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DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

(x) Prepared by and Return To: Carla K. Becker, County Auditor, 301 E. Main St., Manchester, IA 52057 563 927-4701

CERTIFICATION

Attached hereto is the supporting documentation for the passage of Ordinance #32 entitled "An Ordinance Regulating the Placement of Wind Energy Conversion Systems (WECS) on Property Located in the Unincorporated Areas of Delaware County, Iowa", by the Delaware County Board of Supervisors.

1. County Ordinance #32
2. Proof of Publication of the Public Notice for the first reading of Ordinance #32 published June 2, 2010 in The Manchester Press, and the Dyersville Commercial and June 1, 2010 in the Delaware County Leader.
3. Proof of Publication of the Public Notice for the second reading of Ordinance #32 published on June 16, 2010 in The Manchester Press and the Dyersville Commercial and June 15, 2010 in the Delaware County Leader.
4. Proof of Publication of the Public Notice for the third and final reading of Ordinance #32 published on June 30, 2010 in The Manchester Press and the Dyersville Commercial and June 29, 2010 in Delaware County Leader .
5. Copy of the Board of Supervisors Official Minutes of July 6, 2010 in Book 2, Page 1 through Page 8 showing the final approved reading of Ordinance #32.
6. Proof of Publication of the full text of Ordinance #32 on July 14, 2010 in The Manchester Press and the Dyersville Commercial and July 13, 2010 in the Delaware County Leader.

I, Carla K. Becker, Delaware County Auditor, do hereby certify that the attached are originals or true copies of the above listed instruments.

Dated this 26th day of July, 2010.

Carla K. Becker, Delaware County Auditor

DELAWARE COUNTY OFFICIAL SEAL IOWA

STATE OF IOWA)
) SS:
DELAWARE COUNTY)

Subscribed and sworn to before me, and in my presence by Carla K. Becker, Delaware County Auditor, this 26th day of July, 2010.

Anne Rave, Notary Public in and for the State of Iowa

ANNE RAVE
Commission Number 757587
MY COMMISSION EXPIRES
MARCH 25, 2012

DELAWARE COUNTY ORDINANCE #32

AN ORDINANCE REGULATING THE PLACEMENT OF WIND ENERGY CONVERSION SYSTEMS (WECS) ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF DELAWARE COUNTY, IOWA

BE IT ENACTED BY THE DELAWARE COUNTY BOARD OF SUPERVISORS

SECTION 1. PURPOSE

The purpose of this ordinance is to establish guidelines for the siting, design and construction of Wind Energy Conversion Systems (WECS) and substations which generate electricity for use at the location of the WECS or to be sold to wholesale or retail markets. In addition, the purpose of this Ordinance shall be to promote the public health, safety, comfort and general welfare, while facilitating economic opportunities for rural residents and promoting a goal of increased energy production from renewable energy sources. The requirements of this Ordinance shall apply to all WECS constructed after the effective date of this Ordinance. WECS for which a required permit has been properly issued prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided, that any such pre-existing WECS, which does not provide energy for a continuous period of twelve (12) months, shall meet the requirements of this Ordinance prior to recommencing production of energy. Also, no modification or alteration to an existing WECS shall be allowed without full compliance with this Ordinance.

SECTION 2. DEFINITIONS

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

Applicant: The owner or operator of a WECS.

Aggregated Project: Aggregated projects are those which are developed and operated in a coordinated fashion, but may have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregate project.

Commercial Wind Energy Conversion System (C-WECS): A WECS of equal to or greater than (100/40) kW in total name plate generating capacity.

Easement: A legal interest in land, as defined in a document recorded in the office of the Delaware County Recorder, granted by the owner to another person or entity, which allows that person(s) or entity(ies) the use of all or a portion of the owner's land, generally for a stated purpose and duration, including, but not limited to, access or placement of utilities.

Electromagnetic Interference (EMI): The interference to communication systems created by scattering of electromagnetic signals.

Fall Zone: The area, defined as the furthest distance from a tower base, in which a guyed tower or self-supporting tower will collapse in the event of a structural failure. This area includes the total height of the structure based upon the tower's structural design plus ten (10) percent.

Feeder Line: Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electrical power grid. In the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the WECS(s).

Meteorological Tower: For the purpose of this Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS.

Non-Commercial WECS (Non C-WECS): A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

Operator: The entity responsible for the day-to-day operation and maintenance of the WECS, including third party subcontractors.

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

Professional Engineer: A qualified individual who is licensed in the state of Iowa as a professional engineer.

Residence: A house, apartment or other shelter that is the abode of a person, family, or household.

Rotor Diameter: The diameter of the circle described by the moving rotor blades of a WECS.

Setback: The minimum required distance from the property line, right-of-way, or easement to any portion of the structure.

Shadow Flicker: The alternating pattern of sun and shade caused by the wind tower blades casting a shadow.

Structure: Anything constructed or erected on the ground or attached to the ground, including but not limited to, antenna(s), buildings, sheds, cabins, dwellings (built on-site or factory built homes), signs, storage tanks, towers, windmills and other similar uses.

Substation: The apparatus that connects the electrical connection system of the WECS(s) and increases the voltage for connection with the utility's (or owner's) transmission lines.

Total Height (WECS): The highest point, above ground level, reached by the rotor tip or any other part of the WECS.

Tower: The vertical structure that supports the electrical generator, nacelle, rotor blades, or meteorological equipment.

Tower Height: The total height of the WECS inclusive of rotor blades.

Transmission Line: 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 retail customers.

Wind Energy Conversion System (WECS): All necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformers, electrical cabling and meteorological towers from the WECS Tower to the Substation(s).

WECS Project: The collection of WECS(s) and Substations as specified in the siting approval application pursuant to Section 5 of this Ordinance.

Wind Turbine: A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

SECTION 3. SITING APPROVAL APPLICATION REQUIREMENTS.

The applicant for the siting and construction of a WECS shall file an application, accompanied by a fee as established by the Delaware County Board of Supervisors and payable to the Treasurer of Delaware County, Iowa.

A. In addition to the submittal requirements defined for Permit applications, all applications for C-WECS must submit the following information (as applicable).

1. A WECS Project summary, including, to the extent possible: (1) a general description of the project, including its approximate nameplate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), number of WECS(s), and the name plate generating capacity of each WECS; and (2) a description of the Applicant, Owner and Operator, including their respective business structures.
2. The names of project applicant.
3. The name of the project owner.
4. The legal description and address of the project.
5. Tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
6. Site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
7. Engineer's certification(s) as required in these supplemental standards.
8. Documentation of land ownership or legal control of the property.
9. The latitude and longitude of individual wind turbines.
10. A U.S.G.S. topographical map, or map with similar data, of the property and surrounding area, including any other C-WECS within 10 rotor diameters of the proposed C-WECS.
11. Location of wetlands, scenic, and natural areas [including bluffs] within 1,320 feet of the proposed C-WECS.
12. An Acoustical Analysis.
13. F.A.A. Permit Application.
14. Location of all known communications towers/facilities within 2 miles of the proposed C-WECS.
15. Decommissioning Plan.
16. Description of potential impacts on nearby C-WECS and Non C-WECS and wind resources on adjacent properties.
17. Identification of significant migratory patterns and nesting areas for birds and bats and identification of endangered species within one (1) mile. A qualified professional such

as a wildlife biologist, shall conduct a habitat and migration route study, as part of the siting approval application process, to determine if the installation of WECS(s) will have a substantial adverse impact on these animals.

B. The Applicant, Owner or Operator shall submit a copy of the site plan and Emergency Action Plan to the Delaware County Emergency Management Administrator.

The Applicant shall notify Delaware County of any changes to the information provided in Section 3 that occur while the siting approval application is pending.

SECTION 4. GENERAL REQUIREMENTS FOR C-WECS AND METEOROLOGICAL TOWERS.

In addition to satisfactorily addressing the considerations set forth in the previous section, the applicant must provide documentation that the following requirements have been met.

1. **Color and finish.** Wind Turbines shall be painted a non-reflective color. Blades may be black in order to facilitate de-icing. Finishes shall be matte or non-reflective. At C-WECS sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the C-WECS to the natural setting and existing environment.
2. **Tower Configuration**. All wind turbines, which are part of a C-WECS, shall be installed with a tubular, monopole type tower. Meteorological towers may be guyed.
3. **Tower density.** There shall not be more than one C-WECS per acre.
4. **Lighting.** C-WECS sites shall not be artificially lighted, except to the extent required by the F.A.A. or other applicable authority or for night time repairs/maintenance. Lighting, including lighting intensity and frequency of strobe, shall adhere to, but not exceed, requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for nighttime illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exception may be made for meteorological towers, where concerns exist relative to aerial spray applicators.
5. **Signage.** Upon completion of the WECS Tower, the Owner's company name and/or logo and the phone number and name of the person to contact in case of emergency shall be placed upon the base of the WECS Tower or the entrance to any enclosure fence. Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer, owner or operator of the C-WECS sites.

