

WIND ENERGY

CONVERSION

SYSTEM

ORDINANCE

## Section 1. INTRODUCTION

- Subpart 1. Title  
This Ordinance shall be known, cited and referred to as the Martin County Wind Energy Conversion System Ordinance.
- Subpart 2. Purpose  
This Ordinance is adopted for the following purposes:
- A. To promote the effective and efficient use of Wind Energy Conversion Systems;
  - B. To facilitate economic opportunities for local residents consistent with the public health, safety and general welfare;
  - C. To promote the supply of wind energy sources in support of Minnesota's stated goals to increase the percentage of energy production coming from clean, renewable energy.

## Section 2. DEFINITIONS

- (1) **Applicant.** Any person, provider, firm partnership or company who files an application for any permit required for this Ordinance for the construction, replacement, or alteration of WECS or any component thereof.
- (2) **Commercial Wind Energy Conversion System.** A WECS or combination of WECS that is designed to have a capacity in excess of the amount needed for residential and agricultural uses and that has a combined nameplate capacity of 125 KW or more.
- (3) **Facility Abandonment.** Occurs when the WECS Owner or Operator intends to permanently cease operations or fails to, for a 12-month period of time: (a) pay local taxes as defined in Mn. Statute; (b) generate electricity.
- (4) **Non-Commercial Wind Energy Conversion System.** A WECS or combination of WECS that is designed to have a capacity for residential and agricultural uses and has a combined nameplate capacity of less than 125 KW.
- (5) **Operator.** The entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.
- (6) **Owner.** The entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean the landowner from whom the land is leased for locating the WECS; or 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 practicable date.
- (7) **Permit Application.** The applicant submitted by the Applicant pursuant to Section 6 of this Ordinance.

- (8) Professional Engineer.** A qualified individual who is licensed as a professional engineer in the State of Minnesota.
- (9) Wind Energy Conversion System.** “WECS” means all (but not limited to) necessary devices that, in conjunction, convert wind energy to a form of usable energy, including the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, cabling and substation.
- (10) “WECS Tower”.** The support structure to which the nacelle and rotor are attached.
- (11) “WECS Tower Height”.** The distance from the rotor blade at its highest point to top of the WECS foundation.

### **Section 3. APPLICABILITY**

This Ordinance governs the siting of WECSs used for the generation of electricity to be sold to electricity suppliers, to wholesale or retail markets, or to be used for distributed generation at commercial facilities. This Ordinance also applies to WECS installed by individual homeowners.

### **Section 4. PROHIBITION**

No WECS shall be constructed, erected, installed, or located within unincorporated Martin County, unless siting approval has been obtained pursuant to this Ordinance by the Martin County Zoning Administrator.

### **Section 5. DISTRICT REQUIREMENTS**

#### **Subpart 1. Agricultural (A) District**

- A.** The following is permitted with a zoning permit from the Martin County Zoning Administrator issued under this Ordinance.
  - 1. Non-Commercial Wind Energy Conversion System
- B.** The following is permitted subject to a conditional use permit issued under this Ordinance and Chapter 6 of the Martin County Zoning Ordinance.
  - 1. Commercial Wind Energy Conversion System

#### **Subpart 2. Business (HB) and Industry (I) Districts**

- A.** The following is permitted with a zoning permit from the Martin County Zoning Administrator issued under this Ordinance.
  - 1. Non-Commercial Wind Energy Conversion System
- B.** The following is permitted subject to a conditional use permit issued under this Ordinance and Chapter 6 of the Martin County Zoning Ordinance.
  - 1. Commercial Wind Energy Conversion System

### **Subpart 3. Single Family Residential (R-1) District**

- A.** The following is permitted with a zoning permit from the Martin County Zoning Administrator issued under this Ordinance.
  - 1. Non-Commercial Wind Energy Conversion System.

### **Subpart 4. Shoreland (SL-1, SL-2, SL-B, SL-C) Districts**

- A.** The following is permitted with a zoning permit from the Martin County Zoning Administrator issued under this Ordinance.
  - 1. Non-Commercial Wind Energy Conversion System.

## **Section 6. PERMIT APPLICATION CONTENT**

The construction or installation of any WECS(s) requires a zoning permit or conditional use permit under this Ordinance and the Martin County Zoning Ordinance. The Permit Application shall contain or be accompanied by, at a minimum, the following information:

- A.** A project summary, including: (1) a general description of the project, including its approximate name plate capacity; the potential equipment manufacturer(s), type(s) of WECS(s), number of WECS, and capacity of each WECS; the maximum height and diameter of the WECS rotors; the general location of the project; and (2) a description of the Applicant, Owner and Operator, including their respective business entities.
- B.** The name(s), address(es), and phone number(s) of the Applicant(s) and property owner(s);
- C.** A description for the location of the WECS Tower(s) and/or substations and the location of property lines of adjoining property owners;
- D.** A site plan for the installation of WECS showing the location of each WECS Tower, guy lines and anchor bases (if any), Primary Structure(s), property lines, setback lines, public access roads and turnout locations, transmission lines, substations, ancillary equipment, and layout of all structures, within the geographical boundaries of any applicable setback;
- E.** All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance; and
- F.** Any other information normally required by the County as part of its Zoning Ordinance.
- G.** Uses and facilities requiring a conditional use permit under this Ordinance shall be considered by the County Planning Commission and County Board of Commissioners upon submittal and approval of a properly completed application for a conditional use permit under this Ordinance and the Martin County Zoning Ordinance.

