

ADAMS COUNTY ORDINANCE #

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

BE IT ENACTED BY THE ADAMS COUNTY BOARD OF SUPERVISORS

SECTION 1. PURPOSE

The purpose of this Ordinance shall be to promote public health, safety, comfort and general welfare of Adams County while facilitating economic opportunities and increasing the property tax base for rural residents, and to promote a goal of increased energy production from renewable energy sources, all in furtherance of and coordination with the Adams County Comprehensive Plan.

SECTION 2. NEW SECTION 21.19, WIND ENERGY CONVERSION SYSTEMS

There shall hereby exist a new Section 21.19, Wind Energy Conversion Systems, in the Adams County Code of Ordinances, as follows:

21.19 WIND ENERGY CONVERSION SYSTEMS

A. Purpose and Intent.

This Section 21.19 will establish guidelines for the siting, construction and operation of Wind Energy Conversion Systems (“WECS”) to generate electricity. If this Section 21.19 conflicts with any other provision of the Adams County Code of Ordinances, this Section 21.19 shall control.

No WECS or Wind Turbine shall be constructed, erected, converted, installed, reconstructed, enlarged, located, relocated or otherwise developed including the placement of additional buildings and appurtenances without being in full compliance with the terms of this Section 21.19 and other applicable laws, codes, regulations and policies adopted by any local, state, or federal governmental authority.

A repair, repower, modification or alteration of an existing WECS shall be allowed with full compliance with this Section 21.19.

B. Definitions.

Words used in this Section 21.19 shall be defined as follows:

1. Applicant. The person or entity submitting the application under this Section 21.19, which is normally expected to be the Owner or Operator of a WECS. The Applicant need not be the owner of the underlying land, but an Applicant must have some property right or permission to include all land included in an application.
2. Commercial Wind Energy Conversion System (“CWECS”). A WECS with a nameplate generating capacity of one hundred (100) kilowatts (“kW”) or greater that generates electricity from wind energy primarily for sale to an electric utility or other third-party commercial or industrial user. A CWECS includes, but is not limited to, the Wind Turbines,

connection and interconnection infrastructure, operation and maintenance building, fencing, roads and driveways, project substation, interconnection substation, related energy storage infrastructure, if any, and any necessary or related accessory or ancillary facilities.

3. 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.
4. Meteorological Tower (“MET”). Any meteorological, measuring or surveying equipment or devices erected on or attached to any tower, monopole or guyed structure to verify the wind and weather resources within a certain area.
5. Non-Commercial WECS (“Non-CWECS”). A WECS with a nameplate generating capacity of less than one hundred (100) kW.
6. Non-Participating Landowner. A landowner not under any contractual agreement with the Owner or Operator of the WECS.
7. Operator. The party or entity responsible for the day-to-day operation and maintenance of the WECS.
8. Owner. The entity or entities with an equity interest in the WECS, including their respective successors and assigns. The Owner does not mean: (i) the property owner from whom a lease, easement or other property right is acquired 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 solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS at the earliest practical date.
9. Participating Landowner. A landowner under lease, easement or other contractual agreement with the Owner or Operator of the WECS.
10. Professional Engineer. A qualified individual licensed in the State of Iowa as a professional engineer.
11. Residence. A house, apartment or other shelter that is the abode of a person, family or household and regularly occupied.
12. Rotor Diameter. The diameter of the circle described by the moving rotor blades of a Wind Turbine.
13. Setback. The minimum required distance from a certain object, structure or point to the center point of the foundation of the Wind Turbine at the natural ground level.
14. Structure. Anything constructed or erected on the ground or attached to the ground, including but not limited to, antenna(s), buildings, sheds, cabins, residences, signs, storage tanks, towers, Wind Turbines and other similar objects.
15. Substation. The apparatus that connects the electrical connection system of the WECS and increases the voltage for connection with the transmission lines of the utility, transmission owner or WECS owner.