6. **Feeder Lines.** All communications and feeder lines, equal to or less than 34.5 kV in capacity, installed as part of a C-WECS shall be buried not less than forty eight (48) inches deep.
7. **Waste Disposal.** Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site in a time period as established by the Delaware County "County Services" Department and disposed of in accordance with all applicable local, state and federal regulations.
8. **Minimum Ground Clearance.** The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.
9. **Signal Interference.** The applicant shall provide to applicable microwave transmission providers and the Emergency Management Administrator copies of the project summary and site plan, in accordance with Section 3, of this Ordinance. The applicant shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any C-WECS. If, after construction of the WECS, the Owner or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall take reasonable steps to respond to the complaint.
10. **Federal Aviation Administration.** All C-WECS shall comply with F.A.A. standards and permits.
11. **Electrical Codes and Standards**. All C-WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
12. **Setbacks.** The following setbacks and separation requirements shall apply to all Wind Turbines and meteorological towers:

    a) **Inhabited Structures.** Each wind turbine and meteorological tower shall be set back from the nearest residence, which is able to be occupied, school, hospital, church or public library, a distance no less than (i) two (2) times its total height or (ii) one thousand (1,000) feet, whichever is greater.

    b) **Property Lines.** At no time shall any part of the wind turbine and meteorological tower overhang an adjoining property without securing appropriate easements from adjoining property owners.

    c) **Public Right-of-Way**. Setbacks from public right-of-way, railroads, power lines and structures shall be a minimum of 1.1 times the height of the tower and rotor.

    d) **Communication and Electrical Lines.** Each wind turbine and meteorological tower shall be set back from the nearest above-ground public electric power line

or telephone line a distance no less than 1.1 times its total height, determined from the existing power line or telephone line.

13. **Noise**. Audible noise due to C-WECS sites operations shall not exceed fifty-five (55) decibel A (dBA) for any period of time, when measured at any dwelling, school, hospital, church or public library existing on the date of approval of any permit.

a) In the event audible noise due to C-WECS operations contains a steady pure tone, such as a whine, screech or hum, the standards for audible noise set forth in this subsection shall be reduced by five (5) dBA.

b) In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is succeeded for more than five (5) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.

c) In the event the noise levels resulting from the C-WECS exceed the criteria listed above, a waiver to said levels may be granted by the Board of Supervisors provided that the following has been accomplished:

(i) Written consent from the affected property owners has been obtained stating that they are aware of the C-WECS and the noise limitations imposed by this Ordinance, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and

(ii) If the applicant wishes the waiver to apply to succeeding owners of the property, a permanent noise impact easement shall be recorded in the Office of the Delaware County Recorder which describes the burdened properties and which advises all subsequent owners of the burdened property that noise levels in excess of those permitted by this Ordinance may exist on or at the burdened property.

14. Safety.

a) 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 Delaware County Board of Supervisors.

b) Wind Turbine and meteorological towers shall not be climbable up to fifteen (15) feet above ground level.

c) All access doors to Wind Turbine and Meteorological Towers and electrical equipment shall be locked when not being serviced.

d) Appropriate visible warning signage shall be placed on Wind Turbine towers, electrical equipment, and C-WECS entrances.

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

f) All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed control.

g) 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 twelve (12) feet above the ground. Visible fencing shall be installed around anchor points of guy wires. The property owner must sign a notarized acknowledgement and consent form allowing construction of the turbine and guyed wires without fencing as required in this Ordinance to be presented to the Board of Supervisors.

15. Exceptions to this section may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

SECTION 5. AVOIDANCE AND MITIGATION OF DAMAGES TO PUBLIC INFRASTRUCTURE

1. **Roads.** Applicants shall identify all roads to be used for the purpose of transporting C-WECS, substation parts, concrete, and/or equipment for construction, operation or maintenance of the C-WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.
2. **Existing Road Conditions**. Applicant shall conduct a pre-construction baseline survey, in coordination with the impacted local road authority(ies) to determine existing road conditions for assessing potential future damage. The survey shall include photographs and a written agreement to document the condition of the public facility. The applicant is responsible for on-going road maintenance and dust control measures identified by the Delaware County Engineer during all phases of construction. The applicant is responsible for any costs required to repair roads to pre-construction baseline condition. Delaware County reserves the right to halt operations if road conditions deteriorate to a point that creates a hazard to the public. The Delaware County Engineer will conduct a post construction survey with the applicant.
3. **Drainage System.** The Applicant shall be responsible for immediate repair for damage to public drainage systems stemming from construction, operation or maintenance of the C-WECS. All bridge and culvert crossings must be preapproved by the Delaware County Engineer.
4. **Performance Bond or Equivalent Financial Instrument**. The applicant shall be responsible for restoring or paying damages as agreed to by the applicable road authority(ies) sufficient to restore the road(s) and bridges and culverts to preconstruction conditions. A performance bond or equivalent financial instrument, approved by the Delaware County Attorney's Office, shall be submitted, upon the commencement of construction, covering 130% of the costs of all required improvements. This requirement may be waived by the Board of Supervisors' written recommendation from the Delaware County Engineer.

SECTION 6. DISCONTINUATION AND DE-COMMISSIONING

1. C-WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Administrator outlining the steps and schedule for returning the C-WECS to service. All C-WECS and accessory facilities shall be removed to four (4) feet below ground level within one-hundred eighty (180) days of the discontinuation of use. An extension to such period may be granted by the Board of Supervisors provided that the Owner or Operator submits an acceptable alternate plan for the decommissioning and thereafter diligently pursues such

decommissioning until completed. Each C-WECS shall have a decommissioning plan outlining the anticipated means and cost of removing C-WECS at the end of their serviceable life or upon becoming a discontinued use. 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. Delaware County reserves the right to verify that adequate decommissioning terms are contained in the landowner easement.

SECTION 7. NON-COMMERCIAL WECS (Non C-WECS).

1. **Non-Commercial WECS, are subject to the following standards**. In addition to satisfactorily addressing all other requirements of this Ordinance, the applicant must provide documentation that the following requirements have also been met.

   a) Tower Height: Non C-WECS shall not exceed one hundred (100) feet in height by the Delaware County Board of Supervisors. Non C-WECS shall be subject to all height limitations as necessary to comply with other sections of this Ordinance and those imposed by F.A.A. regulations.

   b) Setback: No part of the wind system structure, including guy wire anchors, may extend closer than ten (10) feet to the property boundaries of the installation site. The distance of the base of the tower from any property line shall be a minimum of 115% of the total height of the tower.

   c) Noise: Non C-WECS shall not exceed 50 dBA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

   d) Engineer Certification: Applications for Non C-WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the applicable regulations and certified by an Iowa licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer.

   e) Compliance with F.A.A. Regulations: Non C-WECS must comply with applicable F.A.A. regulations, including any necessary approvals for installations close to airports.

   f) Compliance with National Electric Code: Applications for Non C-WECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric code. This information is frequently supplied by the manufacturer.

g) Utility Notification: No Non C-WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

h) Insurance: The Owner seeking a Permit to erect a Non C-WECS shall provide evidence, in the form of a certificate of insurance satisfactory to Delaware County, showing general liability coverage for the installation and operation of the system under a standard homeowner's or standard business owner's insurance policy, separate and distinct from any insurance requirements of a public utility.

SECTION 8. LIABILITY INSURANCE.

The Owner or Operator of any WECS(s), Non C-WECS, or Meteorological Towers, subject to this Ordinance, shall maintain a current general liability policy covering bodily injury and property damage with limits of at least Three Million Dollars ($3,000,000) per occurrence and Three Million Dollars ($3,000,000) in the aggregate.

SECTION 9. PERMITS.

All WECS, C-WECS, and Meteorological Towers are subject to construction permit requirements. Permit issuance is contingent upon documentation of F.A.A. approval and approval of the Delaware County Board of Supervisors.

SECTION 10. REPEALER.

All ordinance(s) in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 11. SEVERABILITY.

Should any section or provisions of this Ordinance be declared by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be invalid or unconstitutional.

SECTION 12. PENALTY

Any person, persons, firms, partnerships or corporations, whether acting alone or in concert with any other, who violates this Ordinance, shall be guilty of a County Infraction and shall be penalized as set forth in Ordinance #32 of Delaware County, Iowa.

SECTION 13. EFFECTIVE DATE.

This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

Passed and Approved this 6th day of July, 2010.

Jeff Madlom, Chairperson
Delaware County Board of Supervisors

Attest:
Carla K. Becker, County Auditor

STATE OF IOWA
DUBUQUE COUNTY SS:

CERTIFICATE OF PUBLICATION

I, Linda L. Vorwald, of Woodward Communications, Inc., an Iowa corporation, publisher of the Dyersville Commerical, a newspaper of general circulation published in the City of Dyersville, County of Dubuque and State of Iowa; hereby certify that the attached notice was published in said newspaper on the following dates June 2, 2010, and for which the charge is $12.13.

Subscribed to before me, a Notary Public in and for Dubuque County, Iowa, this 7th day of July 2010.

LINDA L. VORWALD
Commission Number 702790
MY COMM. EXP. 4-18-10

Linda L. Vorwald

Notary Public in and for
Dubuque County, Iowa

LEGAL NOTICE - DELAWARE COUNTY
Board of Supervisors
Public Notice

Public Notice is hereby given that the Delaware County Board of Supervisors will meet for the first reading in consideration of Ordinance #32 entitled **"AN ORDIANCE REGULATING THE PLACEMENT OF WIND ENERGY CONVERSION SYSTEMS (WECS) ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF DELAWARE COUNTY, IOWA"** – at their regular meeting on June 14, 2010 at 1:15 pm in the Courthouse, Manchester, Iowa.

Copies of the full text of said Ordinance are available to the public at the Delaware County Auditor's Office.

Summary: An Ordinance regulating the placement of wind energy conversion systems within the unincorporated area of Delaware County and their effect on existing county infrastructure.

Carla K. Becker,
Delaware County Auditor
6-2

STATE OF IOWA
DUBUQUE COUNTY SS:

CERTIFICATE OF PUBLICATION

I, Linda L. Vorwald, of Woodward Communications, Inc., an Iowa corporation, publisher of the Dyersville Commerical, a newspaper of general circulation published in the City of Dyersville, County of Dubuque and State of Iowa; hereby certify that the attached notice was published in said newspaper on the following dates June 16, 2010, and for which the charge is $ 11.75.

