

SHELBY COUNTY, ILLINOIS

AMENDMENT TO  
ZONING  
ORDINANCE OF  
SHELBY COUNTY, ILLINOIS 2023

No.23-06-“O”

ADOPTED:

Published in pamphlet form by  
authority of The County Board of  
Shelby County, Illinois,

this 12<sup>th</sup> day of October, 2023

Prepared  
for

The Shelby County Zoning Board  
of Appeals

The County Board of Shelby County

## AN ORDINANCE PROVIDING FOR THE PLACEMENT OF WIND ENERGY CONVERSION SYSTEMS

**WHEREAS** an application for amendment to the Zoning Ordinance of Shelby County has been made by the Zoning Administrator and said application was referred to the Shelby County Zoning Board of Appeals for public hearing at its meeting on September 28th, 2023, recommended such amendments be approved by the Shelby County Board; and

**WHEREAS** 55 ILCS 5-12, grants authority to County Boards to regulate and restrict location and use of structures for the purpose of promoting the public health, safety, morals, comfort, and general welfare; and

**WHEREAS**, after due consideration, it is the determination of the Shelby County Board that such amendments be made to the Zoning Ordinance of Shelby County; and

**WHEREAS**, the Zoning Ordinance of Shelby County, No. 05-05 provides for the setting of certain fees to be charged by and paid to Shelby County for various zoning applications, permits and appeals; and

**WHEREAS** this ordinance shall be published in pamphlet form;

**NOW, THEREFORE, BE IT ORDAINED** by the Shelby County Board that the aforementioned Zoning Ordinance be amended as follows:

ARTICLE II §16 WIND ENERGY SYSTEM STANDARDS shall be replaced with the following.

### **ARTICLE II §16. WIND ENERGY CONVERSION SYSTEMS STANDARDS**

#### **A. DEFINITIONS**

1. **Abandonment** - Occurs when Deconstruction has not been completed within 18 months after the wind energy facility reaches the end of its Useful Life.
2. **Aboveground Cable** - Means Electrical power lines installed above grade to be utilized for conveyance of power from the Wind Turbine(s) to the Wind Facility substation.
3. **Agricultural Impact Mitigation Agreement (AIMA)** - The Agreement between the Commercial Wind Energy Facility Owner and the Illinois Department of Agriculture.
4. **Agricultural Land** - Land used for Cropland, hayland, pasture land, managed woodlands, truck gardens, farmsteads, commercial ag-related facilities, feedlots, livestock confinement systems, land on which farm buildings are located, and land in government set-aside programs used for purposes as set forth above.

5. **Applicant/Petitioner** - Means the entity or person who submits to the county an application for the siting of any Wind Energy Conversion System or supporting facilities.
6. **Commercial Operation Date** -The calendar date on which the Commercial Wind Energy Facility produces power for commercial sale, not including test power. Within ten (10) calendar days of the Commercial Operation Date, the Commercial Wind Energy Facility Owner shall notify the County of the Commercial Operation Date in writing.
7. **Commercial Wind Energy Facility** - Means a Wind Energy Facility constructed for the primary purpose of wholesale, retail sale, or any other form of monetary gain from the sale of electricity.
8. **Construction** – The installation, preparation for installation and/or repair of a Wind Energy Facility.
9. **County** – Shelby County, Illinois.
10. **Cropland** – Land used for growing row crops, small grains, or hay; includes land which was formerly used as cropland, but is currently in a government set-aside program and pastureland comprised of Prime Farmland.
11. **Deconstruction** - The removal of a Wind Energy Facility from the property of a Landowner and the restoration of that property. The terms “Deconstruction” and “Decommissioning” have the same meaning and, therefore, may be interchanged with each other.
12. **Department** - The Illinois Department of Agriculture (IDOA).
13. **FAA** - Federal Aviation Administration
14. **Facility** - A Wind Energy Conversion System consisting of two or more Wind Towers and any substations or supporting facilities.
15. **Facility Owner** - Means:
  - a. A person with a direct ownership interest in a Wind Energy Facility regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the facility.
  - b. A person who is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility.
16. **Financial Assurance** - Means a financial security in the form of a surety bond (performance and payment bond), or a cash escrow account that names Shelby County as the beneficiary.
17. **Landowner** - Any person with an ownership interest in real property.
18. **Nonparticipating property** - Means real property that is not a participating property.