16. Third Party. An individual or entity involved in a transaction, other than the WECS Owner or Operator and participating or non-participating landowners, thus, having a lesser interest in the transaction.
17. Total Height. The total height of the Wind Turbine inclusive of rotor blades, as measured from the ground to the tip of the blade when fully extended in the twelve o'clock position.
18. Tower. The vertical structure that supports the electrical generator, nacelle, rotor blades or meteorological equipment.
19. Transmission Line. Those electrical power lines that carry at least sixty-nine thousand (69,000) volts (69 kV) and are primarily used to carry electrical energy over medium to long distances rather than directly interconnecting and supplying electrical energy to customers.
20. Wind Energy Conversion System (“WECS”). All necessary devices that together convert wind energy into electricity, including Wind Turbines, electrical components, transformers, feeder lines, substations, meteorological towers and other accessory structures, that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
21. Wind Turbine. Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy, primarily made up of a foundation, tower, nacelle and rotors. This equipment includes any base, blade, foundation, generator, nacelle, rotor or tower integrated as part of a single device. This definition shall not include buried wires, subsurface electrical transmission equipment or ancillary above-ground electrical structures such as junction boxes and step-up transformers.

C. Commercial Wind Energy Conversion Systems (“CWECS”).

1. Conditional Use Permit.

CWECS are permitted in the A-1 zoning district only after receiving a Conditional Use Permit from the Board of Adjustment and only in compliance with any conditions the Board of Adjustment may specify as part of such a permit. Notwithstanding anything in this Ordinance to the contrary, there shall be a maximum of one hundred seventy-five (175) commercial Wind Turbines in Adams County at any given time. In no event shall the Board of Adjustment permit any commercial Wind Turbine in excess of said limit.

2. Application Fees.

- a. All checks are to be made payable to the “Adams County Engineer.”
- b. A fee of \$1,000 shall accompany the application.
- c. For modifications to an existing CWECS where physical structural changes are being made, a fee of \$1,000 shall accompany the application.
- d. No fee or application is required for like replacements, repairs or maintenance.

- e. All fees are non-refundable.

3. Submittal Requirements.

Applicants for a Conditional Use Permit for a proposed CWECS shall make application to the County Engineer. The application shall include, at a minimum, the following:

- a. Applicant’s name, contact information and certificate of organization or articles of incorporation, as applicable.
- b. Contractor’s information, including name and contact information, if not known at the time of application, Applicant shall provide once established.
- c. Site information, including site address, parcel number, legal description and approximate latitudes and longitudes of proposed Wind Turbines.
- d. General description of the CWECS:
 - i. Approximate nameplate generating capacity.
 - ii. Point of Interconnection.
 - iii. Number of proposed Wind Turbines.
 - iv. Projected cost of construction.
 - v. Projected completion date of construction.
 - vi. Projected date of commercial operation.
- e. Physical characteristics of Wind Turbines:
 - i. Tower height.
 - ii. Rotor Diameter.
 - iii. Total Height.
 - iv. Lighting.
 - v. Foundation specifications.
 - vi. Manufacturer and model.
- f. Engineer’s certification(s) of wind turbines from manufacturer.
- g. Documentation of land ownership or legal control of the property.
- h. Site Plan reflecting distances and drawn to scale. The Site Plan shall comply with all setback requirements, and shall include, at a minimum, the following:
 - i. CWECS boundary.
 - ii. Boundary of energy storage facility, if any.
 - iii. All property lines, existing structures and public right-of ways.
 - iv. All proposed improvements, including Wind Turbines, electrical grid, substations, operations and maintenance buildings and accessory structures.
 - v. Interconnection point with the electrical grid.