Subscribed to before me, a Notary Public in and for Dubuque County, Iowa, this 8th day of July 2010.

NOTARIAL SEAL IOWA
LINDA L. VORWALD
Commission Number 702790
MY COMM. EXP. 4-18-12

Linda L. Vorwald

Notary Public in and for
Dubuque County, Iowa

DELAWARE COUNTY
Board of Supervisors
Public Notice
Ordinance #32

Public Notice is hereby given that the Delaware County Board of Supervisors will meet for the second and final readings in consideration of Ordinance #32 entitled "AN ORDINANCE REGULATING THE PLACEMENT OF WIND ENERGY CONVERSION SYSTEMS (WECS) ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF DELAWARE COUNTY, IOWA" – at their regular meeting on June 21, 2010 at 1:15 pm in the Courthouse, Manchester, Iowa.

Copies of the full text of said Ordinance are available to the public at the Delaware County Auditor's Office.

Summary: An Ordinance regulating the placement of wind energy conversion systems within the unincorporated area of Delaware County and their effect on existing county infrastructure.

Carla K. Becker,
Delaware County Auditor
6-16

STATE OF IOWA
DUBUQUE COUNTY SS:

CERTIFICATE OF PUBLICATION

I, Linda L. Vorwald, of Woodward Communications, Inc., an Iowa corporation, publisher of the Dyersville Commerical, a newspaper of general circulation published in the City of Dyersville, County of Dubuque and State of Iowa; hereby certify that the attached notice was published in said newspaper on the following dates June 30, 2010, and for which the charge is $10.99.

Subscribed to before me, a Notary Public in and for Dubuque County, Iowa, this 8th day of July 2010.

NOTARIAL SEAL IOWA

LINDA L. VORWALD
Commission Number 702790
MY COMM. EXP. 4-18-12

Linda L. Vorwald

Notary Public in and for
Dubuque County, Iowa

DELAWARE COUNTY
Board of Supervisors
Public Notice

Public Notice is hereby given that the Delaware County Board of Supervisors will meet for the third and final readings in consideration of Ordinance #32 entitled **"AN ORDINANCE REGULATING THE PLACEMENT OF WIND ENERGY CONVERSION SYSTEMS (WECS) ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF DELAWARE COUNTY, IOWA"** – at their regular meeting on July 6, 2010 at 1:15 pm in the Courthouse, Manchester, Iowa.

Copies of the full text of said Ordinance are available to the public at the Delaware County Auditor's Office.

Summary: An Ordinance regulating the placement of wind energy conversion systems within the unincorporated area of Delaware County and their effect on existing county infrastructure.

Carla K. Becker, Delaware County Auditor
6-30

STATE OF IOWA)
) **Ss:**
DELAWARE COUNTY)

July 6, 2010
1:15 PM

The Delaware County Board of Supervisors met in regular session this date at 1:15 PM with all members present. Also present were Anthony Bardgett, Kirk Kraft, Jodi Cahalan, Dave Kunde, Donna Boss, Carla Becker and three (3) members of the media. Jeff Madlom, Chairperson, called the meeting to order.

This being the time and date set for the third and final reading in consideration of **Ordinance #32 – AN ORDINANCE REGULATING THE PLACEMENT OF WIND ENERGY CONVERSION SYSTEMS (WECS) ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF DELAWARE COUNTY, IOWA**, as published in the official newspapers of the county, the Board read the twelve (12) page proposed ordinance aloud to those present. The following comments were made:

Dave Kunde stated that there has been a lot of time and money spent on tiling in Delaware County. He wondered what steps RPM is taking to make sure this gets repaired if broken.

Kirk Kraft with RPM stated the contracts with the individual property owners cover the repair of any broken or crushed tile. He also stated they prefer to be proactive and meet with the person who put in the tile to get a feeling as to its location, depth, etc. They do what they can to avoid the tile in fields but it is not always possible.

Mr. Kunde also asked about the transfer of liability if the developer should sell the wind farm. In response, Mr. Kraft stated that if the assets of the wind farm were to be sold or transferred in the future, the sale would include the physical equipment, the contracts with the utility companies for the energy generated and the contracts with the individual property owners. The entire package would be transferred not just a portion of the package.

There being no further comments, either written or oral, motion made by Ries, second by Helmrichs and carried to approve the third and final reading in consideration of **Ordinance #32 – AN ORDINANCE REGULATING THE PLACEMENT OF WIND ENERGY CONVERSION SYSTEMS (WECS) ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF DELAWARE COUNTY, IOWA.** All Ayes

Motion made by Helmrichs, second by Ries and carried that **Ordinance #32 – AN ORDINANCE REGULATING THE PLACEMENT OF WIND ENERGY CONVERSION SYSTEMS (WECS) ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF DELAWARE COUNTY, IOWA,** be approved and adopted, after the third and final reading, as follows:

DELAWARE COUNTY ORDINANCE #32

AN ORDINANCE REGULATING THE PLACEMENT OF WIND ENERGY CONVERSION SYSTEMS (WECS) ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF DELAWARE COUNTY, IOWA

BE IT ENACTED BY THE DELAWARE COUNTY BOARD OF SUPERVISORS

SECTION 1. PURPOSE

The purpose of this ordinance is to establish guidelines for the siting, design and construction of Wind Energy Conversion Systems (WECS) and substations which generate electricity for use at the location of the WECS or to be sold to wholesale or retail markets. In addition, the purpose of this Ordinance shall be to promote the public health, safety, comfort and general welfare, while facilitating economic opportunities for rural residents and promoting a goal of increased energy production from renewable energy sources. The requirements of this Ordinance shall apply to all WECS constructed after the effective date of this Ordinance. WECS for which a required permit has been properly issued prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided, that any such pre-existing WECS, which does not provide energy for a continuous period of twelve (12) months, shall meet the requirements of this Ordinance prior to recommencing production of energy. Also, no modification or alteration to an existing WECS shall be allowed without full compliance with this Ordinance.

SECTION 2. DEFINITIONS

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

Applicant: The owner or operator of a WECS.

Aggregated Project: Aggregated projects are those which are developed and operated in a coordinated fashion, but may have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregate project.

Commercial Wind Energy Conversion System (C-WECS): A WECS of equal to or greater than (100/40) kW in total name plate generating capacity.

Easement: A legal interest in land, as defined in a document recorded in the office of the Delaware County Recorder, granted by the owner to another person or entity, which allows that person(s) or entity(ies) the use of all or a portion of the owner's land, generally for a stated purpose and duration, including, but not limited to, access or placement of utilities.

Electromagnetic Interference (EMI): The interference to communication systems created by scattering of electromagnetic signals.

Fall Zone: The area, defined as the furthest distance from a tower base, in which a guyed tower or self-supporting tower will collapse in the event of a structural failure. This area includes the total height of the structure based upon the tower's structural design plus ten (10) percent.

Feeder Line: Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electrical power grid. In the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the WECS(s).

Meteorological Tower: For the purpose of this Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS.

Non-Commercial WECS (Non C-WECS): A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

Operator: The entity responsible for the day-to-day operation and maintenance of the WECS, including third party subcontractors.

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

Professional Engineer: A qualified individual who is licensed in the state of Iowa as a professional engineer.

Residence: A house, apartment or other shelter that is the abode of a person, family, or household.

Rotor Diameter: The diameter of the circle described by the moving rotor blades of a WECS.

Setback: The minimum required distance from the property line, right-of-way, or easement to any portion of the structure.

Shadow Flicker: The alternating pattern of sun and shade caused by the wind tower blades casting a shadow.

Structure: Anything constructed or erected on the ground or attached to the ground, including but not limited to, antenna(s), buildings, sheds, cabins, dwellings (built on-site or factory built homes), signs, storage tanks, towers, windmills and other similar uses.

Substation: The apparatus that connects the electrical connection system of the WECS(s) and increases the voltage for connection with the utility's (or owner's) transmission lines.
Total Height (WECS): The highest point, above ground level, reached by the rotor tip or any other part of the WECS.
Tower: *The vertical structure that supports the electrical generator, nacelle, rotor blades, or meteorological equipment.*
Tower Height: The total height of the WECS inclusive of rotor blades.
Transmission Line: 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 retail customers.
Wind Energy Conversion System (WECS): All necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformers, electrical cabling and meteorological towers from the WECS Tower to the Substation(s).
WECS Project: *The collection of WECS(s) and Substations as specified in the siting approval application pursuant to Section 5 of this* Ordinance.
Wind Turbine: A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

SECTION 3. SITING APPROVAL APPLICATION REQUIREMENTS.
The applicant for the siting and construction of a WECS shall file an application, accompanied by a fee as established by the Delaware County Board of Supervisors and payable to the Treasurer of Delaware County, Iowa.
A. In addition to the submittal requirements defined for Permit applications, all applications for C-WECS must submit the following information (as applicable).