- 19. Nonparticipating residence** - Means a residence that is located on Nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the Wind Energy Conversion System is filed with the county.
- 20. Occupied Community Building** - Means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop any Wind Energy Conversion System is filed with the county: a school, place of worship, day care facility, public library, or community center.
- 21. Operator** - Means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third-party subcontractors.
- 22. Owner** – A person with a direct ownership interest in a Wind Energy Conversion System.
- 23. Participating Property** - Means real property that is the subject of a written agreement between a Facility Owner and the owner of the real property that provides the Facility Owner an easement, option, lease, or license to use the real property for the purpose of constructing a Wind Energy Conversion System or Supporting Facilities. Also includes real property that is owned by a Facility Owner for the purpose of constructing a Wind Energy Conversion System or Supporting facilities.
- 24. Participating Residence** - Means a residence that is located on Participating property and that is existing and occupied on the date that an application for a permit to develop any Wind Energy Conversion System is filed with the county.
- 25. Primary Structure** - Means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages, and barns.
- 26. Private use** - Means a single Wind Energy Conversion System that is to be constructed for the sole purpose of generating energy for the property it is constructed on.
- 27. Professional Engineer** - An engineer licensed to practice engineering in the State of Illinois, and who is determined to be qualified to perform the work described herein by mutual agreement of the County and the Commercial Wind Energy Facility Owner.
- 28. Protected Lands** - Means real property that is:
- a. Subject to a permanent conservation right consistent with the Real Property Conservation Rights Act; or
  - b. Registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.
- 29. Setback** - Means distance measured from base or foundation of Wind tower to adjoining property line, Right-of-Way line, foundation of occupied or existing residence or any other measurement point referenced in these regulations.

- 30. Substation** - Means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.
- 31. Supporting Facilities** – Means the transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by a Wind Energy Conversion System.
- 32. Underground Cable** - Electrical power lines installed below grade to be utilized for conveyance of power from the Wind Turbine(s) to the Wind Facility substation.
- 33. Underlying Agreement** - The written agreement with a Landowner(s) including, but not limited to, an easement, option, lease, or license under the terms of which another person has constructed, constructs, or intends to construct a Commercial Wind Energy Facility on the property of the Landowner.
- 34. Unincorporated Municipality** - Means any region or campground not governed by a local municipal corporation with fifty (50) or more inhabitants residing within the region, and which falls into the jurisdiction of Shelby County.
- 35. Wind Energy Conversion System (WECS)** - Means any device or assembly of devices that convert wind into electricity, including the rotor, nacelle, generator, tower, electrical components, foundation, transformer, and electrical cabling from the Wind Tower to the Substation(s).
- 36. Wind Energy Facility** - Means any device or assembly of devices that converts wind into electricity and not solely for consumption on the property on which the device or devices reside.
- 37. Wind Tower** - Includes the wind turbine tower, nacelle, and blades.

## **B. APPLICABILITY**

1. No person shall construct or operate a Wind Energy Conversion System without having fully complied with the provisions of this section.
2. Wind Energy Conversion Systems are only allowed pursuant to a Special Use Building Permit on Agriculturally zoned areas as determined by the Shelby County Zoning Administrator.

## **C. DESIGN STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS**

1. Wind Energy Facilities shall construct, decommission, and deconstruct facilities based on the regulations of the required Agricultural Impact Mitigation Agreement through the Illinois Department of Agriculture.
2. All Wind Energy Conversion Systems shall follow these Setback distances.
  - a. Installation of any WECS may not be nearer than 1.1 times the maximum blade tip height of the Wind Tower to the center point of any dedicated roadway or public right of way.