- i. An acoustical analysis demonstrating compliance with the sound limits in Subsection 21.19(C)(6)(I), measured using A-weighted decibels (“dBA”) over a 10-minute Leq (equivalent continuous sound level).
- j. Copies of any/all applications for Federal Aviation Administration (“FAA”) No Hazard Determinations.
- k. Description of potential impacts on nearby WECS and wind resources on adjacent properties, if any.
- l. A report of findings by a qualified professional on the potential, if any, impact on the migratory patterns and nesting areas for birds and bats, and identification of endangered species within one (1) mile of the Wind Turbine site(s).
- m. Evidence the CWECS meets commonly accepted management practices for avian, wildlife and environmental protections.
- n. An emergency action plan and evidence Applicant provided a copy of the site plan and emergency action plan to the Emergency Management Association.
- o. Plan for site grading, erosion control and stormwater drainage. A stormwater pollution prevention plan (“SWPPP”) shall be submitted to the County Engineer for review and approval before granting a permit to construct.
- p. Certificate of insurance with a minimum of \$10,000,000 of commercial general liability coverage per occurrence, or such other amount as the Board of Supervisors may determine in its discretion, and all other insurance required by law.

4. Agency Notice.

Prior to submitting a Conditional Use Permit application, the Applicant shall meet with the County Engineer and agree to a list of applicable governmental and community agencies to which Adams County will require notice before it considers the application. Those agencies shall include, but are not limited to, the following:

- a. Federal Aviation Administration.
- b. Federal Communications Commission.
- c. Iowa Department of Transportation.
- d. Army Corps of Engineers.
- e. Iowa Utilities Board.
- f. U.S. Fish and Wildlife Service.
- g. U.S. Department of Agriculture (Local FSA and NRCS).
- h. Environmental Protection Agency.
- i. Iowa Department of Natural Resources.
- j. Office of State Archaeologist.
- k. Bureau of Land Management.
- l. Adams County Engineer’s Office.

- m. Adams County Conservation Board.
- n. Adams County Emergency Management Association.
- o. All incorporated municipalities within the County.

Applicant shall be responsible for notifying all applicable governmental and community agencies and allowing each agency sixty (60) days to conduct a preliminary review of the proposed CWECS. Documentation of notification of these agencies, and any reports from the agencies, are to be provided to the County Engineer when the application is submitted. If any agency does not act within sixty (60) days, the proposed CWECS may be deemed approved by the agency that failed to act upon proof of notice.

5. Permitting Process. The applicant shall go through the following process for approval of a Conditional Use Permit:
- a. The Applicant shall provide the completed application with all additional required information to the County Engineer with the appropriate fees.
 - b. Within sixty (60) days following receipt of the application, the County Engineer shall consider the application for recommendation to the Board of Adjustment.
 - c. Within sixty (60) days following recommendation by the County Engineer, the Board of Adjustment shall schedule a public hearing regarding the application.
 - d. Notice shall be given to the public, by publication in the official newspaper(s) of Adams County, no less than ten (10) days and not more than twenty (20) days prior to the public hearing.
 - e. Notice shall also be given to all property owners located within one (1) mile of the CWECS, by ordinary mail, no less than ten (10) days and not more than twenty (20) days prior to the public hearing.
 - f. The Board of Adjustment may prescribe additional appropriate conditions and safeguards in conformity with this Section 21.19 and other ordinances of Adams County. Said additional conditions and safeguards shall be made as an addendum to the Conditional Use Permit.
 - g. Approval of a Conditional Use Permit for a WECS shall expire if continuous construction or operation does not commence within two (2) years from the date of approval by the Board of Adjustment, unless the Board of Adjustment specifically grants a longer period of time for the validity of the permit, which extension shall not be unreasonably withheld. “Continuous construction or operation” means that once such construction or operation begins, it is not inactive for any period longer than six (6) months.

6. Special Requirements.

As part of the siting, construction and operation of the CW ECS, the CW ECS Owner and Operator must comply with the following requirements:

- a. Color and Finish. CW ECS shall be painted a non-obtrusive color, such as white or gray. Blades may be black to facilitate de-icing. Finishes shall be matte or non-reflective.
- b. Tower Configuration. Wind Turbines shall be installed with a tubular, monopole-type tower. Meteorological towers may be guyed.
- c. Height.
 - i. Wind Turbines shall not exceed five hundred ninety-one (591) feet in Total Height, except where state or federal agencies may otherwise prescribe.
 - ii. The height shall be subject to FAA requirements relative to area airports.
- d. Lighting. Wind Turbines shall not be artificially lighted, except to the extent required by the FAA or other applicable authorities, or for nighttime repairs or maintenance. Lighting, including lighting intensity and frequency of strobe, shall adhere to, but not exceed, requirements established by FAA regulations. If permitted by the FAA and Federal Communications Commission (“FCC”), all CW ECS shall utilize an aircraft detection lighting system (“ADLS”). If ADLS is not permitted by the FAA and/or FCC, but subsequently becomes permitted, the Owner or Operator of the CW ECS shall install ADLS within eighteen (18) months of said approval.
- e. Signage. Upon completion, the Owner’s name and/or logo and the phone number to contact in case of emergency shall be placed upon the base of each Wind Turbine and the entrance to any enclosure fence. Each CW ECS site will have an assigned situs address. Wind Turbines shall not be used for advertising except for reasonable identification of the manufacturer, Owner or Operator of the CW ECS.
- f. 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 CW ECS site in the manner and timing established by local, state and federal regulations.
- g. Minimum Ground Clearance. The minimum distance between the ground level and any part of the rotor blades or airfoils shall be fifty (50) feet.
- h. Signal Interference. The Owner shall minimize and mitigate any Electromagnetic Interference (“EMI”), also called Radio-Frequency Interference (“RFI”), caused by the CW ECS, with electromagnetic communications, such as radio, internet, telephone, cellular, wireless, broadband, Doppler or television signals. All CW ECS shall be operated in a manner that does not materially interfere with the usability or accuracy of any weather monitoring system, especially radar. If, after the construction of the CW ECS, 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 and address the complaint.

- i. Federal Aviation Administration. All Wind Turbines shall comply with FAA standards and regulations. Applicant shall obtain a Determination of No Hazard to Air Navigation (“DNH”) for each Wind Turbine before construction. Applicant shall provide copies of all DNHs to the County Engineer.
- j. Electrical Codes and Standards. All CWECS shall comply with the National Electrical Code and all other applicable local, state and federal regulations.
- k. Shadow Flicker. The Owner or Operator shall make reasonable efforts to minimize shadow flicker on any occupied non-participating residence. The Owner or Operator shall limit shadow flicker on any occupied non-participating residence to thirty (30) hours over the course of an annual period. Applicant shall provide shadow flicker modeling data showing compliance with this Ordinance. Applicant shall also submit a shadow flicker mitigation plan with the application, outlining steps that will be taken to minimize shadow flicker.
- l. Sound.
 - i. No CWECS shall exceed sound levels of fifty-five (55) A-weighted decibels (dBA) 10-minute Leq (equivalent continuous sound level) as measured at the nearest exterior wall of any occupied non-participating residence, commercial structure, or public service facility. This limit, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.
 - ii. In the event the sound levels resulting from the CWECS exceed the criteria listed in this section, a waiver of said limits may be granted by the Board of Adjustment subject to the following:
 - 1. CWECS Owner has obtained written consent from the affected property owner(s) stating: (i) the sound limit imposed by this Section 21.19, and (ii) the modified sound limit the CWECS Owner and the affected property owner have agreed to.
 - 2. Such a consent shall not bind subsequent property owners unless a sound impact easement is recorded in the Adams County Recorder’s Office.
- m. Setbacks. The following setbacks and separation requirements shall apply to all Wind Turbines and Meteorological Towers, as measured from the closest exterior wall of any certain object, structure or point to the nearest edge of the Wind Turbine or Meteorological Tower at the natural ground level:
 - i. Inhabited Structures (Non-Participating Landowners). Each Wind Turbine and Meteorological Tower shall be set back from any adjacent non-participating residence, which is able to be occupied, or any school, hospital, church or public library (which such residence, school, hospital,

church or public library exists as of the date of the Conditional Use Permit issued by the Board of Adjustment for the CWECS), a distance of two thousand (2,000) feet; provided, however, battery energy storage components, if any, shall be set back a distance of two thousand six hundred forty (2,640) feet from the same. An affected property owner may waive this setback requirement by executing a written waiver or agreement.