1. A WECS Project summary, including, to the extent possible: (1) a general description of the project, including its approximate nameplate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), number of WECS(s), and the name plate generating capacity of each WECS; and (2) a description of the Applicant, Owner and Operator, including their respective business structures.
2. The names of project applicant.
3. The name of the project owner.
4. The legal description and address of the project.
5. Tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
6. Site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
7. Engineer's certification(s) as required in these supplemental standards.
8. Documentation of land ownership or legal control of the property.
9. The latitude and longitude of individual wind turbines.
10. A U.S.G.S. topographical map, or map with similar data, of the property and surrounding area, including any other C-WECS within 10 rotor diameters of the proposed C-WECS.
11. Location of wetlands, scenic, and natural areas [including bluffs] within 1,320 feet of the proposed C-WECS.
12. An Acoustical Analysis.
13. F.A.A. Permit Application.
14. Location of all known communications towers/facilities within 2 miles of the proposed C-WECS.
15. Decommissioning Plan.
16. Description of potential impacts on nearby C-WECS and Non C-WECS and wind resources on adjacent properties.
17. Identification of significant migratory patterns and nesting areas for birds and bats and identification of endangered species within one (1) mile. A qualified professional such as a wildlife biologist, shall conduct a habitat and migration route study, as part of the siting approval application process, to determine if the installation of WECS(s) will have a substantial adverse impact on these animals.

B. The Applicant, Owner or Operator shall submit a copy of the site plan and Emergency Action Plan to the Delaware County Emergency Management Administrator.

The Applicant shall notify Delaware County of any changes to the information provided in Section 3 that occur while the siting approval application is pending.

SECTION 4. GENERAL REQUIREMENTS FOR C-WECS AND METEOROLOGICAL TOWERS.

In addition to satisfactorily addressing the considerations set forth in the previous section, the applicant must provide documentation that the following requirements have been met.

1. **Color and finish.** Wind Turbines shall be painted a non-reflective color. Blades may be black in order to facilitate de-icing. Finishes shall be matte or non-reflective. At C-WECS sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the C-WECS to the natural setting and existing environment.
2. **Tower Configuration**. All wind turbines, which are part of a C-WECS, shall be installed with a tubular, monopole type tower. Meteorological towers may be guyed.
3. **Tower density.** There shall not be more than one C-WECS per acre.
4. **Lighting.** C-WECS sites shall not be artificially lighted, except to the extent required by the F.A.A. or other applicable authority or for night time repairs/maintenance. Lighting, including lighting intensity and frequency of strobe, shall adhere to, but not exceed, requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for nighttime illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exception may be made for meteorological towers, where concerns exist relative to aerial spray applicators.
5. **Signage.** Upon completion of the WECS Tower, the Owner's company name and/or logo and the phone number and name of the person to contact in case of emergency shall be placed upon the base of the WECS Tower or the entrance to any enclosure fence. Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer, owner or operator of the C-WECS sites.
6. **Feeder Lines.** All communications and feeder lines, equal to or less than 34.5 kV in capacity, installed as part of a C-WECS shall be buried not less than forty eight (48) inches deep.
7. **Waste Disposal.** Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site in a time period as established by the Delaware County "County Services" Department and disposed of in accordance with all applicable local, state and federal regulations.
8. **Minimum Ground Clearance.** The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.
9. **Signal Interference.** The applicant shall provide to applicable microwave transmission providers and the Emergency Management Administrator copies of the project summary and site plan, in accordance with Section 3, of this Ordinance.

The applicant shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any C-WECS. If, after construction of the WECS, the Owner or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall take reasonable steps to respond to the complaint.

10. **Federal Aviation Administration.** All C-WECS shall comply with F.A.A. standards and permits.

11. **Electrical Codes and Standards**. All C-WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

12. **Setbacks.** The following setbacks and separation requirements shall apply to all Wind Turbines and meteorological towers:
    a) Inhabited Structures. Each wind turbine and meteorological tower shall be set back from the nearest residence, which is able to be occupied, school, hospital, church or public library, a distance no less than (i) two (2) times its total height or (ii) one thousand (1,000) feet, whichever is greater.
    b) Property Lines. At no time shall any part of the wind turbine and meteorological tower overhang an adjoining property without securing appropriate easements from adjoining property owners.
    c) Public Right-of-Way. Setbacks from public right-of-way, railroads, power lines and structures shall be a minimum of 1.1 times the height of the tower and rotor.
    d) Communication and Electrical Lines. Each wind turbine and meteorological tower shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 1.1 times its total height, determined from the existing power line or telephone line.

13. **Noise.** Audible noise due to C-WECS sites operations shall not exceed fifty-five (55) decibel A (dBA) for any period of time, when measured at any dwelling, school, hospital, church or public library existing on the date of approval of any permit.

    a) In the event audible noise due to C-WECS operations contains a steady pure tone, such as a whine, screech or hum, the standards for audible noise set forth in this subsection shall be reduced by five (5) dBA.
    b) In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is succeeded for more than five (5) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.
    c) In the event the noise levels resulting from the C-WECS exceed the criteria listed above, a waiver to said levels may be granted by the Board of Supervisors provided that the following has been accomplished:
    (i) Written consent from the affected property owners has been obtained stating that they are aware of the C-WECS and the noise limitations imposed by this Ordinance, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and
    (ii) If the applicant wishes the waiver to apply to succeeding owners of the property, a permanent noise impact easement shall be recorded in the Office of the Delaware County Recorder which describes the burdened properties and which advises all subsequent owners of the burdened property that noise levels in excess of those permitted by this Ordinance may exist on or at the burdened property.

14. **Safety.**
    a) 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 Delaware County Board of Supervisors.
    b) Wind Turbine and meteorological towers shall not be climbable up to fifteen (15) feet above ground level.
    c) All access doors to Wind Turbine and Meteorological Towers and electrical equipment shall be locked when not being serviced.
    d) Appropriate visible warning signage shall be placed on Wind Turbine towers, electrical equipment, and C-WECS entrances.
    e) For all C-WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the C-WECS is within accepted professional standards, given local soil and climate conditions.
    f) All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed control.
    g) 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 twelve (12) feet above the ground. Visible fencing shall be installed around anchor points of guy wires. The property owner must sign a notarized acknowledgement and consent form allowing construction of the turbine and guyed wires without fencing as required in this Ordinance to be presented to the Board of Supervisors.

15. Exceptions to this section may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

SECTION 5. AVOIDANCE AND MITIGATION OF DAMAGES TO PUBLIC INFRASTRUCTURE

1. **Roads.** Applicants shall identify all roads to be used for the purpose of transporting C-WECS, substation parts, concrete, and/or equipment for construction, operation or maintenance of the C-WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.
2. **Existing Road Conditions**. Applicant shall conduct a pre-construction baseline survey, in coordination with the impacted local road authority(ies) to determine existing road conditions for assessing potential future damage. The survey shall include photographs and a written agreement to document the condition of the public facility. The applicant is responsible for on-going road maintenance and dust control measures identified by the Delaware County Engineer during all phases of construction. The applicant is responsible for any costs required to repair roads to pre-construction baseline condition. Delaware County reserves the right to halt operations if road conditions deteriorate to a point that creates a hazard to the public. The Delaware County Engineer will conduct a post construction survey with the applicant.
3. **Drainage System.** The Applicant shall be responsible for immediate repair for damage to public drainage systems stemming from construction, operation or maintenance of the C-WECS. All bridge and culvert crossings must be preapproved by the Delaware County Engineer.
4. **Performance Bond or Equivalent Financial Instrument**. The applicant shall be responsible for restoring or paying damages as agreed to by the applicable road authority(ies) sufficient to restore the road(s) and bridges and culverts to preconstruction conditions. A performance bond or equivalent financial instrument, approved by the Delaware County

Attorney's Office, shall be submitted, upon the commencement of construction, covering 130% of the costs of all required improvements. This requirement may be waived by the Board of Supervisors' written recommendation from the Delaware County Engineer.

SECTION 6. DISCONTINUATION AND DE-COMMISSIONING

1. C-WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Administrator outlining the steps and schedule for returning the C-WECS to service. All C-WECS and accessory facilities shall be removed to four (4) feet below ground level within one-hundred eighty (180) days of the discontinuation of use. An extension to such period may be granted by the Board of Supervisors provided that the Owner or Operator submits an acceptable alternate plan for the decommissioning and thereafter diligently pursues such decommissioning until completed. Each C-WECS shall have a decommissioning plan outlining the anticipated means and cost of removing C-WECS at the end of their serviceable life or upon becoming a discontinued use. 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. Delaware County reserves the right to verify that adequate decommissioning terms are contained in the landowner easement.

SECTION 7. NON-COMMERCIAL WECS (Non C-WECS).

1. **Non-Commercial WECS, are subject to the following standards**. In addition to satisfactorily addressing all other requirements of this Ordinance, the applicant must provide documentation that the following requirements have also been met.

   a) Tower Height: Non C-WECS shall not exceed one hundred (100) feet in height by the Delaware County Board of Supervisors. Non C-WECS shall be subject to all height limitations as necessary to comply with other sections of this Ordinance and those imposed by F.A.A. regulations.

   b) Setback: No part of the wind system structure, including guy wire anchors, may extend closer than ten (10) feet to the property boundaries of the installation site. The distance of the base of the tower from any property line shall be a minimum of 115% of the total height of the tower.

   c) Noise: Non C-WECS shall not exceed 50 dBA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

   d) Engineer Certification: Applications for Non C-WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the applicable regulations and certified by an Iowa licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer.

   e) Compliance with F.A.A. Regulations: Non C-WECS must comply with applicable F.A.A. regulations, including any necessary approvals for installations close to airports.

   f) Compliance with National Electric Code: Applications for Non C-WECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric code. This information is frequently supplied by the manufacturer.

   g) Utility Notification: No Non C-WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

   h) Insurance: The Owner seeking a Permit to erect a Non C-WECS shall provide evidence, in the form of a certificate of insurance satisfactory to Delaware County, showing general liability coverage for the installation and operation of the system under a standard homeowner's or standard business owner's insurance policy, separate and distinct from any insurance requirements of a public utility.

