



DEWITT COUNTY ZONING  
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**“ATTACHMENT A”**

**CASE #A-30-2019**

**Text Amendment Change to Chapter 153.25 (E)(1)**

**(E) (1) Wind energy system facilities shall comply with all Federal Aviation Administration (FAA) and Federal Communication Commission (FCC) requirements. In addition, the WESF shall be required to pursue the use of an Aircraft Lighting Mitigation System to reduce the impacts of nighttime lighting on county residents and wildlife. The location of WESF components shall be modified or adjusted as necessary for an application to be accepted by FAA.**

**(2) If approved by the FAA the most effective system approved shall be utilized. In determining which system is more effective, sole discretion shall be vested with the DeWitt County Board, and shall be decided by majority vote. The County Board may grant a grace period in its discretion for the installation of the lighting mitigation equipment by majority vote not to exceed a year upon the structure being constructed. No extensions may be granted beyond one year for any reason.**

**(3) If other multi-level structures excluding structures built and intended for family occupancy are built within 2,000 feet of existing WECS towers, a study shall be conducted as a pre-requisite to the issuing of a permit. Said study must show that there shall be no interference with existing lighting mitigation on currently standing WECS towers. If a study concludes that interference exists, then the builder of the structure must present proof that the interference is rectified prior to the issuance of a permit. Said study shall be conducted by an entity approved by the County Board of DeWitt County by majority vote and the costs of said study shall be paid by the builder and/or owner of the proposed structure. The above requirements shall be a condition of any permit granted.**

**CHANGED TO:**

**(E) (1) Wind energy system facilities shall comply with all Federal Aviation Administration (FAA) and Federal Communication Commission (FCC) requirements. In addition, the WESF shall be required to use an FAA approved Aircraft Lighting Mitigation System to reduce the impacts of nighttime lighting on county residents and wildlife. The location of WESF components shall be modified or adjusted as necessary for an application to be accepted by FAA.**

**(2) If approved by the FAA the most effective system approved shall be utilized. In determining which system is more effective, sole discretion shall be vested with the DeWitt County Board, and shall be decided by majority vote. The County Board may grant a grace period in its discretion for the installation of the lighting mitigation equipment by majority vote not to exceed a year upon the structure being constructed. No extensions may be granted beyond one year for any reason.**

**(3) If other multi-level structures excluding structures built and intended for family occupancy are built within 2,000 feet of existing WECS towers, a study shall be conducted as a pre-requisite to the issuing of a permit. Said study must show that there shall be no interference with existing lighting mitigation on currently standing WECS towers. If a study concludes that interference exists, then the builder of the structure must present proof that the interference is rectified prior to the issuance of a permit. Said study shall be conducted by an entity approved by the County Board of DeWitt County by majority vote and the costs of said study shall be paid by the builder and/or owner of the proposed structure. The above requirements shall be a condition of any permit granted.**

**ZBA RECOMMENDATION: Motion to recommend approval. With roll Call Taken: Steve Perring, Aye; Mark Sterr Aye; Sarah Owens, Aye; John Griffin, Nay; Dave Waters, Aye, and Andy Hedrick, Aye. Motion Carried (5-1).**

**TEXT AMENDMENT CHANGE TO 153.27 (B) (1)**

**(B) *Setback.* (1) Wind turbine towers shall be set back a distance of 1.4 times their height from the nearest property line, unless appropriate waivers or easements are secured from adjacent property owners, or other acceptable mitigation is approved by the County Board.**

**CHANGED TO:**

**(B) *Setback.* (1) Wind turbine towers shall be set back a distance of 1,000 feet from the nearest property line or 1.3 times the height of the tower, whichever is greater.**

**ZBA RECOMMENDATION: No motion was made. No recommendation.**

**TEXT AMENDMENT CHANGE TO 153.28 (B)**

**(B) *Electromagnetic interference.* Applicant shall not operate the facility so as to cause microwave, television, radio or navigation interference contrary to Federal Communications Commission regulations or other law. Any complaints received by the county shall be handled in accordance with § 153.27(G)(2).**