- ii. Inhabited Structures (Participating Landowners). Each Wind Turbine and Meteorological Tower shall be set back from the nearest participating residence, which is able to be occupied, a distance no less than one and one-tenth times (1.1x) the Total Height. An affected property owner may waive this setback requirement by executing a written waiver or agreement.
- iii. Property Lines. Each Wind Turbine and Meteorological Tower shall be set back from adjacent property lines a distance no less than two times (2x) the Total Height provided, however, battery energy storage components, if any, shall be set back a distance of two thousand six hundred forty (2,640) feet from the same. An affected property owner may waive this setback requirement by executing a written waiver or agreement.
- iv. Public Right-of-Ways. Each Wind Turbine and Meteorological Tower shall be set back from public right-of-ways a distance no less than one and one-tenth times (1.1x) the Total Height.
- v. Radio Communication Pathways. Each Wind Turbine and Meteorological Tower shall be set back from Adams County radio communication paths, or those paths planned to be used by Adams County at the time of the application, if any, so that no part of the Wind Turbine interferes with such path's Fresnel zone.
- vi. Public Areas. Each Wind Turbine and Meteorological Tower shall be set back from property lines of designated public areas, publicly owned conservation areas and other publicly owned areas managed by the Adams County Conservation Board as set forth below:
 - 1. State Parks: one (1) mile setback from the park property line.
 - 2. Lake Icaria: one (1) mile setback from the lake property line.
 - 3. Lake Binder: one (1) mile setback from the lake property line.
 - 4. Conservation Lands: one and one-tenth times (1.1x) the Total Height.
- vii. Municipalities. Each Wind Turbine and Meteorological Tower shall be set back from any municipality's corporate limits a distance no less than two (2) miles. An affected municipality may waive this setback requirement by executing a written waiver or agreement.
- n. Water Wells. The Owner or Operator of the CWECS shall be liable for disrupting or polluting water wells on adjacent properties. After CWECS construction, an adjacent landowner shall have six (6) months to file a verified claim with the County Engineer, including third-party professional documentation and testing results demonstrating CWECS construction disrupted and/or polluted the well.

Following a verified claim, the Board of Supervisors, at its discretion, may prescribe remedial measures at the cost of the Owner or Operator of the CWECS, including repair or replacement of the well, or bringing rural water to the affected landowner.

7. Safety.

- a. All wiring between Wind Turbines and the substation shall be underground not less than seventy-two (72) inches deep. If the Applicant can demonstrate the need for an overhead line, such an option may be approved conditionally by the Board of Adjustment.
- b. Wind Turbines and Meteorological Towers shall not be climbable on their exterior up to fifteen (15) feet above ground level, except for stairs used to reach the access door used for entry into the Wind Turbines.
- c. All access doors to Wind Turbines, meteorological towers and electrical equipment shall be locked when not in service.
- d. At the discretion of the Board of Adjustment, critical electrical and communications equipment may be fenced with chain-link fence topped with barbed wire when such measures are necessary to ensure public safety.
- e. Appropriate visible warning signage shall be placed on Wind Turbines, electrical equipment and substation entrances.
- f. For all guyed Meteorological Towers, visible and reflective objects, such as plastic sleeves, balls, 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.
- g. All CWECS and any related energy storage facility shall provide the following at all locked entrances:
 - i. A visible “High Voltage” warning sign
 - ii. Name(s) and phone number(s) for the electric utility provider(s)
 - iii. Name(s) and phone number(s) for the Operator(s)
 - iv. The facility’s 911 address and GPS coordinates
 - v. The Operator will coordinate with the local fire department, Adams County Emergency Management Association and 911 service departments to provide training on an annual basis for the first five (5) years the project is complete and in operation. Said training will commence within six (6) months prior to the completion of the project. After that, offered on an annual basis for the life of the project. All emergency responding agencies will sign off that said training was completed or offered.

8. Ownership/Management Changes.

- a. Notification shall be given to the County Engineer upon change of ownership of a CWECS.
- b. Notification shall be given to the County Engineer upon change of management of a CWECS.