SECTION 8. LIABILITY INSURANCE.
The Owner or Operator of any WECS(s), Non C-WECS, or Meteorological Towers, subject to this Ordinance, shall maintain a current general liability policy covering bodily injury and property damage with limits of at least Three Million Dollars ($3,000,000) per occurrence and Three Million Dollars ($3,000,000) in the aggregate.

SECTION 9. PERMITS.
All WECS, C-WECS, and Meteorological Towers are subject to construction permit requirements. Permit issuance is contingent upon documentation of F.A.A. approval and approval of the Delaware County Board of Supervisors.

SECTION 10. REPEALER.
All ordinance(s) in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 11. SEVERABILITY.
Should any section or provisions of this Ordinance be declared by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be invalid or unconstitutional.

SECTION 12. PENALTY.
Any person, persons, firms, partnerships or corporations, whether acting alone or in concert with any other, who violates this Ordinance, shall be guilty of a County Infraction and shall be penalized as set forth in Ordinance #32 of Delaware County, Iowa.

SECTION 13. EFFECTIVE DATE.
This Ordinance shall be in effect after its final passage, approval and publication as provided by law.
Passed and Approved this 6th day of July, 2010.

/S/ Jeff Madlom, Chairperson
Delaware County Board of Supervisors

Attest:/S/ Carla K. Becker, County Auditor
Ayes: Ries, Helmrichs and Madlom

Kirk Kraft, RPM Access, addressed the Board in regards to the consideration of passing an ordinance limiting the taxable valuation of wind farms in the county to 30% of the net acquisition cost of the project as allowed by Iowa Code. The ordinance would begin the taxable valuation at zero for the first year increasing by 5% each year after that until it hit 30% in year seven which is where it would

remain until year 20. He stated it is very common for counties to pass this ordinance. Actually, every county they have built in has had this ordinance in place. He thanked the Board for its consideration.

Motion made by Ries, second by Helmrichs and carried to set August 2, 2010 at 1:15 pm as the date and time for the first reading and August 9, 2010 at 1:15 as the date and time for the second and final reading of Proposed Ordinance #33 – An Ordinance Regulating the Assessment of Wind Energy Conversion Property within Delaware County, Iowa. All Ayes

Motion made by Helmrichs, second by Ries and carried to approve the following employees to attend their respective meetings: Jeff Madlom and Anthony Bardgett to attend the RPA meeting in Dubuque on July 9, 2010; and Shirley Helmrichs to attend the Supervisor Legislative meeting in Des Moines on July 9, 2010. All Ayes

Motion made by Ries, second by Helmrichs and carried to approve the following claims for payment including payroll in the amount of $143,451.64, warrant #9034-#9151:

Alliant Energy	Electrical Power	3694.24
Delaware Co Fair Society	Fair Contribution	37000.00
Iowa Telecom	Telephone Services	674.89

All Ayes

Motion made by Helmrichs, second by Ries and carried to acknowledge receipt of the following manure management plan updates: Premier Pork LLC, Monti Site, in Section 6 of Adams Township; Kent Keppler, Progressive Pork LLC, in Section 30 of Richland Township; Justin and Kevin Nieman in Section 14 of Delhi Township; Ralph Nieman in Section 28 of Oneida Township; and KW Pork Finishing Site #3, Ken Wilgenbusch, in Section 8 of Prairie Township. All Ayes

Chairperson Madlom made the following appointments to various boards and commissions:
Retroactive to May 22, 2010:

Adams and Hazel Green BFD#1 Trustee
Doug Peyton for a term of three (3) years

Retroactive to July 1, 2010:

Delaware County Conservation Board
John Mitts for a term of five (5) years

City of Dyersville Board of Adjustment
Robin Bauer for a term of five (5) years
Carl Boeckenstedt for a term of five (5) years

City of Dyersville Planning & Zoning Commission
Daniel Olberding for a term of five (5) years
David Kronlage for a term of five (5) years

Eastern Iowa Tourism Council
Bev Rahe for a term of one (1) year
Jeannie Domeyer, Alternate for a term of one (1) year

Veteran Affairs Commissioners
Dennis Gudenkauf for a term of three (3) years

Motion made by Ries, second by Helmrichs and carried to approve the wages paid in 2009-10 as follows in descending order:

WAGES PAID 2009/2010

EMPLOYEE	JOB TITLE	WAGES
Anthony T Bardgett	County Engineer	81,966.40
John W Bernau	County Attorney	72,555.91
John A LeClere	Sheriff	59,610.08
Patrick T Oberbroeckling	Foreman	59,266.72
Craig A Davis	Assistant to Engineer	58,427.94
Claudia J Cahalan	Assessor	58,251.00
Bonney J Amsden	Sheriff's Deputy	53,332.30
Larry L Gronewold	Sergeant Deputy	53,301.41
Casey E Snyder	Investigating Deputy	52,915.49
Jill A Rahe	Sheriff's Deputy	52,270.23
Michael A Wilson	Sheriff's Deputy	52,138.22
Eric S Holub	Sheriff's Deputy	51,959.48
Keith J Rowley	Sheriff's Deputy	51,689.36
Eric D Brooks	Sheriff's Deputy	51,010.05
Peggy S Petlon	CPC/VA/GA Director	50,622.44
Lucas R Thomsen	Sheriff's Deputy	49,657.90
Carla K Becker	Auditor	48,059.87
Deborah L Peyton	Recorder	48,059.87
Carolyn A Wilson	Treasurer	48,059.87
Norman J Wellman	County Services Director	47,364.95
Garlyn R Glanz	Conservation Director	47,007.68
Gerald R Petlon	Mechanic	42,543.01
Richard Langel	Equipment Operator	42,005.48
Dennis L Dugan	Equipment Operator	41,851.36
Douglas D Bush	Equipment Operator	41,439.76
Randall J Gudenkauf	Maintenance Person	41,353.48
Kimberly A Gehling	Case Management	41,305.76
David Tibbott	Head Mechanic	40,830.59
Eugene A Carpenter	Equipment Operator	40,817.68
Linda K Schaul	Secondary Road Office Manager	40,577.07
Christopher R Deutmeyer	Maintenance Person	40,444.83
Lonnie L Fry	Maintainer Operator	40,363.36
Ronald F Dzaboff	Maintainer Operator	40,300.48
Mark J Thole	Maintainer Operator	40,177.21
Arthur W Wickman	Maintainer Operator	40,100.72
Jerome P Moorman	Maintainer Operator	40,044.56
Christopher S Hucker	Maintainer Operator	39,992.60
Michael A Hageman	Maintenance Person	39,823.10

Ronald C Thole	Maintenance Person	39,649.02
Dean W Dempster	Maintenance Person	39,593.76
Eric G Klaren	Maintenance Person	39,567.69
Donald R McNamara	Maintainer Operator	39,518.06
Michael R Wilhelm	Maintainer Operator	39,138.20
Stephen A Novak	Maintainer Operator	39,052.06
James M Diers	Sign Man	38,955.44
Brett A Fessler	Maintainer Operator	38,052.07
Ronald L Glanz Jr.	Park Operations/Supervisor	37,502.40
Kevin L Offerman	Park Maintenance/Ranger	37,502.40
Laura L Schuman	Case Management	37,039.20
Ernest E Jesenovec	Equipment Operator	36,999.20
Monica M Heiserman	Deputy Auditor/Payroll Deputy	36,748.50
Karol L Johnson	Auto Deputy	36,748.50
Pamela Klein	Tax Deputy	36,748.50
Marsha J Mescher	Deputy Recorder	36,748.50
Judy A Lee	Sheriff's Dept. Office Manager	36,251.11
Michael K Ryan	Emergency Mgmt Coordinator	35,926.95
Daneen G Schindler	Deputy Recorder	35,833.50
Andrea M Schmidt	Deputy Assessor	35,765.98
Michael J LaRosa	GIS Specialist	35,470.20
Carolyn M Becker	Case Management	35,116.80
Linda R Burr	Community Life	34,718.80
Michele R Africa	Auto Deputy	34,446.50
Julia L Hackbarth	Elections/Acct. Rec. Deputy	34,446.50
Kathy M Hauschild	County Attorney Office Manager	34,446.50
Barbara A Robinson	Driver's License Deputy	34,446.50
Dennis D Lyons	Sanitarian	33,814.10
Mike E Motto	Case Management	31,671.20
Sandra K Ahrens	GA/VA Assistant	31,390.00
Debbie K Lynch	Jail Administrator	31,151.96
Dixie L Willman	Deputy Assessor	30,786.13
Douglas G Dabroski	Survey Party Chief	29,938.81
David D Timmer	Custodian	29,761.41
Katie M Johannes	Office Manager/CPC Assistant	29,744.80
Joette D Orcutt	Jailer	29,187.90
Paula S Hargrafen	Elections/Real Estate Deputy	28,173.90
Marlene Chapman	Jailer	27,917.28
Shirley E Helmrichs	Supervisor	27,669.00
Loel J Madlom	Supervisor	27,669.00
Gerald L Ries	Supervisor	27,669.00
Martha J Timmer	Assessor's Field Appraiser	26,798.65
Carol E Krogmann	Case Management	26,395.20
Anne R Rave	Deputy Auditor	26,184.75
Stacy L Wessels	Community Life	24,552.78
Sheri L Weber	Community Life	23,957.14
Sharon K Koopmann	Custodian	22,083.42
Gerald C Smith	Maintenance Person	21,542.08
Susan M Krager	Jailer	21,453.66
Lori L Wessels	Community Life	20,455.40
Matthew R Menard	Sheriff's Deputy	20,367.68
Ryan J Gallagher	Assistant County Attorney	19,711.37
Kraig S Myers	Sheriff's Deputy	19,563.51
Shirley S Lyons	Pt-time Conservation Secretary	18,275.17
Kenneth C Rion	Pt-time Jailer	14,030.39
Carol A Pins	Community Life	12,907.31
Steve J Naber	Maintenance Person	11,815.60
Clifford J Robinson	Seasonal Park Maintenance	11,162.20
Melanie A Schroeder	Mental Health Advocate	11,129.96
Susan M Morris	Pt-time Recorder's Clerk	10,194.49
Glenn A Nystel	Pt-time Jailer	9,459.72
Michael D Zellner	Seasonal Park Maintenance	9,070.91
Karen M Knipper	Pt-time Assessor's Clerk	8,816.00
Russell L Creveling	Seasonal Roadside Mower	8,568.00
Susan M Collins	Pt-time Jailer	8,188.23
Kirt A Caes	Seasonal Park Maintenance	8,042.63
Maureen M DeShaw	Pt-time Jailer	6,505.33
Austin D Linderwell	Seasonal Pt-time Laborer	6,494.01
Sarah C Stelken	Community Life	4,768.46
William D Werger	Assistant Pt-time Attorney	4,007.85
Richard D Cook	Seasonal Park Maintenance	3,411.62
Carey C Atkinson	Seasonal Park Maintenance	3,349.13
Caitlin E McCarthy	Seasonal Pt-time Laborer	2,734.89
Jim D Meisgeier	Seasonal Park Maintenance	2,608.68
Lisa A Jesenovec	Seasonal Pt-time Laborer	2,414.00
Delpha R Ostrander	Pt-time Jailer	2,002.72
Kira J Cizek	Pt-time Jailer	1,945.23
Alex C Tibbott	Seasonal Park Maintenance	1,808.50
Thomas G Robinson	Sheriff's Reserve	1,537.50
Deanna L Dement	Pt-time Solid Waste Secretary	1,492.90
Pam J Schaffer	Seasonal Park Maintenance	1,457.32
Mitchell T Kennedy	Seasonal Pt-time Laborer	1,302.63
Michael C Corkery	Severe Weather Peronnel	1,204.38
Aaron T Pauls	Sheriff's Reserve	1,192.50
Walter C Zehr	Sheriff's Reserve	1,170.00
Jonathan L Schuler	Sheriff's Reserve	1,020.00