- b.** Installation of any WECS may not be nearer than 2.1 times the maximum blade tip height of the Wind Tower to any nonparticipating residences.
  - c.** Installation of any WECS may not be nearer than 1.1 times the maximum blade tip height of the Wind Tower to any participating residences.
  - d.** Installation of any WECS may not be nearer than 2.1 times the maximum blade tip height of the Wind Tower to the nearest point on the outside of any Occupied Community Building.
  - e.** Installation of any WECS may not be nearer than 1.1 times the maximum blade tip height of the Wind Tower to the nearest point on the property line of any nonparticipating property.
  - f.** Installation of any WECS may not be nearer than 1.1 times the maximum blade tip height of the Wind Tower to any railroad right of way or overhead communication lines or electrical transmission or distribution lines.
  - g.** Installation of any WECS may not be nearer than 1.1 times the maximum blade tip height of the Wind Tower to any commercial underground pipeline or supporting facility.
  - h.** Installation of any WECS may not be nearer than 1.5 miles from any unincorporated municipality.
  - i.** The minimum setback distance between Wind Towers shall be no less than 1.1 times the maximum blade tip height of the Wind Tower.
  - j.** Incorporated communities have the sole authority to regulate the construction of WECS in their jurisdictional boundary and within a 1.5-mile radius of their community. If a community wishes to defer to regulations by the County, an intergovernmental agreement must be approved by both the County and the incorporated community granting the County the authority to regulate that area.
  - k.** For any Wind Tower placed within 1.5 miles of the corporate limits of a village or municipality, the Applicant shall provide documentation demonstrating that the village or municipality does not exercise zoning jurisdiction over the area where the wind tower will be placed or, if it does, that the village or municipality approves the placement of the Wind Tower whether as a permitted use, special use, or variance, or has adopted an ordinance waiving its authority to regulate the placement of the wind tower.
  - l.** Installation of any WECS shall not be nearer than 2.1 times the maximum blade tip height of the wind tower to the nearest point of any Fish and Wildlife Areas and Illinois Nature Preserve Commission Protected Lands.
- 3.** A Facility Owner shall demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Nature Preserve Commission.

4. No part of a Wind Tower or foundation shall encroach on a public or private sewage disposal (septic) system.
5. Each WECS shall be equipped with climb prevention and/or locks to prevent entry by anyone other than authorized personnel.
6. Shadow flicker from any WECS shall not be allowed to exceed 30 hours within one year on a Primary Structure.
7. All WECS shall comply with applicable FAA requirements.
8. A Wind Energy Facility is required to have vegetative screening of at least 6 feet around all sides of the proposed Energy Facility or Facilities unless that land is to be used for agricultural purposes.
9. Wherever applicable, DC power lines shall be buried beneath the ground in accordance with the Agricultural Impact Mitigation Agreement.

#### **D. PERMITTING PROCESS**

1. Anyone wishing to construct, modify, move, or replace a wind energy conversion system or any of its components shall obtain a special use building permit before commencing such work.
2. Applications for a private use Wind Energy Conversion System may be granted by the Zoning Administrator.
3. All applications made for a Wind Energy Facility shall be referred to the Shelby County Planning Commission for a public hearing.
  - a. Notice of the hearing shall be given by the applicant or Facility Owner to all property owners within 250 feet of the proposed project by certified mail with return receipt no less than 15 days before the hearing.
  - b. Notice shall be published in a paper of general circulation in Shelby County no less than 15 days before the hearing.
  - c. The Shelby County Planning Commission, after reviewing the proposed project, shall either recommend approval, approval with modifications or denial to the Shelby County Board. The County Board, at their next regularly scheduled meeting, shall approve, approve with modifications, or deny the proposed project.

#### **E. APPLICATION REQUIREMENTS**

1. The following information shall be provided with all applications for a Special Use Permit for a Wind Energy Conversion System.