9. Avoidance and Mitigation of Damages to Public Infrastructure and Decommissioning.

- a. Roads. Prior to construction, the Applicant or the Owner shall enter into a road use and maintenance agreement with the Board of Supervisors. The Applicant must provide a proposed road use and maintenance agreement with the Conditional Use Permit application. The Applicant or Owner, at its sole cost, shall pay for all road improvements necessary for construction and shall promptly repair all damage to public roads arising from the construction, operation or maintenance of the CWECS, subject to the terms and conditions of the approved road use and maintenance agreement. The road use and maintenance agreement shall require financial security for such obligations in the form of a bond, letter of credit, corporate guaranty or other security instrument acceptable to the Board of Supervisors. The County Engineer must preapprove all haul routes for CWECS materials and equipment prior to construction.
- b. Drainage System. The Applicant or the Owner, at its sole cost, shall promptly repair all damage to public drainage systems arising from the construction, operation or maintenance of the CWECS. The County Engineer must preapprove all bridge and culvert crossings prior to construction.
- c. Decommissioning. Prior to construction, the Applicant or the Owner shall enter into a decommissioning agreement with the Board of Supervisors. The Applicant must provide a proposed decommissioning agreement with the Conditional Use Permit application. The decommissioning agreement shall contain, at minimum, the following:
 - i. Decommissioning Plan. The Applicant or the Owner shall provide a decommissioning plan. The decommissioning plan shall specify the steps to decommission the CWECS, including removal of all turbines, foundations, equipment and restoration activities. Turbines, foundations, equipment and wiring beneath the soil surface, fencing, roadways and other infrastructure should be removed to a depth of seventy-two (72) inches, unless the underlying landowner otherwise agrees in writing. Hazardous wastes to be removed should be identified, along with the appropriate state and local regulations for their management and proper disposal. In addition, the plan should require the restoration of the site to, as practicable, the same condition(s) that existed immediately prior to the construction of the CWECS, unless the underlying landowner otherwise agrees in writing.

- ii. Cost Estimate. The decommissioning plan shall include a cost estimate for the net decommissioning cost prepared by a Third-Party Professional Engineer. The net decommissioning cost estimate shall include the resale or salvage value of the CWECS and components. At the expense of the Applicant, the decommissioning cost estimate shall be completed or reviewed by a qualified third party approved by the Board of Supervisors.
- iii. Financial Security. The Applicant will provide financial security for decommissioning in the amount equal to the net decommissioning cost estimate (plus a reasonable percentage for contingencies) in the form of a bond, letter of credit, corporate guaranty or other security instrument acceptable to the Board of Supervisors. The Owner shall provide the financial security described herein to the Board of Supervisors prior to the commencement of construction.
- iv. Periodic Review/Adjustment. The Owner shall provide an updated decommissioning cost estimate, prepared by a Third-Party Professional Engineer, every three (3) years following the commencement of commercial operations, which shall consider changes in local, state or federal regulations, technology, operations and costs. The amount of the financial security shall be adjusted every three (3) years to match each updated decommissioning cost estimate.
- v. Abandonment; Discontinuation. The Owner shall notify the County Engineer immediately upon discontinuation of electricity production. A CWECS which fails to generate electricity for twelve (12) consecutive months shall be deemed abandoned or discontinued; provided, however, if unforeseen circumstances such as a fire, flood or tornado result in the absence of electrical generation for twelve (12) consecutive months, the County Engineer may grant an extension of time if the Owner demonstrates the CWECS will be substantially operational and producing electricity within twelve (12) months following said deadline. Upon discontinuation or abandonment, the Owner shall decommission the CWECS in accordance with the decommissioning plan.
- vi. Schedule. Upon abandonment or discontinuation, the Owner shall have ninety (90) days to start decommissioning and three hundred sixty-five (365) days to complete decommissioning of the CWECS, including all equipment and appurtenances related thereto, unless a longer period of time is agreed to by the Board of Supervisors.
- vii. Obligations of Future Owners. The Owner shall not assign its obligations under the decommissioning agreement unless the assignee agrees in a writing approved by the Board of Supervisors to assume all obligations and commitments to Adams County made by the prior Owner.