Margie A Recker	Severe Weather Peronnel	960.43
Johanna E Kuhlman	Sheriff's Reserve	937.50
Matthew W Wieser	Sheriff's Reserve	885.00
Dustin J Ernst	Sheriff's Reserve	817.50
Loretta J Welcher	Severe Weather Peronnel	816.93
Linda S Loney-Fangmann	Severe Weather Peronnel	781.56
Kathy L Corkery	Severe Weather Peronnel	738.01
Hannah J Kimmerle	Temp. Pt-time Assessors Clerk	657.94
Daniel J Recker	Severe Weather Peronnel	657.03
Jess A Hebdon	Sheriff's Reserve	630.00
Christopher M Cook	Severe Weather Peronnel	625.25
Judy Zehr	Pt-time Fill-in Clerk	511.75
Dennis A Gudenkauf	VA Commission/Township Trustee	365.00
Timothy P Schaffer	Seasonal Park Maintenance	360.00
Carrie M McNamara	Pt-time Jailer	310.08
Larry D Beaman	VA Commissioner	225.00
Raymond C Deneve	VA Commissioner	200.00
Floyd B Goedken	Township Trustee	180.00
Mark E White	Township Trustee	180.00
Joe Wulfekuhle	Township Trustee	180.00
Robert Bonert	Township Trustee	150.00
Gary L Helmrichs	Township Trustee	150.00
Arnold H Lueken	Township Clerk	150.00
Barbara L Mossner	Township Clerk	150.00
Paul D Mossner	Township Trustee	120.00
Melissa J Sheppard	Township Trustee	120.00
Max J Andrews	Township Trustee	90.00
Norman L Boss	Township Clerk	90.00
Daniel C Deutmeyer	Township Trustee	90.00
Ronald J Domeyer	Township Clerk	90.00
Colleen K Eagan	Township Clerk	90.00
Gerald D Lee	Township Trustee	90.00
Gary R Nieman	Township Trustee	90.00
Mark R Banghart	Sheriff's Reserve	75.00
Rodney F Bacon	Township Trustee	60.00
Sharon K Bacon	Township Clerk	60.00
Henry Brunsman	Township Trustee	60.00
Robert J Demmer	Township Trustee	60.00
Steve J Engelken	Township Trustee	60.00
Randle R Fiddelke	Township Trustee	60.00
William A Foley	Township Trustee	60.00
Mark E Francois	Township Trustee	60.00
James F Guthrie	Township Trustee	60.00
Marvin L Helmrichs	Township Trustee	60.00
Brock Hermann	Township Clerk	60.00
Joe D Keith	Township Trustee	60.00
Bruce A Knipper	Township Trustee	60.00
Janice M Knipper	Township Clerk	60.00
Gary D Lahr	Township Trustee	60.00
Larry J Lamont	Township Clerk	60.00
Cindy S Mormann	Township Clerk	60.00
Rick J Mormann	Township Trustee	60.00
Al J Nefzger	Township Trustee	60.00
Michelle R Pasker	Township Clerk	60.00
Glenn L Puffett	Township Clerk	60.00
Katherine K Rahe	Township Trustee	60.00
John R Recker	Township Trustee	60.00
Donald E Rhines	Township Trustee	60.00
Charles V Robinson	Township Trustee	60.00
Ray A Tauke	Township Trustee	60.00
Rose A Tumey	Township Clerk	60.00
Terry Tumey	Township Trustee	60.00
Daniel C Vaske	Township Trustee	60.00
Chris G Wessels	Township Trustee	60.00
John W Wiley	Township Trustee	60.00
Myron L Zumbach	Township Trustee	60.00
Karen M Cook	Township Clerk	30.00
Thomas L Funke	Township Trustee	30.00
Paul Krogman	Township Trustee	30.00
Patrick J Meehan	Township Trustee	30.00
Joel S Miles	Township Trustee	30.00
William C Oberbroeckling	Township Trustee	30.00
David D Pierschbacher	Township Trustee	30.00
Karen C Ries	Township Trustee	30.00
Kenneth E Ries	Township Trustee	30.00
Lary D Shaw	Township Trustee	30.00
James L Shover	Township Trustee	30.00
Kevin M Stansberry	Township Trustee	30.00
Gary D Vontalge	Township Clerk	30.00

All Ayes

Motion made by Helmrichs, second by Ries and carried to approve the Services Agreement with Covenant Medical Center, Inc. for Inpatient Committal Psychiatric and Detoxification services for Delaware County residents. The new agreement includes a 3% increase in rates from FY 2009-10 with Inpatient Psychiatric Fee being $596.00/day inclusive of psychiatric fees. The Extended Inpatient Psychiatric Fee, inclusive of medical doctor charges, following the patient's court hearing will be $222.00/day. The term of said agreement shall be one (1) year. All Ayes

Motion made by Ries, second by Helmrichs and carried to approve the "Application for Fireworks Permit" submitted by Golden Congregational Church, Kathy Dolan, to conduct a fireworks display at 2959 190th Ave in Ryan on July 11, 2010 at 10 pm. No rain date was listed. The operator will be Bryan Hauschild. All Ayes

Motion made by Helmrichs, second by Ries and carried to approve the "Application for Fireworks Permit" submitted by Rich Gerhold and Randy Van De Vegte to conduct a display at 1618 255th St in Manchester on July 24, 2010 at 9:30 pm with a rain date of July 31, 2010. The operator of this display will be Rich Gerhold. All Ayes

Motion made by Ries, second by Helmrichs and carried to approve the Clerk of Court's Monthly Report and Remittance showing that for the month ending June 30, 2010, $,1473.57 was collected and deposited into the general funds for various surcharges and fines. All Ayes

Motion made by Helmrichs, second by Ries and carried to approve the Auditor's Quarterly Report showing that for the Quarter ending June 30, 2010 a total of $584.31 was collected and deposited into the general fund for administrative and GIS fees. All Ayes

Motion made by Helmrichs, second by Ries and carried to approve the Recorder's Monthly Report showing that for the month of June, 2010 the following fees were deposited into the respective funds:

General Fund	$11,424.75
Recorder's Document Management Fund	379.00
Electronic Transfer Fund	1,123.00
Total Collected	$12,926.75

All Ayes

Motion made by Helmrichs, second by Ries and carried to approve the Sheriff's Quarterly Report showing that for the Quarter ending June 30, 2010, $54,197.83 was collected and deposited into the general fund. All Ayes

Motion made by Ries, second by Helmrichs and carried to approve the following resolution regarding the closure of a county road for the Delhi parade:

RESOLUTION FOR ROAD CLOSURE
CITY OF DELHI PARADE

WHEREAS, the City of Delhi requests the closure of Franklin Street in Delhi from 1:00 p.m. to 4:30 p.m. on July 31, 2010 due to their city parade, and

WHEREAS, the City of Delhi will provide any and all necessary traffic control devices and law enforcement during the parade,

NOW THEREFORE BE IT RESOLVED that the Delaware County Board of Supervisors has approved the City of Delhi's request for road closure of Franklin Street.