**CHANGED TO:**

**(B) *Electromagnetic interference.* Applicant shall not operate the facility so as to cause microwave, television, radio, radar systems or navigation interference. Any complaints received by the county shall be handled in accordance with § 153.27(G)(2).**

**ZBA RECOMMENDATION: Motion to recommend approval. With roll Call Taken: Steve Perring, Aye; Mark Sterr Aye; Sarah Owens, Aye; John Griffin, Nay; Dave Waters, Aye, and Andy Hedrick, Aye. Motion Carried (5-1).**

***ADDITION TO CHAPTER 153 SHADOW FLICKER***

**The applicant shall prepare a shadow flicker study including the potential effects of each proposed WECS on all principal residential structures. The results will identify the locations and expected duration of shadow flicker over the course of a calendar year. This study shall be submitted as part of the Special Use Permit Application. Shadow flicker shall not affect a non-participating residence at any time. Non-participating residence may waive these requirements in writing.**

**ZBA RECOMMENDATION: Motion to recommend approval. With roll Call Taken: Steve Perring, Nay; Mark Sterr Aye; Sarah Owens, Aye; John Griffin, Nay; Dave Waters, Aye, and Andy Hedrick, Aye. Motion Carried (4-2).**

**TEXT AMENDMENT CHANGE TO 153.09**

**INDEMNIFICATION.**

**(A) The applicant shall defend, indemnify and hold harmless the county and its officials, employees and agents from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees (the liabilities together known as "liability") arising out of the applicant's selection, construction, operation and removal of the wind turbines and affiliated equipment including, without limitation, liability for property or personal injury (including death), whether the liability is premised on contract or on tort (including, without limitation, strict liability or negligence).**

**(B) This general indemnification shall not be construed as limiting or qualifying the county's other indemnification rights available under the law. (Ord. passed 4-23-2009)**

**CHANGED TO:**

**§ 153.09 INDEMNIFICATION.**

**(A) The applicant shall defend, indemnify and hold harmless the county and its officials, employees and agents from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees (the liabilities together known as "liability") arising out of the applicant's selection, construction, operation and removal of the wind turbines and affiliated equipment including, without limitation, liability for property or personal injury (including death), whether the liability is premised on contract or on tort (including, without limitation, strict liability or negligence).**

**(B) This general indemnification shall not be construed as limiting or qualifying the county's other indemnification rights available under the law.**

**(C) All costs incurred by the County shall be paid by the Applicant, Owner or Operator. Cost incurred under this provision shall include, but not be limited to, the cost of experts and/or attorneys that may be used at any stage of the project, including the application review, hearing process, consideration of the application by the County (including County Board or Zoning Board of Appeals), permitting, operations phase and/or decommissioning phase. In addition, costs of any appeal or litigation resulting from any project, application, action, permit, or work undertaken or performed by the County shall be paid by the Applicant, Owner or Operator, including, but not limited to, the cost of experts and attorney's fees.**

**(Ord. passed 4-23-2009)**

**ZBA RECOMMENDATION: Motion to recommend approval. With roll Call Taken: Steve Perring, Aye; Mark Sterr Nay; Sarah Owens, Nay; John Griffin, Nay; Dave Waters, Aye, and Andy Hedrick, Aye. Motion Failed (3-3).**

**TEXT AMENDMENT CHANGE TO 153.25 (B)**

**(B) ~~Provide a properly executed “road upgrade and maintenance agreement” with each highway authority having jurisdiction over potentially impacted highways, roads and streets by the development of the WESF;~~**

**CHANGED TO: 153.25 (B)**

**(B) Provide properly executed agreements:**

**(1) “Road upgrade and maintenance agreement” with each highway authority having jurisdiction over potentially impacted highways, roads and streets by the development of the WESF;**

**(2) All drainage districts potentially impacted by the development of the WESF;**

**ZBA RECOMMENDATION: Motion to recommend approval. With roll Call Taken: Steve Perring, Aye; Mark Sterr Aye; Sarah Owens, Aye; John Griffin, Nay; Dave Waters, Aye, and Andy Hedrick, Aye. Motion Carried (5-1).**