viii. Tax Obligations. The CW ECS shall remain taxable until decommissioning is complete and signed off by County Engineer.

ix. Failure to Complete Decommissioning. If the Owner fails to complete decommissioning in accordance with this Subsection 21.19(C)(9) or the decommissioning agreement referenced herein, the Board of Supervisors may immediately draw on the financial assurance and the County Engineer shall take all necessary measures to complete decommissioning, including the use of third party contractors.

D. Non-Commercial Wind Energy Conversion Systems (“Non-CW ECS”).

1. Accessory Use.

Non-CW ECS shall be considered an accessory use to a principal permitted use or an approved conditional use in any zoning district.

2. Special Requirements.

a. Tower Height. Non-CW ECS Wind Turbines shall not exceed one hundred (100) feet in Total Height. Non-CW ECS shall be subject to all height limitations necessary to comply with other sections of this Ordinance and those imposed by FAA regulations.

b. Setbacks. No part of the Non-CW ECS 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 one and one-tenth times (1.1x) the Total Height. An affected property owner may execute a written waiver of this distance requirement.

c. Sound. No Non-CW ECS shall exceed sound levels of fifty-five (55) A-weighted decibels (dBA) 10-minute Leq (equivalent continuous sound level) as measured at the nearest adjacent occupied residence. This limit, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.

d. Interference. The Non-CW ECS shall not interfere, with radio, television, computer or other electronic operations on the adjacent property. If the Non-CW ECS operations causes such interference, the Non-CW ECS Owner shall take necessary steps to eliminate such interference.

e. Engineer Certification. Building permit applications for Non-CW ECS 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 codes and standards and certified by a Professional Engineer shall also be submitted. The manufacturer frequently supplies this analysis.

- f. Regulatory Compliance. Non-CWECS must comply with applicable local, state and federal laws, including but not limited to, necessary approvals for installations near airports.
- g. Compliance with National Electric Code. Applications for Non-CWECS 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. The manufacturer frequently supplies this information.
- h. Utility Notification. No Non-CWECS shall be installed until evidence has been given that the utility company has been informed of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- i. Insurance. An Applicant to erect a Non-CWECS shall provide evidence, in the form of a certificate of insurance satisfactory to County Engineer, showing general liability coverage for the installation and operation of the Non-C-WECs system under a standard homeowner’s or standard business owner’s insurance policy, separate and distinct from any insurance requirements of a public utility.

E. Transfer.

Permits and the associated decommissioning and road use agreements granted under this Section 21.19 may be transferred to another party or entity subject to Board of Supervisors approval, which approval shall not be unreasonably withheld. Any assignee of the conditional use permits, building permits and/or associated decommissioning and road use agreements shall be subject to all the requirements of the subject permit, this Section 21.19 and the applicable agreements.

F. Liability.

The Owner and Operator of a WECS shall fully release Adams County from and indemnify Adams County against any liability associated with any WECS, device or facility built or operated in the unincorporated areas of Adams County.

G. Penalty.

Any person, persons, firms, partnerships or corporations acting alone or in concert with any other who violates this Ordinance shall be guilty of a simple misdemeanor as authorized by Iowa Code Section 331.302. In addition the Board of Adjustment may revoke or modify any Conditional Use Permit for material and on-going or repeated violations thereof.

SECTION 3. REPEALER

Any ordinance(s) in conflict with the provisions of this Ordinance are hereby repealed, including Subsection 21.7(F) (WECS) of the Adams County Code of Ordinances.

SECTION 4. 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 5. EFFECTIVE DATE

This Ordinance shall be effective for any application for a CWECS or Non-CWECS that is filed with Adams County after the publication of this Ordinance as required by law.

Passed and Approved this _____ day of _____, 2024

Scott Akin, Chairperson
Adams County Board of Supervisors

Rebecca Bissell, County Auditor