Passed and approved this 6th day of July 2010.
/S/ Jeff Madlom, Chair
County Board of Supervisors
ATTEST: /S/ Carla K. Becker, County Auditor
All Ayes

Motion made by Helmrichs, second by Ries and carried to approve the Easement for Public Highway with Larry and Helen Heyer for a permanent easement, in consideration of $1,030.00 upon real estate known as Parcel #3 and Parcel #4 in the NE ¼ of Section Nine (9), Township Eighty-nine North (T89N), Range Five West (R5W) of the 5th P.M., Delaware County, Iowa as per acquisition plat recorded in Book 2010 Page 1031. Said easement is in regards to the Little Red School House Bridge Project. All Ayes

ENGINEER'S REPORT:

Contract Rock – Rock is being spread in the Hopkinton territory this week.

Midway Road (D34) Paving Project –The contractor is scheduled to start the shouldering operation at the end of this week. All driveways will be rocked along with the shoulders.

Winch Low Water Crossing – Footings are in place and side slopes will be constructed this week. Once slopes are built, the concrete crossing will be placed.

NEXT MEETING DATE & TIME:

The next regular meeting of the Board of Supervisors will be held on Monday, July 12, 2010 at 1:15 PM.

PUBLIC COMMENTS:

None

There being no further business before the Board, the meeting was adjourned at 2:16 PM. These minutes have been read and approved.

Jeff Madlom, Chairperson

Carla K. Becker, County Auditor

STATE OF IOWA, Delaware County-ss.

I, Lori A. Schulte Trenkamp, being duly sworn depose and say that I am general manager of The Manchester Press, a newspaper published weekly in Manchester, in said county, and that the Delaware County Supervisors

in case of Ordinace 32

a copy of which is hereto attached, was published in said newspaper for 1 weeks consecutively; the first publication having been made on the 14 day of July A.D. 20 10 and the last on the 14 day of July, A.D. 20 10.

Publication fee, $ 329.36

Lori A. Schulte Trenkamp

Subscribed by Lori A. Schulte Trenkamp and by her sworn to before me, a notary public in and of Delaware County, Iowa this 14th day of July A.D. 20 10

Witness my hand and seal the date last above written.

Missi Thede Notary Public

NOTARIAL SEAL IOWA
MISSI THEDE
Commission Number 758711
My Comm. Exp. 6/7/12

LEGAL NOTICE
DELAWARE COUNTY BOARD OF SUPERVISORS
DELAWARE COUNTY ORDINANCE #32
AN ORDINANCE REGULATING THE PLACEMENT OF WIND ENERGY CONVERSION SYSTEMS (WECS) ON PROPERTY LOCATED IN THE UNINCORPORATED AREAS OF DELAWARE COUNTY, IOWA

BE IT ENACTED BY THE DELAWARE COUNTY BOARD OF SUPERVISORS

SECTION 1. PURPOSE

The purpose of this ordinance is to establish guidelines for the siting, design and construction of Wind Energy Conversion Systems (WECS) and substations which generate electricity for use at the location of the WECS or to be sold to wholesale or retail markets. In addition, the purpose of this Ordinance shall be to promote the public health, safety, comfort and general welfare, while facilitating economic opportunities for rural residents and promoting a goal of increased energy production from renewable energy sources. The requirements of this Ordinance shall apply to all WECS constructed after the effective date of this Ordinance. WECS for which a required permit has been properly issued prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided, that any such pre-existing WECS, which does not provide energy for a continuous period of twelve (12) months, shall meet the requirements of this Ordinance prior to recommencing production of energy. Also, no modification or alteration to an existing WECS shall be allowed without full compliance with this Ordinance.

SECTION 2. DEFINITIONS

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

Applicant: The owner or operator of a WECS.

Aggregated Project: Aggregated projects are those which are developed and operated in a coordinated fashion, but may have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregate project.

Commercial Wind Energy Conversion System (C-WECS):A WECS of equal to or greater than (100/40) kW in total name plate generating capacity.

Easement: A legal interest in land, as defined in a document recorded in the office of the Delaware County Recorder, granted by the owner to another person or entity, which allows that person(s) or entity(ies) the use of all or a portion of the owner's land, generally for a stated purpose and duration, including, but not limited to, access or placement of utilities.

Electromagnetic Interference (EMI):The interference to communication systems created by scattering of electromagnetic signals.

Fall Zone: The area, defined as the furthest distance from a tower base, in which a guyed tower or self-supporting tower will collapse in the event of a structural failure. This area includes the total height of the structure based upon the tower's structural design plus ten (10) percent.

Feeder Line: Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electrical power grid. In the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the WECS(s).

Meteorological Tower: For the purpose of this Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS.

Non-Commercial WECS (Non C-WECS):A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

Operator: The entity responsible for the day-to-day operation and maintenance of the WECS, including third party subcontractors.

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

Professional Engineer: A qualified individual who is licensed in the state of Iowa as a professional engineer.

Residence: A house, apartment or other shelter that is the abode of a person, family, or household.

Rotor Diameter: The diameter of the circle described by the moving rotor blades of a WECS.

Setback: The minimum required distance from the property line, right-of-way, or easement to any portion of the structure.

Shadow Flicker: The alternating pattern of sun and shade caused by the wind tower blades casting a shadow.

Structure: Anything constructed or erected on the ground or attached to the ground, including but not limited to, antenna(s), buildings, sheds, cabins, dwellings (built on-site or factory built homes), signs, storage tanks, towers, windmills and other similar uses.

Substation: The apparatus that connects the electrical connection system of the WECS(s) and increases the voltage for connection with the utility's (or owner's) transmission lines.

Total Height (WECS): The highest point, above ground level, reached by the rotor tip or any other part of the WECS.

Tower: The vertical structure that supports the electrical generator, nacelle, rotor blades, or meteorological equipment.

Tower Height: The total height of the WECS inclusive of rotor blades.

Transmission Line: 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 retail customers.

Wind Energy Conversion System (WECS):All necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformers, electrical cabling and meteorological towers from the WECS Tower to the Substation(s).

WECS Project: The collection of WECS(s) and Substations as specified in the siting approval application pursuant to Section 5 of this Ordinance.

Wind Turbine: A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

SECTION 3. SITING APPROVAL APPLICATION REQUIREMENTS.

The applicant for the siting and construction of a WECS shall file an application, accompanied by a fee as established by the Delaware County Board of Supervisors and payable to the Treasurer of Delaware County, Iowa.

A. In addition to the submittal requirements defined for Permit applications, all applications for C-WECS must submit the following information (as applicable).

A WECS Project summary, including, to the extent possible: (1) a general description of the project, including its approximate nameplate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), number of WECS(s), and the name plate generating capacity of each WECS; and (2) a description of the Applicant, Owner and Operator, including their respective business structures.

The names of project applicant.

The name of the project owner.

The legal description and address of the project.

Tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.

Site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.

Engineer's certification(s) as required in these supplemental standards.

Documentation of land ownership or legal control of the property.

The latitude and longitude of individual wind turbines.

A U.S.G.S. topographical map, or map with similar data, of the property and surrounding area, including any other C-WECS within 10 rotor diameters of the proposed C-WECS.

Location of wetlands, scenic, and natural areas [including bluffs] within 1,320 feet of the proposed C-WECS.

An Acoustical Analysis.

F.A.A. Permit Application.

Location of all known communications towers/facilities within 2 miles of the proposed C-WECS.

Decommissioning Plan.

Description of potential impacts on nearby C-WECS and Non C-WECS and wind resources on adjacent properties.

Identification of significant migratory patterns and nesting areas for birds and bats and identification of endangered species within one (1) mile. A qualified professional such as a wildlife biologist, shall conduct a habitat and migration route study, as part of the siting approval application process, to determine if the installation of WECS(s) will have a substantial adverse impact on these animals.

Location of all known communications towers/facilities within 2 miles of the proposed C-WECS.

Decommissioning Plan.

Description of potential impacts on nearby C-WECS and Non C-WECS and wind resources on adjacent properties.

Identification of significant migratory patterns and nesting areas for birds and bats and identification of endangered species within one (1) mile. A qualified professional such as a wildlife biologist, shall conduct a habitat and migration route study, as part of the siting approval application process, to determine if the installation of WECS(s) will have a substantial adverse impact on these animals.

B. The Applicant, Owner or Operator shall submit a copy of the site plan and Emergency Action Plan to the Delaware County Emergency Management Administrator.

The Applicant shall notify Delaware County of any changes to the information provided in Section 3 that occur while the siting approval application is pending.

SECTION 4. GENERAL REQUIREMENTS FOR C-WECS AND METEOROLOGICAL TOWERS.

In addition to satisfactorily addressing the considerations set forth in the previous section, the applicant must provide documentation that the following requirements have been met.

Color and finish. Wind Turbines shall be painted a non-reflective color. Blades may be black in order to facilitate de-icing. Finishes shall be matte or non-reflective. At C-WECS sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the C-WECS to the natural setting and existing environment.

Tower Configuration. All wind turbines, which are part of a C-WECS, shall be installed with a tubular, monopole type tower. Meteorological towers may be guyed.

Tower density. There shall not be more than one C-WECS per acre.

Lighting. C-WECS sites shall not be artificially lighted, except to the extent required by the F.A.A. or other applicable authority or for night time repairs/maintenance. Lighting, including lighting intensity and frequency of strobe, shall adhere to, but not exceed, requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for nighttime illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exception may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

Signage. Upon completion of the WECS Tower, the Owner's company name and/or logo and the phone number and name of the person to contact in case of emergency shall be placed upon the base of the WECS Tower or the entrance to any enclosure fence. Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer, owner or operator of the C-WECS sites.

