

WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) REQUEST FORM

Date: 9/25/24

Weekly Agenda Date: 10/1/24 4:45

ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN: Daniel J. Priestley

WORDING FOR AGENDA ITEM:

A) Conduct the third and final public hearing on proposed revisions to Woodbury County Ordinance #56, including amending Sections 5.2.D, 6.1.A, 6.2, 7, and 7.1.C, which regulate Commercial Wind Energy Conversion Systems (C-WECS) in unincorporated Woodbury County. The amendments address changes to the C-WECS application process, submission requirements, siting and design standards, including setbacks, protected areas, setback waiver limitations, as well as updates to discontinuance and decommissioning requirements. B) Motion to approve the 3rd and Final Reading of the Ordinance Amendments. C) Adopt the Ordinance Amendments.

ACTION REQUIRED:

Approve Ordinance

Approve Resolution

Approve Motion

Public Hearing

Other: Informational

Attachments

EXECUTIVE SUMMARY:

SUMMARY OF PROPOSED REVISIONS TO WOODBURY COUNTY, IOWA ORDINANCE #56: AMENDMENTS TO MODIFY SECTION 5.2.D, SECTION 6.1.A, SECTION 6.2, SECTION 7, AND SECTION 7.1.C IN THE ORDINANCE REGULATING COMMERCIAL WIND ENERGY CONVERSION SYSTEMS IN UNINCORPORATED WOODBURY COUNTY. THE AMENDMENTS TO THE REFERENCED SECTIONS INCLUDE MODIFICATIONS TO THE COMMERCIAL WIND ENERGY CONVERSION SYSTEMS SPECIAL USE PERMIT APPLICATION REVIEW AND APPROVAL PROCESS INCLUDING APPLICATION SUBMISSION REQUIREMENTS, SITING AND DESIGN STANDARDS INCLUDING SETBACKS, WIND TURBINES PROTECTED AREAS AND TURBINE SET BACK REQUIREMENTS AND SETBACK WAIVERS REQUIREMENTS, AND DISCONTINUANCE AND DECOMMISSIONING REQUIREMENTS.

BACKGROUND:

The People of Woodbury County (the "County"), as reflected in the County Comprehensive Plan 2040 (the "Comp Plan"), expect the County to scrutinize policies that could significantly impact their long-term prosperity, including health, safety, and welfare. The Comp Plan sets a goal to "plan for the creation and use of alternative and renewable energy sources in Woodbury County" (p. 127). However, it also emphasizes the need to "continuously update policies that regulate renewable energy infrastructure to ensure that it does not present safety hazards and to minimize disruptions to surrounding land uses."

Since the passage of Ordinance #56, which regulates commercial wind energy conversion systems (C-WECS) in unincorporated Woodbury County in July 2021, there has been significant public input. Residents have raised concerns about potential dangers that could impact their communities including those considered in subsequent amendments adopted in August 2022 and May 2023. New information about the safety ratings of wind turbines has continued to raise concerns among residents not limited to data presented in safety data sheets.

On April 17, 2024, a town hall meeting hosted by the Woodbury County Board of Supervisors and the Lawton City Council members was held in Lawton, IA. The meeting covered various topics, including C-WECS regulations. Attendees expressed concerns about safety, long-term agreements, and property values (Woodbury "Lawton," 2024). Following the meeting, a petition with over 160 signatures was submitted on August 6, 2024, requesting the Board of Supervisors to revisit the regulations outlined in Ordinance #56. The petition includes the following statement:

"We the people of Woodbury County demand the county's commercial wind ordinance be relevant based on information readily available. We believe new information makes our current ordinance no longer relevant and needs to be updated. We, the undersigned would like to see, at a minimum, the following issues addressed: ½ mile or at least 4.5x tower height (TH) whichever is greater from a non-participating property line, 2.5x TH from a participating residence, 3 miles from a town, county park, and airports, 40 decibels max for sound, complete removal of all concrete, metal, and wires for decommissioning, and mandatory bolstering of county roads and infrastructure prior to any construction" (Woodbury "Petition," 2024).

The role of these proposed amendments is to establish a balance that continues to keep in mind the public health, safety, and general welfare of the People of Woodbury County in terms of the location, operation, and decommissioning of commercial wind projects.

References:

Woodbury County Board of Supervisors. (2024, April 17). Lawton Town Hall part 1 of 2 [Video]. YouTube. <https://www.youtube.com/watch?v=vYObe3e8hJk>

Woodbury County Board of Supervisors. (2024, April 17). Lawton Town Hall part 2 of 2 [Video]. YouTube. <https://www.youtube.com/watch?v=V-WPdTx6S8>

Woodbury County Board of Supervisors. (2024, August 6). Petition. Agenda Item 12: Citizens concerns. Woodbury County, Iowa. https://www.woodburycountyiowa.gov/files/meeting_assets/citizens_concerns_2024-08-06_64181.pdf

Woodbury County Board of Supervisors. (2024, August 6). Minutes of the Woodbury County Board of Supervisors meeting. Woodbury County, Iowa. <https://www.woodburycountyiowa.gov/supervisors/meetings/minutes/2024-08-06/>

Woodbury County Comprehensive Plan 2040. https://www.woodburycountyiowa.gov/files/community_economic_development/woodbury_county_comprehensive_plan_2040_89417.pdf

FINANCIAL IMPACT:

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IF THERE IS A CONTRACT INVOLVED IN THE AGENDA ITEM, HAS THE CONTRACT BEEN SUBMITTED AT LEAST ONE WEEK PRIOR AND ANSWERED WITH A REVIEW BY THE COUNTY ATTORNEY'S OFFICE?

