WIND ENERGY CONVERSION SYSTEMS

ORDINANCE FOR PALO ALTO COUNTY, IOWA

Supervisor Keith Wirtz introduced the following Ordinance No. 9-27-16 and asked that it be placed on file and read for the first time on 9-13-2016.

Furthermore, Supervisor Ed Noonan requested that the second reading of Ordinance No. 9-27-16 be set on 9-20-2016.

Furthermore, Supervisor Ed Noonan requested that the third reading of Ordinance No. 9-27-16 be set on 9-27-2016.

AN ORDINANCE ADDRESSING THE STANDARDS, CONDITIONS, AND APPLICATION, SITE PLAN REVIEW AND APPROVAL FOR THE CONSTRUCTION AND MAINTENANCE OF WIND ENERGY CONVERSION SYSTEMS (WECS) AND INDIVIDUAL WIND ENERGY DEVICES (WEDs) WITHIN PALO ALTO COUNTY, IOWA.

WHEREAS, it is deemed advisable and recommended by the Palo Alto County Board of Supervisors to create and enforce an ordinance in Palo Alto County addressing the site Plan Review and Approval for the construction and ongoing maintenance of WECS proposed to be erected within Palo Alto County.

WHEREAS, the Palo Alto County Board of Supervisors wish to adopt and enforce the following Wind Energy Conversion Systems Ordinance to better promote the health, safety, and welfare of the County's residents and businesses.

WHEREAS, the Wind Energy Conversion Systems Ordinance is a separate county ordinance and shall be considered to be a "stand alone" enactment authorized under County Home Rule under Iowa Code Section 331.302(1). The Board of Supervisors move to repeal the provisions of the existing Palo Alto County Zoning Ordinance Article 5, Section 2.1.10 and Section 2.1.11 except as those provisions relate to the application for a Wind Energy Conversion Systems of less than 100 kW in total nameplate generating capacity.

NOW, THEREFORE, BE IT ORDAINED, that the Wind Energy Conversion Systems Ordinance is hereby adopted within Palo Alto County, Iowa and includes the following provisions:

Section 1. Purpose. The purpose of this Ordinance is to provide for the regulation of Owners/Developers engaged in the construction, erection, placement, location, operation, and maintenance of WECS in Palo Alto County; and to preserve and protect public health and safety

without significantly increasing the cost or decreasing the efficiency of these systems and associated structures.

Section 2. Jurisdiction. This Ordinance is adopted by the Palo Alto County Board of Supervisors and governs all lands within the unincorporated areas of Palo Alto County, Iowa. This Ordinance and its provisions shall not apply to those properties or projects occurring within the incorporated cities of Palo Alto County.

Section 3. Definitions.

a. *"Administrator"* – Any person or firm appointed by the Palo Alto County Board of Supervisors to oversee the Site Plan Review and Approval of WECS and compliance with the Wind Energy Conversion Systems Ordinance.
b. *"Commercial Grade Wind Energy Conversion System" or "Commercial Grade WECS"* – Means a Wind Energy Conversion System of equal to or greater than 100 kW in total nameplate generating capacity.
c. *"Decommission" or "Decommissioning"* – means the complete removal of all wind turbines and related devices and equipment and distribution and transmission facilities comprising a Wind Energy Conversion System, including, but not limited to, all rotors, nacelles, and towers; all collection step-up transformers; all Wind Energy Device foundations, pads, underground electrical wires and any and all other underground wind energy structures and improvements and all access road (unless the relevant landowner requests that such access road remain), all in accordance with Section 7 herein.
d. *"Meteorological Tower" or "MET Tower"* – Means 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 found within a certain area.
e. *"Owner/Developer"* – Shall mean the individual, firm, business or entity that intends to own and operate a Wind Energy Conversion System in accordance with this Ordinance.
f. *"Rotor Diameter"* – Means the cross sectional dimension of the circle swept by the rotating blades of the Wind Energy Device.
g. *"Permanent"* – For purposes of this Ordinance, permanent shall mean any building or structure continuing or existing without fundamental or identifiable change for a continuous period of at least one (1) year. This definition shall not include those temporary or non-permanent buildings and structures utilized during the construction of a WECS.
h. *"Permanent Residential Dwelling"* – Means any occupied or unoccupied buildings or structures intended for human occupancy of which physical construction of the building has commenced, and which shall be placed upon and securely attached to a permanent foundation. Buildings or structures containing a home occupation which is part of a residence shall be considered a permanent residential dwelling. Mobile, manufactured or factory built housing that is permanently attached to a foundation is also defined as a

