

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

Date: 6/24/21 Weekly Agenda Date: 6/29/21

**ELECTED OFFICIAL / DEPARTMENT HEAD / CITIZEN:** David Gleiser, CED Director

**WORDING FOR AGENDA ITEM:**

Public Hearing and 2nd Reading of Commercial Wind Energy Conversion Systems Ordinance

**ACTION REQUIRED:**

Approve Ordinance       Approve Resolution       Approve Motion   
Public Hearing       Other: Informational       Attachments

**EXECUTIVE SUMMARY:**

The Board will hold a public hearing for a proposed ordinance to regulate commercial wind energy conversion systems in unincorporated Woodbury County and may conduct the 2nd reading of said ordinance.

**BACKGROUND:**

County staff recognize the existing zoning ordinance currently allows commercial wind turbines but does not provide enough safeguards for property owners as it relates to setback distances, or any protections against damages to the county roads during their construction, or any assurances of their removal when decommissioned. As such, county staff have worked collaboratively with various relevant stakeholder groups to develop and recommend this ordinance to address the site plan review and application approval process for the special use C-WECS permit for the construction and ongoing maintenance of large-scale commercial wind turbines proposed to be erected in unincorporated Woodbury County.

**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. Approve the ordinance as amended and conduct the 2nd reading.

The 3rd public hearing/ordinance reading has been scheduled for 7/6/21 at 4:45 PM.

**ACTION REQUIRED / PROPOSED MOTION:**

Motion to open the public hearing.  
Motion to close the public hearing.  
Motion to approve second reading of Commercial Wind Energy Conversion Systems Ordinance

**WOODBURY COUNTY, IOWA**  
**ORDINANCE # \_\_\_\_\_**

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

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**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 Land Use Goal of the County’s General Development Plan in order to minimize conflict with agriculture, which is the principal land use in Woodbury County, guide future growth and development of non-agricultural uses to a compact pattern by efficient and economical expansion of public infrastructure, and by recognizing the Loess Hills from the “front range” to the steeply rolling hills tapering off toward the east as a unique natural resource that should be conserved by good stewardship by the owners of the land, 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:

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**Section 1 - Purpose**

The purpose of this Ordinance is to establish guidelines for the effective and efficient use of large-scale Commercial Wind Energy Conversion Systems (C-WECS) projects by regulating and requiring a 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 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.

**Applicant** shall mean the person or entity submitting the application 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.

**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).

**Feeder Line** shall mean any above or below-ground line that carries electrical power from one or more turbines.

**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 as an abode.

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

**Owner** shall mean the 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. 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.

**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.

**Occupied Residence** shall mean a building designed for, and occupied on a regular basis as an abode.

#### **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 permit from the Woodbury County Board of Supervisors as outlined in this Ordinance.

1. No application for a C-WECS permit shall be granted without first submitting all required information, obtaining necessary permits, certifications and documentation, and paying all associated fees to the County.

#### **Section 5 – C-WECS Permit Application Review, Amendment, and Approval Process**

1. **General.** Before any construction activities related to a C-WECS project can begin in unincorporated Woodbury County, a C-WECS 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 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, address, W-9 and EIN 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 permit.
  - B. A Certified Abstractor's list of the names and addresses of all property owners (i) located within the project area, and (ii) located within 5,280 feet of any turbine in the project.
  - C. A final development plan for the project, which shall contain aerial photographs 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 antennae identified.
  - D. Project details, including the name of the project, anticipated number, generating capacity, tower height, and rotor diameter of the turbines. 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 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 turbine in a C-WECS project, to be paid upon receipt of the final C-WECS permit application.
  - H. Any FAA, FCC, or other state or federal 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 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 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 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 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 permit, the Board of Supervisors shall proceed according to the following format:
- A. Within thirty (30) days following the C-WECS 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 permit as will ensure the development will satisfy the requirements of this Ordinance.
  - D. If the Supervisors conclude that all such criteria have been met, the application may be approved by Resolution.
  - E. Without limiting the foregoing, the Supervisors may attach to a C-WECS 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 permit.



7. **Modifications.** 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 permit; and
  - C. Within 30 days from the completion of the project, the C-WECS 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.

<b><u>Protected Area</u></b>	<b><u>Set Back Requirement</u></b>
Adjacent Property Lines	110% of total height
Occupied Residence	600 feet or 110% of total height (whichever is greater)
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)
Loess Hills	1 mile
Cemetery	600 feet
City Limits	600 feet
Airports (public and private)	FAA consultation and determination required

B. **Public and Private Airport Setbacks.**

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.
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 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 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 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 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 Permit**

1. No construction activities on a project may begin until a C-WECS 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 permit.
3. If construction on the project has not begun within eighteen (18) months from the issuance date of the approved C-WECS permit, the C-WECS 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 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 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 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 permit transfer shall be directed to the CED Director.

### **Section 10 – Miscellaneous**

1. **Condemnation Waiver.** Issuance of a C-WECS permit shall be conditioned on the permit holder's enforceable promise, supported by the consideration of the issuance of the C-WECS 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.
2. 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.

**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 \_\_\_\_\_ day of \_\_\_\_\_ 2021.

**THE WOODBURY COUNTY, IOWA BOARD OF SUPERVISORS:**

ATTEST:

\_\_\_\_\_  
Patrick Gill, Woodbury County Auditor

\_\_\_\_\_  
Rocky De Witt, Chairman

\_\_\_\_\_  
Matthew Ung, Vice Chairman

\_\_\_\_\_  
Mark Monson

\_\_\_\_\_  
Keith Radig

\_\_\_\_\_  
Justin Wright

Adoption Timeline

- \_\_\_\_\_ : Public Hearing and 1<sup>st</sup> Reading
- \_\_\_\_\_ : Public Hearing and 2<sup>nd</sup> Reading
- \_\_\_\_\_ : Public Hearing, 3<sup>rd</sup> Reading, Adopted
- \_\_\_\_\_ : Published/Effective Date