Yes No

RECOMMENDATION:

Open and close the public hearing. (Set Time: 4:45 PM)

Conduct and approve the 3rd and Final Reading of the Ordinance Amendment.

Adopt the Ordinance Amendments.

ACTION REQUIRED / PROPOSED MOTION:

A) Conduct the third and final public hearing on proposed revisions to Woodbury County Ordinance #56, including amending Sections 5.2.D, 6.1.A, 6.2, 7, and 7.1.C, which regulate Commercial Wind Energy Conversion Systems (C-WECS) in unincorporated Woodbury County. The amendments address changes to the C-WECS application process, submission requirements, siting and design standards, including setbacks, protected areas, setback waiver limitations, as well as updates to discontinuance and decommissioning requirements.

B) Motion to approve the 3rd and Final Reading of the Ordinance Amendments.

C) Adopt the Ordinance Amendments.

ORDINANCE NO. _____
WOODBURY COUNTY, IOWA

AN ORDINANCE AMENDING PORTIONS OF WOODBURY COUNTY ORDINANCE #56:
AMENDMENTS TO MODIFY SECTION 5.2.D, SECTION 6.1.A, SECTION 6.2, SECTION 7, AND
SECTION 7.1.C 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 FOLLOWING AMENDMENTS BE MADE:

AMENDMENT #1 – Section 5.2.D

On page 6, to repeal the following language from Section 5.2.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.

On page 6, to replace with the following:

Project details, including the name of the project, the final number, generating capacity, tower height, rotor diameter of the turbines, and the Safety Instruction Rescue and Evacuation Plan (SIREP) from the C-WECS manufacturer must be provided in the Development Plan. The final number, generating capacity, tower height, and rotor diameter of the turbines, and SIREP from the C-WECS manufacturer must be provided in the Final Development Plan during the C-WECS Building Permit application process.

AMENDMENT #2 – Section 6.1.A

On page 10, Section 6.1.A, in the “Wind Turbines” table to add “Non-participating Property Lines” to the “Protected Area” column and add “3,280 feet” to the “Turbine Set Back Requirement” column associated with the “Non-participating Property Lines” protected area.

AMENDMENT #3 – Section 6.1.A

On page 10, Section 6.1.A, in the “Wind Turbines” table to repeal the “Adjacent Property Lines” in the “Protected Area” column and replace with “Adjacent Participating Property Lines” with the “Turbine Set Back Requirement” column associated with the “Adjacent Participating Property Lines” to be “110% of total height.”

AMENDMENT #4 – Section 6.1.A

On page 10, Section 6.1.A, in the “Wind Tubines” table to repeal “Occupied Residence” in the “Protected Area” column and replace with “Participating Occupied Residence” with the “Turbine Set Back Requirement” column associated with the “Participating Occupied Residence” to be “2,500 feet.”

AMENDMENT #5 – Section 6.1.A

On page 10, Section 6.1.A, below the “Wind Tubines” table to add the following definition:

1. Non-participating Property Lines shall mean the legal boundary line defining any parcel of land where the landowner(s) of the parcel has not entered into a voluntary agreement with the Applicant, Operator, and/or Owner regarding the C-WECS project regardless of the presence of a residence.

AMENDMENT #6 – Section 6.2

On page 11, to repeal the following language from Section 6.2:

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.

On page 11, to replace with the following:

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, adjacent participating property lines, and public road rights-of-way. A waiver for a participating occupied residence may not be less than 1,640 feet.

AMENDMENT #7 – Section 7

On page 12, to repeal the following language from Section 7:

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.

On page 12, to replace with the following:

A WECS shall be considered a discontinued use after one (1) year without energy production. The owner/operator will have one (1) year following this determination to decommission and remove the WECS at the owner’s expense. If the WECS is not removed during the one (1) year period, the County may pursue legal action against the owner. 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 completely to include all concrete, steel, rebar, wires, and cable below ground within one (1) year of discontinuation of use.

AMENDMENT #8 – Section 7.1.C

On page 12, to repeal the following language from Section 7.1.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.

On page 12, to replace with the following:

Cash, an irrevocable letter of credit, or a performance bond running in favor of the County in an amount no less than 125% of the total estimate 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.

Adopted this ____ day of _____, 2024

THE WOODBURY COUNTY, IOWA BOARD OF SUPERVISORS

Matthew Ung, Chairman

Daniel Bittinger II, Vice Chairman

Mark Nelson

Keith Radig

Jeremy Taylor

ATTEST:

Patrick Gill, Woodbury County Auditor

Adoption Timeline

_____: Public Hearing and 1st Reading
_____: Public Hearing and 2nd Reading
_____: Public Hearing and 3rd Reading
_____: Adopted
_____: Published/Effective Date