permanent residential dwelling. Recreational vehicles, campers, or other temporary forms of housing are not considered a permanent residential dwelling.

i. *"Total Height"* – Means the vertical distance from ground level to the tip of the blade on a Wind Energy Device when such blade is at its highest point. The County reserves the right to deny applications for Wind Energy Conversion Systems which include Wind Energy Devices which would exceed 550 feet in total height.

j. *"Tower"* – Means any monopole, freestanding, or guyed structure that supports a Wind Energy Device.

k. *"Unoccupied Non-Human Dwelling Structure"* – Means any occupied or unoccupied non-human dwelling buildings or structures that are not capable of being occupied for residential purposes.

l. *"Wind Energy Conversion System" or "WECS"* – Means an electrical generating facility comprised of one or more Wind Energy Devices and accessory facilities, including, but not limited, to: power lines, transformers, substations and meteorological towers 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.

m. *"Wind Energy Device" or "WED"* – Means any equipment that transforms energy from the wind into usable forms of energy not intended for residential or personal use. This equipment includes any base, blade, foundation, generator, nacelle, rotor or tower that is integrated as part of a single device. The term wind energy device often refers to and includes wind towers, wind turbines, wind generators, windmills, or other wind energy conversion systems. This definition shall not include any buried wires or other sub-surface electrical transmission equipment or ancillary above ground electrical structures such as junction boxes and step-up transformers.

n. *"Wind Energy Device Accessory Building or Structure"* – Means any permanent building or structure located within the same defined boundaries of a permitted Wind Energy Conversion System or on the same lot, parcel, or tract of land of a single Wind Energy Device; and is clearly considered customarily and incidental and subordinate to the principal Wind Energy Device(s). Any Wind Energy Device Accessory Building or Structure may contribute to the successful operation, convenience and necessity of the principal Wind Energy Device(s). Examples of Wind Energy Device Accessory Buildings or Structures may include, but not be limited to, electrical substations, switching stations or any other permanent structures used in a capacity similar to electrical substations and associated with Wind Energy Conversion Systems. This definition shall not include any above ground or buried transmission lines, wires, or other electrical equipment in addition to any above ground junction boxes, step-up transformers, operations and maintenance buildings or any temporary or non-permanent buildings or structures used during the construction of a Wind Energy Device or Wind Energy Conversion System. For the avoidance of doubt, junction boxes are small pieces of electrical equipment that are typically no larger than approximately 3' tall above the surface and approximately 4' in width and 3' in depth. Step-up transformers are pieces of electrical equipment

approximately 6' tall above the surface and approximately 6' in width and 6' in depth and are usually located in close proximity to the base of the Wind Energy Device.

Section 4. Site Plan Review and Approval Permit Application. A request for a Site Plan Review and Approval Permit may be initiated by an Owner/Developer by filing an application with the Administrator upon forms prescribed for these purposes and available upon request from the Administrator or as a download from Palo Alto County's website. The Zoning Administrator shall immediately present the Site Plan Review and Approval Permit Application to the Palo Alto County Board of Supervisors which is charged with reviewing all applications for Site Plan Review and Approval Application Permits only upon full compliance with the following procedures:

a. Pre-Application Meeting. Whenever a WECS is proposed in the jurisdiction of Palo Alto County, the Owner/Developer is required to hold a public informational meeting on the proposed development within 90 days prior to submitting an application for a Site Plan Review and Approval Permit. Public notice of the meeting shall be published in a newspaper of general circulation within the vicinity of the proposed project site as well as published within the official publication(s) of Palo Alto County no less than four (4) and no more than 20 days prior to the meeting. The public notice shall include at a minimum the name of the proposed project, a contact person for the project, the location of the project, the time and place of the meeting, and a description of the project activities. The Owner/Developer shall also give notice by ordinary U.S. mail to all property owners within 5,280 feet (one mile) from the Wind Energy Devices. Written notice of that pre-application meeting shall be postmarked not less than four (4) days prior to the pre-application meeting. The Owner/Developer is responsible for meeting all of these requirements and shall provide documentation to the Administrator that these public notice requirements have been satisfied prior to submitting an application for a Site Plan Review and Approval Permit.

b. Notice. The Owner/Developer shall be responsible for obtaining and submitting to the Administrator an abstractor's or attorney's certificate, at the time the Site Plan Review and Approval Permit application is made, showing the names and last known addresses of the owners of all property within 5,280 feet (one mile) of each proposed Wind Energy Device for which the Site Plan Review and Approval permit is requested.

c. Agency Notice/Review. Prior to submitting an application for a Site Plan Review and Approval Permit for a WECS, the Owner/Developer shall be responsible for notifying applicable governmental and community agencies of the planned project and allowing each agency 60 days advance notice to do a preliminary review. Documentation of notification of these agencies, and any reports from the agencies, are to be provided to the Administrator when the application is submitted. If any agency does not act within 60 days, the plan may be deemed, for the County's purposes, approved by the agency

that failed to act upon proof of notice. It is recommended that any issues be addressed prior to the public hearing. The Administrator and the Site Plan Review and Approval Permit applicant will establish and agree to a list of applicable agencies (listed below) to which the applicant will submit notice and from whom the applicant will solicit comment from prior to Palo Alto County Board of Supervisors considering an application for a Site Plan Review and Approval Permit.

- Federal Aviation Administration
- U.S. Fish and Wildlife Service
- U.S. Department of Agriculture (Local NRCS)
- Environmental Protection Agency
- Federal Communications Commission
- Iowa Department of Transportation
- Iowa Department of Natural Resources
- Iowa Utilities Board
- Office of State Archaeologist
- Palo Alto County Engineer's Office
- Palo Alto County Conservation Board
- Palo Alto County Board of Health
- Palo Alto County Emergency Management Coordinator
- Palo Alto County Planning and Zoning Commission
- All municipalities in Palo Alto County within two (2) miles of any proposed WECS facilities

d. Site Plan. The application for a Site Plan Review and Approval Permit shall be accompanied by a detailed site plan for the W.E.C.S. A site plan and other such plans and manufacturer's specifications shall show the dimensions, arrangements, descriptive data, site layout and other information essential to an understanding of the use and construction of the proposed WECS. The Site Plan Review and Approval Permit application shall also be accompanied by an application fee of $1,000.00 plus $100 per Wind Energy Device.

A site plan shall include the following at a minimum:

- Approximate location and total number of the proposed Wind Energy Device(s)
- Approximate access points to roads showing construction details typical of all entrances proposed to be built in the public right of way
- Approximate distance to any inhabited or uninhabited buildings reflecting compliance with the setback requirements of this ordinance
- Approximate distance to the nearest wind energy or other tower structures of similar purpose or size

- Proposed aerial application accommodation plan, including contact information and conditions to allow applicators to request shut-down and rotation or to notify workers of anticipated aerial operations on a given date in a particular area
- Leaseholder or ownership details of the building site
- Dimensions of the building site showing approximate distances to surrounding properties
- Construction details of the Wind Energy Device(s), including any experimental or prototype Wind Energy Device(s) (including manufacturer and model, tower height, tower type, and rotor diameter)
- Tower foundation blueprints or drawings and tower blueprints or drawings
- Schematic site layout, including location of electrical wires, connection points with the electrical grid and related accessory structures
- The site plan shall be drawn to scale
- Documentation of land ownership or legal control of the property
- FAA Request for No Hazard Determination
- Proposed FAA obstruction and marking plan
- Publicly available documentation of public surface open drainage ditches and Public subsurface drainage tiles.

