowa Code §331.302(8). Adopted and passed by the Woodbury County Board of Supervisors on this 6th day of July 2021.

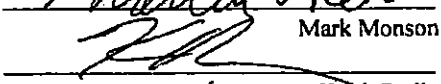
THE WOODBURY COUNTY, IOWA BOARD OF SUPERVISORS:


ATTEST:

 Michelle Skoff, Deputy
 Patrick Gill, Woodbury County Auditor
 Michelle Skoff, Deputy

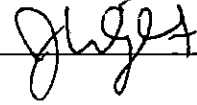
Adoption Timeline
06/22/21: Public Hearing and 1 st Reading
06/29/21: Public Hearing and 2 nd Reading
07/06/21: Public Hearing, 3 rd Reading, Adopted
07/09/21: Published/Effective Date


 Rocky De Witt, Chairman


 Matthew Ung, Vice Chairman


 Mark Monson


 Keith Radig


 Justin Wright

**PROOF OF PUBLICATION
STATE OF IOWA
COUNTY OF WOODBURY**

NOTICE OF ADOPTION AND EFFECTIVE DATE OF ORDINANCE #56 REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS BY UNINCORPORATED WOODBURY COUNTY EFFECTIVE UPON PUBLICATION ON JULY 9, 2021.

The Woodbury County Board of Supervisors held public hearings on the following Ordinance #56, as summarized below: On Tuesday, June 22, 2021 at 4:00 PM, Tuesday, June 29, 2021 at 4:45 PM and Tuesday, July 6, 2021 at 4:45 PM. Said hearings were held at the Woodbury County Courthouse, 620 Douglas Street, Sioux City, Iowa, in the Board of Supervisors meeting room in the basement of the courthouse. The Woodbury County Board of Supervisors approved and adopted Ordinance #56 on Tuesday, July 6, 2021. The Ordinance becomes effective upon publication on July 9, 2021.

ORDINANCE SUMMARY
SUMMARY OF ORDINANCE #56 REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS BY UNINCORPORATED WOODBURY COUNTY: A Woodbury County ordinance that requires site plan review and an application approval process for the construction and ongoing maintenance of large-scale commercial wind energy conversion systems (CWECs) proposed to be erected in unincorporated Woodbury County. This ordinance regulates and requires a CWECs Special Use Permit and a CWECs Building Permit for the siting, design, construction, operation, and decommissioning of these CWECs to protect the public health, safety, and general welfare of the County's residents and businesses. The ordinance is a separate county ordinance and shall be a stand-alone ordinance authorized under County Home Rule, added Iowa Code Section 331.302(1). Ordinance provisions apply to wind energy conversion

includes, profiles, and final, complete permitting process of more than 100MW. No application for a CWECs special use permit and building permit shall be granted without first submitting all required information, obtaining necessary permits, certifications and documentation, paying all associated fees to the County. In any action brought by Woodbury County against the permit holder of a CWECs permit, the Ordinance, its provisions of this Ordinance, the County shall be entitled to recover its reasonable attorney fees and court costs as may be awarded by the decision-making tribunal.
Published in the Sioux City Journal July 9, 2021.
LGL#34423

The undersigned, of said County, being duly sworn, on oath states the undersigned is an employee of the Sioux City Journal printed and published by Journal Communications, in Sioux City in said County and issued daily and Sunday and that the annexed printed NOTICE OF

NOTICE OF ADOPTION AND EFFECTIVE DATE OF ORDINANCE #56 WIND ENERGY CONVERSION SYSTEMS

in said newspaper one Friday issue, the publication thereof being on the 9th day of July, 2021.

Beth Birdsell
Beth Birdsell

Subscribed and sworn before me in Sioux City, in said County, This 12th day of July, 2021.

Brenda Gries Notary Public

In and for Woodbury County.



**PROOF OF PUBLICATION
STATE OF IOWA
COUNTY OF WOODBURY**

The undersigned, of said County, being duly sworn, on oath states the undersigned is an employee of the Sioux City Journal printed and published by Journal Communications, in Sioux City in said County and issued daily and Sunday and that the annexed printed NOTICE OF

Notice: Public Hearing

in said newspaper one consecutive Friday issues, the first publication thereof being on the 18th day of June, 2021.

Beth Birdsell

Beth Birdsell

Subscribed and sworn before me in Sioux City, in said County, this 18th day of June....., 2021,

Brenda Gries

Notary Public

In and for Woodbury County.



NOTICE REGARDING PUBLIC HEARINGS
WOODBURY COUNTY BOARD OF SUPERVISORS
The Woodbury County Board of Supervisors will hold public hearings on the following item of business, heretofore described in detail, on Tuesday, June 22, 2021 at 4:30 PM, Tuesday, June 23, 2021 at 4:45 PM and Tuesday, July 6, 2021 at 4:45 PM at 66 as soon as possible thereafter as the matter may be considered.
Said hearings shall be held at the Woodbury County Courthouse, 820 Douglas Street, Sioux City, Iowa, in the Board of Supervisors meeting room in the basement of the courthouse. Persons wishing to participate in the public hearings may attend in person during the meetings as provided.
Copies of said item may now be examined in the Woodbury County Auditor's office in said Courthouse by any interested persons.
All persons who wish to be heard in respect to the matter should appear to participate in the aforesaid hearing.
Item One (1)
SUMMARY OF PROPOSED ORDINANCE REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY.
A proposal to create and enforce an ordinance in Woodbury County addressing the siting, review and application approval process for the construction and ongoing maintenance of large-scale commercial wind energy conversion systems (CWECS) proposed to be erected in unincorporated Woodbury County. This ordinance requires and requires a permit for the siting, siting, construction, operation, and decommissioning of those CWECS to protect the public health, safety, and general welfare of the County's residents and businesses. This proposal is a separate County ordinance and shall not be deemed to be in violation of any County Ordinance. This ordinance shall be subject to the provisions of the Iowa Code, Sections 321.101 through 321.104, which relate to the application for a wind energy conversion system. Under a local ordinance, the permitting process of a C-WECS permit shall be provided without first submitting all required information, obtaining necessary permits, construction and decommissioning, paying all applicable fees to the County, to be approved through by the County against the permit. If a C-WECS permit is issued, the provisions of said Ordinance, the County shall be entitled to recover its reasonable attorney fees and court costs as may be awarded by the decision-making tribunal.
Published in the Sioux City Journal, June 18, 2021, 1:02:34PM.

Legal #34350 63 Line 1 Times \$35.22