## **Section 7. PERFORMANCE STANDARDS**

This Section addresses performance standards for siting, design, and installation of WECS. WECS shall conform with the following standards.

### **Subpart 1. Design Safety Certification.**

- A. WECS shall conform to applicable industry standards, including those of the American National Standards Institute.
- B. Following the granting of a zoning permit under this Ordinance, a Professional Engineer shall certify, as part of the building permit application, that the foundation and tower design of the WECS is appropriate, given local soil and climate conditions.

### **Subpart 2. Braking System.**

- A. The WECS must have a manual and automatic braking system device capable of halting operation.

### **Subpart 3. Electrical Rules and Regulations.**

- A. The WECS electrical equipment and connections must adhere to all State, Federal, and power company rules, regulations and standards.

### **Subpart 4. Color.**

- A. Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color.

### **Subpart 5. Aviation Rules and Regulations.**

- A. The proposed WECS must be in compliance with all Federal Aviation Administration regulations and shall comply with the notification requirements of the FAA.

### **Subpart 6. Signs.**

- A. Each WECS must have a sign posted at the base of the tower that specifies the following information; warning high voltage, manufacturers name, emergency shutdown procedures, and emergency phone numbers. No permitted sign may exceed three square feet in area. Signs other than warning signs, equipment labels, emergency information or owner identification are prohibited on a WECS.

**Subpart 7. Lighting.**

- A. A WECS may not be illuminated unless required by a state or federal agency.

**Subpart 8. Interference.**

- A. No WECS shall be permitted that causes any interference with commercial or private use and enjoyment of other legally operating telecommunication device including but not limited to radios, television, telephones, personal communication devices and other electronic equipment and devices.

**Subpart 9. Clearance.**

- A. The WECS blade must be a minimum of thirty feet above ground level.

**Subpart 10. Tower Access.**

- A. The WECS must be guarded against unauthorized climbing. It shall either have the climbing apparatus located not closer than 12 feet to the ground or be un-climbable by design for the first 12 feet.

**Subpart 11. Lightning Protection.**

- A. The WECS must be designed and installed to withstand natural lightning strikes.

**Subpart 12. Noise.**

- A. The WECS must be operated and maintained so that it complies with the noise pollution standards of the Minnesota Pollution Control Agency.

**Subpart 13. Decommissioning Plan.**

The Permit Application must contain a Decommissioning Plan to ensure the project is properly decommissioned upon Facility Abandonment. At a minimum, the Decommissioning Plan shall include:

- A. Provisions for the removal of all structures, debris and above ground cabling within 180 days after Facility Abandonment;
- B. Provisions for the restoration of the soil and vegetation within 270 days after Facility Abandonment.

## **Section 8. SETBACKS**

- A. Setback from Rights-of-Way.** All WECS must setback from road rights of way a distance that is equal to or greater than the height of the WECS as measured from the ground level to the top of the tower, the top of the rotor, or blade whichever is higher.
1. The setback may be reduced to a distance agreed upon by the County, if the applicant furnishes a registered engineers certification that the WECS is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the WECS.
- B. Setback from Property Lines.** All WECS must be setback from property lines a distance that is equal to or greater than the height of the WECS as measured from the ground level to the top of the tower, the top of the rotor, or blade whichever is higher.
1. The setback may be reduced to a distance agreed upon by the County, if the applicant furnishes a registered engineers certification that the WECS is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the WECS; or
  2. The setback may be reduced to a distance agreed upon by the County if there are no structures within the fall zone and if an easement is obtained from the adjacent landowner or land owners. The easement must describe all lands which could be impacted if the tower would fall and must be in effect as long as the WECS is in place.
- C. Setback from Dwellings.** All commercial WECS shall be setback 750 feet from dwellings other than the applicant's dwelling.

## **Section 9. PUBLIC PARTICIPATION**

Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation.

## **Section 10. LIABILITY INSURANCE**

The Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage. Coverage should vary with size of installation. Minimum amount shall be \$300,000. Existing WECS shall be brought into compliance with this section with 1 year from adoption of this Ordinance.

## **Section 11. TRANSFERABILITY**

All permits issued under this Ordinance shall be made transferable and all subsequent holders of such permits shall be subject to all applicable requirements of this Ordinance and the Martin County Zoning Ordinance as a whole and any permit conditions that may exist. Written notice shall be made to the Zoning Administrator within 30 days of such transfer.

## **Section 12. REPEAL AND ADOPTION**

It is not intended by this Ordinance to repeal any Ordinance. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

## **Section 13. PUBLIC HEARING AND PLANNING COMMISSION RECOMMENDATIONS**

The Martin County Planning Commission, after proper notice and publication, held a public hearing on the adoption of this Ordinance and as amended on the 26th October 2004, at the Martin County Courthouse. After hearing public testimony and with due deliberation, the Planning Commission voted to recommend adoption of this Ordinance to the Martin County Board of Commissioners.

## **Section 14. ADOPTION**

The Martin County Board of Commissioners, after proper notice and publication, held a public hearing on the adoption of this Ordinance on the 16th day of November 2004, at the Martin County Courthouse. After hearing public testimony and with due deliberation, the Martin County Board of Commissioners voted to adopt this Ordinance.

Adopted this 16th day of November 2004.

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Jack Potter  
Chairperson, Martin County Board of Commissioners

Attest:

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Scott Higgins  
Martin County Coordinator