e. Public Hearing. Within 60 days of receiving a Site Plan Review and Approval Permit application for a Wind Energy Conversion System, the Palo Alto County Board of Supervisors shall schedule a public hearing regarding the Site Plan Review and Approval Permit. Notice shall be given to the public no less than four (4) and no more than 20 days prior to the public hearing by publication in the official newspaper(s) of Palo Alto County as well as publication in a newspaper within the general vicinity of the proposed project site. Prior to the public hearing, notice shall also be given by ordinary mail to all property owners located within 5,280 feet (one mile) of each proposed Wind Energy Device for which the Site Plan Review and Approval Permit is requested

f. Review and Approval or Rejection of the Application for a Site Plan Review and Approval Permit by the County Board of Supervisors. The Board of Supervisors shall vote to approve, with or without conditions, or reject the Site Plan Review and Approval Permit application within 30 days after the public hearing referenced in subparagraph "e" above. A Site Plan Review and Approval Permit shall not be granted by the Palo Alto County Board of Supervisors unless and until the procedures set forth in this Ordinance have been fulfilled. If the application is approved, the Board of Supervisors may prescribe additional appropriate conditions and safeguards as part of the Site Plan Review and Approval Permit, in conformity with this Ordinance and other ordinances of the County. If the application is rejected, the Board of Supervisors shall set forth the reasons for such rejection in its records and shall provide the applicant with a copy of such records.

g. Term. Approval of the Site Plan Review and Approval Permit for a WECS shall be valid for a period of two (2) years from the date such permit is granted, unless construction has commenced or the Board of Supervisors specifically grants a longer period of time for the Site Plan Review and Approval Permit.

h. Legal Requirements. The approval and issuance of a Site Plan Review and Approval Permit for the construction or installation of a WECS under this Ordinance shall not relieve any permittee, applicant or Owner/Developer from compliance with all legal requirements, nor shall it relieve the permittee, applicant or Owner/Developer of any liability for damage or loss resulting from the placement, construction or maintenance of such WECS. Palo Alto County assumes no liability whatsoever by virtue of the issuance of a Site Plan Review and Approval Permit for a WECS.

Section 5. Wind Energy Conversion System Requirements.

a. Setbacks from Public Roads , Public Right of Ways, and Overhead Utility Lines. Wind Energy Devices and Meteorological Towers shall be set back no less than a distance equal to one hundred twenty percent (120%) of its total height from any public street, public right of way or overhead utility line.

b. Setbacks from Permanent Residential Dwellings. Wind Energy Devices shall be setback a distance of no less than 1,500 feet from any Permanent Residential Dwelling unless a waiver in the form of written permission is granted by the affected property owner. The measurement between the Permanent Residential Dwelling and the W.E.D. is to be taken from the nearest point of the Permanent Residential Dwelling to the center of the Wind Energy Device structure's base. At no time shall any part of the Wind Energy Device or Meteorological Tower overhang any adjoining property without securing appropriate agreements from the affected adjoining property owners.

c. Setbacks from Property Lines. Wind Energy Devices shall be set back no less than a distance equal to one hundred twenty percent (120%) of its total height from any existing property line unless a waiver in the form of a written permission is granted by the affected property owner. The measurement for the set back from property lines shall be between the center of the base of the Wind Energy Device and the closest point along the adjacent property line.

d. Setbacks from Unoccupied Non-Human Dwelling Structures. Wind Energy Devices and Meteorological Towers shall be setback no less than a distance equal to one hundred twenty percent (120%) of its total height from any Unoccupied Non-Human Dwelling Structure.

e. Setbacks from Cemeteries. Wind Energy Devices and Meteorological Towers shall be setback a distance of no less than 1,500 feet from any cemeteries.

f. Setbacks from City Limits. Wind Energy Devices shall be setback a distance of no less than 1,500 feet from the city limits of all incorporated municipalities within Palo Alto County. The Cities may waive the 1,500 setback.