- a.** Project summary, including the general location of the project as well as individual location, quantity, and spacing of Wind Towers.
- b.** Existing property lines and property lines extending 250 feet from exterior boundaries, including the names of adjacent property owners.
- c.** Dimensional representation of the structural components of the wind tower construction including the base, footings, height, diameter, and blade tip height of each individual Wind Tower.
- d.** Planned location of underground and/or overhead electric lines, distribution lines, and communication lines connecting the wind energy conversion system to a building, substation, or other electric load.
- e.** Name plate generating capacity of each Wind Tower and the overall output of the Wind Energy Facility.
- f.** Public, private, and proposed access roads, showing widths of the roads and any associated easements.
- g.** Location and size of any abandoned wells, sewage treatment facilities, mines, or any other underground features that could result in subsidence.
- h.** Existing buildings and any impervious surfaces.
- i.** Waterways, watercourses, lakes, and public water wetlands including any delineated wetland boundaries.
- j.** Location of any pipelines within 500 feet of the Wind Towers.
- k.** Manufacturer's contact information and specifications for each WECS as well as recommended installation methods for all major equipment.
- l.** Certification by a registered professional engineer that the tower design is sufficient to withstand wind load requirements for structure as defined by the Building Officials and Code Administrators.
- m.** Applicants must agree and sign a written acknowledgement that WECS, wind towers, are considered a permanent structure for tax assessment purposes.
- n.** Applicants must provide certification to the Shelby County Planning Commission that all turbines shall be new equipment commercially available; no used, experimental, or proto-type equipment, still in testing, shall be approved by the Zoning Board of Appeals.
- o.** The Applicant shall immediately notify Shelby County of any changes to the information provided in that occur while the special use permit application is pending.



2. All applications for a special use permit for a wind energy facility shall also provide the following.
- a. A copy of the underlying agreement with the landowner.
  - b. Executed interconnection agreements.
  - c. All contact information including name, phone number, and address of the Facility Owner, current property owner, lessor, lessee, the interconnecting utility company, and buyer of the power, if applicable and if this information can be disclosed publicly.
  - d. Upon application submission, Applicants shall provide proof of all applicable state and federal regulatory standards including the Uniform Building Code as adopted by the State of Illinois, The Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture, the National Electrical Code as adopted by the State of Illinois, The National Electrical Safety Code, Illinois Commerce Commission, Federal Energy Regulatory Commission, FAA requirements, EPA regulations (noise, hazardous waste, construction, storm water; etc.) and any other statutory or regulatory requirements.
  - e. Existing vegetation study including type and percent of coverage such as Cropland, grassland, wooded areas, etc.
  - f. The Facility Owner shall provide results and recommendations from the consultation with the Illinois Department of Natural Resources that are obtained through the Ecological Compliance Assessment Tool.
  - g. The Facility Owner shall provide results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with the U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines.
  - h. The Facility Owner shall provide evidence of consultation with the Illinois State Historic Preservation Office in order to assess potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act.
  - i. The Facility Owner, using a certified professional accepted by the Illinois Pollution Control Board, as part of the siting approval application process, shall appropriately demonstrate compliance with all applicable noise requirements set by the Illinois Pollution Control Board and provide contour maps at intervals of not greater than 5 feet on request by the Zoning Administrator or ZBA. The noise levels should be measured at least 25 feet from the property line noise source.
  - j. The Facility Owner, using a certified engineer in the State of Illinois, shall provide a vibration study determining the impact the WECS and supporting facilities will have on non-participating property, local wells, mines, former mines, and pipelines. The study will include the project site and extend 1500 feet in all directions.
  - k. At the expense of the Facility Owner, the County may at any time seek certified third-party verification of any studies provided during the application process.

## **F. Operations**

### **1. Interference**

- a.** If, after construction of any WECS, the Owner, Operator, or Zoning Administrator for Shelby County receives a written complaint related to interference with local broadcast residential television via public broadcast and or dish, RTK Ag Correction Signal, Machine to Machine sync communication, wireless data transfer communication, phone, internet, business ban radio, the Owner or Operator shall rectify the issue within 30 days.