Feeder Lines. All communications and feeder lines, equal to or less than 34.5 kV in capacity, installed as part of a C-WECS shall be buried not less than forty eight (48) inches deep.

Waste Disposal. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site in a time period as established by the Delaware County "County Services" Department and disposed of in accordance with all applicable local, state and federal regulations.

8. Minimum Ground Clearance. The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.

9. Signal Interference. The applicant shall provide to applicable microwave transmission providers and the Emergency Management Administrator copies of the project summary and site plan, in accordance with Section 3, of this Ordinance. The applicant shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any C-WECS. If, after construction of the WECS, the Owner or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall take reasonable steps to respond to the complaint.

10. Federal Aviation Administration. All C-WECS shall comply with F.A.A. standards and permits.

11. Electrical Codes and Standards. All C-WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

12. Setbacks. The following setbacks and separation requirements shall apply to all Wind Turbines and meteorological towers:

a) Inhabited Structures. Each wind turbine and meteorological tower shall be set back from the nearest residence, which is able to be occupied, school, hospital, church or public library, a distance no less than (i) two (2) times its total height or (ii) one thousand (1,000) feet, whichever is greater.

b) Property Lines. At no time shall any part of the wind turbine and meteorological tower overhang an adjoining property without securing appropriate easements from adjoining property owners.

c) Public Right-of-Way. Setbacks from public right-of-way, railroads, power lines and structures shall be a minimum of 1.1 times the height of the tower and rotor.

d) Communication and Electrical Lines. Each wind turbine and meteorological tower shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 1.1 times its total height, determined from the existing power line or telephone line.

13. Noise. Audible noise due to C-WECS sites operations shall not exceed fifty-five (55) decibel A (dBA) for any period of time, when measured at any dwelling, school, hospital, church or public library existing on the date of approval of any permit.

a) In the event audible noise due to C-WECS operations contains a steady pure tone, such as a whine, screech or hum, the standards for audible noise set forth in this subsection shall be reduced by five (5) dBA.

b) In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is succeeded for more than five (5) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.

c) In the event the noise levels resulting from the C-WECS exceed the criteria listed above, a waiver to said levels may be granted by the Board of Supervisors provided that the following has been accomplished:

(i) Written consent from the affected property owners has been obtained stating that they are aware of the C-WECS and the noise limitations imposed by this Ordinance, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and

(ii) If the applicant wishes the waiver to apply to succeeding owners of the property, a permanent noise impact easement shall be recorded in the Office of the Delaware County Recorder which describes the burdened properties and which advises all subsequent owners of the burdened property that noise levels in excess of those permitted by this Ordinance may exist on or at the burdened property.

14. Safety.

a) 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 Delaware County Board of Supervisors.

b) Wind Turbine and meteorological towers shall not be climbable up to fifteen (15) feet above ground level.

c) All access doors to Wind Turbine and Meteorological Towers and electrical equipment shall be locked when not being serviced.

d) Appropriate visible warning signage shall be placed on Wind Turbine towers, electrical equipment, and C-WECS entrances.

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

f) All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed control.

g) 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 twelve (12) feet above the ground. Visible fencing shall be installed around anchor points of guy wires. The property owner must sign a notarized acknowledgement and consent form allowing construction of the turbine and guyed wires without fencing as required in this Ordinance to be presented to the Board of Supervisors.

15. Exceptions to this section may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

SECTION 5. AVOIDANCE AND MITIGATION OF DAMAGES TO PUBLIC INFRASTRUCTURE

Roads. Applicants shall identify all roads to be used for the purpose of transporting C-WECS, substation parts, concrete, and/or equipment for construction, operation or maintenance of the C-WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.

Existing Road Conditions. Applicant shall conduct a pre-construction baseline survey, in coordination with the impacted local road authority(ies) to determine existing road conditions for assessing potential future damage. The survey shall include photographs and a written agreement to document the condition of the public facility. The applicant is responsible for on-going road maintenance and dust control measures identified

consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and

(ii) If the applicant wishes the waiver to apply to succeeding owners of the property, a permanent noise impact easement shall be recorded in the Office of the Delaware County Recorder which describes the burdened properties and which advises all subsequent owners of the burdened property that noise levels in excess of those permitted by this Ordinance may exist on or at the burdened property.

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b) Wind Turbine and meteorological towers shall not be climbable up to fifteen (15) feet above ground level.

c) All access doors to Wind Turbine and Meteorological Towers and electrical equipment shall be locked when not being serviced.

d) Appropriate visible warning signage shall be placed on Wind Turbine towers, electrical equipment, and C-WECS entrances.

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

f) All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed control.

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15. Exceptions to this section may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

SECTION 5. AVOIDANCE AND MITIGATION OF DAMAGES TO PUBLIC INFRASTRUCTURE

Roads. Applicants shall identify all roads to be used for the purpose of transporting C-WECS, substation parts, concrete, and/or equipment for construction, operation or maintenance of the C-WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.

Existing Road Conditions. Applicant shall conduct a pre-construction baseline survey, in coordination with the impacted local road authority(ies) to determine existing road conditions for assessing potential future damage. The survey shall include photographs and a written agreement to document the condition of the public facility. The applicant is responsible for on-going road maintenance and dust control measures identified by the Delaware County Engineer during all phases of construction. The applicant is responsible for any costs required to repair roads to pre-construction baseline condition. Delaware County reserves the right to halt operations if road conditions deteriorate to a point that creates a hazard to the public. The Delaware County Engineer will conduct a post construction survey with the applicant.

Drainage System. The Applicant shall be responsible for immediate repair for damage to public drainage systems stemming from construction, operation or maintenance of the C-WECS. All bridge and culvert crossings must be preapproved by the Delaware County Engineer.

Performance Bond or Equivalent Financial Instrument. The applicant shall be responsible for restoring or paying damages as agreed to by the applicable road authority(ies) sufficient to restore the road(s) and bridges and culverts to preconstruction conditions. A performance bond or equivalent financial instrument, approved by the Delaware County Attorney's Office, shall be submitted, upon the commencement of construction, covering 130% of the costs of all required improvements. This requirement may be waived by the Board of Supervisors' written recommendation from the Delaware County Engineer.

SECTION 6. DISCONTINUATION AND DE-COMMISSIONING

C-WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Administrator outlining the steps and schedule for returning the C-WECS to service. All C-WECS and accessory facilities shall be removed to four (4) feet below ground level within one-hundred eighty (180) days of the discontinuation of use. An extension to such period may be granted by the Board of Supervisors provided that the Owner or Operator submits an acceptable alternate plan for the decommissioning and thereafter diligently pursues such decommissioning until completed. Each C-WECS shall have a decommissioning plan outlining the anticipated means and cost of removing C-WECS at the end of their serviceable life or upon becoming a discontinued use. 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. Delaware County reserves the right to verify that adequate decommissioning terms are contained in the landowner easement.

SECTION 7. NON-COMMERCIAL WECS (Non C-WECS).

Non-Commercial WECS, are subject to the following standards. In addition to satisfactorily addressing all other requirements of this Ordinance, the applicant must provide documentation that the following requirements have also been met.

Tower Height: Non C-WECS shall not exceed one hundred (100) feet in height by the Delaware County Board of Supervisors. Non C-WECS shall be subject to all height limitations as necessary to comply with other sections of this Ordinance and those imposed by F.A.A. regulations.

Setback: No part of the wind system structure, including guy wire anchors, may extend closer than ten (10) feet to the property boundaries of the installation site. The distance of the base of the tower from any property line shall be a minimum of 115% of the total height of the tower.

Noise: Non C-WECS shall not exceed 50 dBA, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

Engineer Certification: Applications for Non C-WECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the applicable regulations and certified by an Iowa licensed professional engineer shall also be submitted. This analysis is frequently supplied by the manufacturer.

Compliance with F.A.A. Regulations: Non C-WECS must comply with applicable F.A.A. regulations, including any necessary approvals for installations close to airports.

Compliance with National Electric Code: Applications for Non C-WECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric code. This information is frequently supplied by the manufacturer.

Utility Notification: No Non C-WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

Insurance: The Owner seeking a Permit to erect a Non C-WECS shall provide evidence, in the form of a certificate of insurance satisfactory to Delaware County, showing general liability coverage for the installation and operation of the system under a standard homeowner's or standard business owner's insurance policy, separate and distinct from any insurance requirements of a public utility.

SECTION 8. LIABILITY INSURANCE.

The Owner or Operator of any WECS(s), Non C-WECS, or Meteorological Towers, subject to this Ordinance, shall maintain a current general liability policy covering bodily injury and property damage with limits of at least Three Million Dollars ($3,000,000) per occurrence and Three Million Dollars ($3,000,000) in the aggregate.

SECTION 9. PERMITS.

All WECS, C-WECS, and Meteorological Towers are subject to construction permit requirements. Permit issuance is contingent upon documentation of F.A.A. approval and approval of the Delaware County Board of Supervisors.

SECTION 10. REPEALER.

All ordinance(s) in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 11. SEVERABILITY.

Should any section or provisions of this Ordinance be declared by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be invalid or unconstitutional.

SECTION 12. PENALTY

Any person, persons, firms, partnerships or corporations, whether acting alone or in concert with any other, who violates this Ordinance, shall be guilty of a County Infraction and shall be penalized as set forth in Ordinance #32 of Delaware County, Iowa.

SECTION 13. EFFECTIVE DATE.

This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

Passed and Approved this 6th day of July, 2010.

/S/ Jeff Madlom, Chairperson
Delaware County Board of Supervisors
Attest: /S/ Carla K. Becker, County Auditor