### **2. Coordination with Local Fire Department**

- a.** A Facility Owner shall submit to the local emergency responders a copy of the Site Plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), and any amendments to such documents, for a Wind Energy Facility so that the local service providers and emergency management service providers that have clear jurisdiction control over each site may evaluate and coordinate their emergency response plans with the Facility Owner of the Wind Energy Facility
- b.** The Facility Owner shall cooperate with all local emergency responders to develop an emergency response plan. The plan shall include, at a minimum, 24-hour contact information including names, titles, email addresses, and cell phone numbers for the Facility Owner and Operator.
- c.** The Facility Owner shall be responsible for any interference caused by the Wind Energy Facility on any applicable Emergency Response entity. Such interference shall be cause for immediate shutdown of the facility until the source of interference can be removed, altered, or replaced.
- d.** Nothing in this section shall alleviate the need to comply with all other applicable life safety, fire / emergency laws and regulations.

### **3. Inspections**

- a.** Inspections may be made by the Zoning Administrator or by the Shelby County Board annually to certify the safety and maintenance of the WECS and accessory structures.
- b.** Each WECS or Wind Energy Facility will maintain compliance with the applicable Illinois Pollution Control Board regulations and this Ordinance throughout the entire operational period of the WECS. If at any time throughout the life of the WECS, the noise levels are found to not be in compliance with this section, the Applicant or Facility Owner will immediately shut off enough turbines to ensure that the noise levels are within acceptable levels until a solution to the noise level violation is found and approved by the County after a hearing at the Zoning Board of Appeals.

## **G. PROCEDURES**

**1. Financial Assurance** - The Facility Owner shall provide the County with Financial Assurance to cover the estimated costs of Deconstruction of the Commercial Wind Energy Facility. Provision of this Financial Assurance shall be phased in over the first 11 years of the Project's operation as follows:

- a.** On or before the first anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover ten (10) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan provided during the county permit process.
- b.** On or before the sixth anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover fifty (50) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan provided during the county permit process.
- c.** On or before the eleventh anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover one hundred (100) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan provided during the tenth year of the Commercial Operation Date.
- d.** Financial Assurance shall not release the surety from liability until the Financial Assurance is replaced. The salvage value of the Facility may only be used to reduce the estimated costs of Deconstruction in the Deconstruction Plan if the County agrees that all interests in the salvage value are subordinate or have been subordinated to that of the County if Abandonment occurs.

## **2. Arbitration**

- a.** In the event a dispute arises as to satisfaction of the forgoing conditions to this ordinance, such dispute may be resolved judicially or may at the request of the petitioner, county, or the aggrieved party, be resolved pursuant to binding arbitration in accordance with the procedures of the American Arbitration Association by an independent arbitrator acceptable to petitioner and the County or aggrieved party, as applicable. If petitioner and the County or the aggrieved party, as applicable, are unable to agree on an arbitrator, then each such party shall choose an independent arbitrator and their respective choices shall then choose an arbitrator. This condition shall not bind an aggrieved party, other than the County or petitioner, to submit to arbitration. The applicant is responsible for any and all arbitration costs and expenses.

## **3. Violations**

- a.** Any person, firm, corporation, agent, employee, or contractor of such, who violates, disobeys, omits, neglects, or refuses to comply with, or who resists enforcement of any provision of this Ordinance shall be in violation, and shall be subject to a fine of not more than five hundred dollars (\$500.00) for each offense. Each week a violation continues to exist shall constitute a separate offense. The Shelby County Zoning

Administrator shall be responsible for the administration and enforcement of the regulations of this Ordinance. The Shelby County State's Attorney shall prosecute violations of this Ordinance for the County.

#### **4. Public Participation**

- a. Nothing in this Ordinance is meant to augment or diminish existing opportunities for public participation.

#### **5. Severability**

- a. If any section, paragraph, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the remaining portions of this Ordinance.

#### **6. Indemnification**

- a. The Applicant or Facility Owner shall defend, indemnify, and hold harmless the County and its officers, appointed and elected officials, employees, attorneys, engineers, and agents (collectively and individually, the "Indemnified Parties") 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, relating to or arising out of the special use permit application process and public hearing for the application, the issuance of the Special Use Permit, and the construction, operation, maintenance and removal of the Wind Energy Conversion System and affiliated equipment. This includes, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract, tort, or any violations of local, state, or federal law, including the Illinois Constitution and the United States Constitution (including without limitation strict liability or negligence) or any acts or omissions of the Applicant, Facility Owner, or the Operator under this Ordinance or the Special Use Permit. This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under the law.

#### **7. Re-imbursement**

- a. Applicant, Facility Owner, or Operators shall reimburse the County for any and all reasonable engineering fees incurred if the County, in its sole discretion, deems it necessary to hire an outside engineering consulting firm to work on any or all parts of the Wind Energy Conversion System Application Process and for the lifetime of the facility.

#### **8. Delegation**

- a. Notwithstanding any other provision in this Zoning Code, the Chairman of the Zoning Board of Appeals, in his sole discretion, is authorized to delegate to a third party (the "Presiding Officer") the Chairman's authority to preside over the public hearing on an application for a special use permit to site a Wind Energy Conversion System for the purpose of ensuring an orderly public hearing consistent with Illinois statutes and

Constitution, Shelby County ordinances, and the Articles of Rules and Procedure of the ZBA, and to rule on evidentiary and procedural disputes in the public hearing. The Presiding Officer must be an attorney in good standing with the Illinois bar. The Presiding Officer does not have any power to vote or deliberate on the pending application for special use permit, or to otherwise contribute to the Advisory Report of the Zoning Board of Appeals, such authority being expressly reserved to the ZBA. Applicant, Owner, or Operator shall pay the fees of the Presiding Officer and shall deposit a retainer with the Presiding Officer as a condition to the public hearing commencing, unless other terms are agreed upon in writing between the Presiding Officer and the Applicant, Facility Owner, or Operator.

## **9. Remedies**

- a.** The Applicant's, Facility Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under the Ordinance.
- b.** Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner, Facility Owner, and Operator, setting forth the alleged default(s). Such written notice shall provide a time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).
- c.** If the County determines in its sole discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the County shall have the right to rescind the permit for the Wind Energy Conversion System, take the actions allowed in the County Ordinance or take any other action permitted by law or in equity.

## **10. Fees**

- a.** A fee may be assessed and collected for a Building Permit for the placement of any Wind Energy Conversion System dependent on energy production.

- |               |                                                                  |
|---------------|------------------------------------------------------------------|
| • 0-50 Kw     | \$125.00                                                         |
| • 51-250 Kw   | \$500.00                                                         |
| • 251-500 Kw  | \$1000.00                                                        |
| • 501kw-999Kw | \$2500.00                                                        |
| • 1Mw-2Mw     | \$5000.00 plus \$500 for each additional 100 kw or \$5000 per MW |

## **11. Self-Executing Moratoriums**

If Illinois Public Act 102-1123 or the Illinois State Statutes 55 ILCS 5/5 12020 are deemed invalid by any Illinois Appellate Court, an automatic moratorium for Wind Energy Facilities shall be enacted for Shelby County until:

- a.** An appeal to the Illinois Supreme Court regarding Public Act 102-1123 or the Illinois State Statutes 55 ILCS 5/5 12020 has been successful.
- b.** The Shelby County Board removes the moratorium by a majority vote.

If Illinois Public Act 102-1123 or the Illinois State Statutes 55 ILCS 5/5 12020 are deemed invalid by the Illinois Supreme Court or removed, the County Board of Shelby County shall have authority to reject applications for Wind Energy Facilities.