g. Shadow Flicker. The Owner/Developer shall use shadow flicker computer modeling to estimate the amount of shadow flicker anticipated to be caused by the WEC S so that computer modeling indicates that no non-participating permanent residential dwelling will experience more than 30 hours per year of shadow flicker under planned operating conditions If an owner of a non-participating Permanent Residential Dwelling experiences more than 30 hours of shadow flicker per year under WECS normal operating conditions, then the Owner /Developer shall be obligated to mitigate such shadow flicker to comply with the terms of this Ordinance.

h. Public Lands or Waterways. WECS shall be setback a distance of 1,500 foot ~~setback~~ from any public lands and public waterways whether they are owned by the County, State or Federal government. The Owner/ Developer will have a preliminary review with the Iowa Department of Natural Resources (IDNR) and the Palo Alto County Conservation Board early in the planning stages of all WECS in Palo Alto County. This review will allow the IDNR and the Palo Alto County Conservation Board to identify sensitive environmental and wildlife habitat concerns near such public lands and waterways. Upon consultation with, and after written consent from the public entity owning the public land and /or waterways, the Board of Supervisors may waive the 1,500 foot setback on behalf of the public entity.

i. Density or Spacing. Wind Energy Device spacing will vary depending on common industry practice and manufacturer specifications. The Owner/Developer shall consider the public interest and the natural environment, and maintain the intent and purpose of this Ordinance.

j. Access. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

k. Electrical Wires. All electrical wires associated with a WECS, other than wires necessary to the operation of the Wind Energy Device itself, shall be located underground. Transmission lines or high capacity electrical lines from substations transferring cumulative energy resources from a W. E.C.S. shall not be required to be placed underground.

l. Lighting. Wind Energy Devices shall not be artificially lighted from the ground upward. The only lighting permitted is that which is recommended by the Federal Aviation Administration or other governmental entities. All temporary or permanent Meteorological Towers (regardless of their height) shall display a flashing red light at the top of the tower and be painted conspicuously. Where feasible to do so, aircraft detection lighting systems (ADLS) shall be used to reduce the impact of nighttime lighting on nearby residents, communities and migratory birds and to extend the life expectancy of obstruction lighting, all in accordance with FAA Advisory Circular: 70/7460-1L, section 14.1 *et. seq.* (12/04/15).

m. Appearance, Color, and Finish. Wind Energy Devices shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved otherwise by the Palo Alto County Board of Supervisors.

n. Signs. All signs visible from any public roadway, street, or highway other than the manufacturer's or installer's identification and appropriate warning signs shall be prohibited. Documentation showing any signage shall be submitted with the application for a Site Plan Review and Approval Permit.

o. Code Compliance. All WECS shall comply with all applicable State of Iowa construction and electrical codes, and the National Electrical Code.

p. Utility Notification and Interconnection. WECS that connect to an electric utility shall comply with all local, State of Iowa and Federal regulations regarding the connection of energy generation facilities.

q. Wind Energy Accessory Buildings or Structures. Above ground Wind Energy Accessory Buildings or Structures shall be set back a distance of no less than 1,000 feet from any Permanent Residential Dwelling. The measurement between the Wind Energy Accessory Building or Structure is to be taken from the nearest point of the Permanent Residential Dwelling to the visually apparent perimeter of the above ground Wind Energy Accessory Building or Structure, or the boundary of an area containing such above ground Wind Energy Accessory Building or Structure (as may be evidenced by a fence, edge of parking lot, or other visible surface or above ground element of the building or structure; provided, however, that a sign or natural vegetation shall not be considered a perimeter or boundary). Such setback distance of 1,000 feet shall be enforced unless the property owner of such Permanent Residential Dwelling provides written consent or approval to the location of such Wind Energy Accessory Building or Structure.

Above ground Wind Energy Accessory Buildings or Structures shall be setback a distance of no less than 45 feet from any road right of way, public right of way, railroad right of way, or public utility facility, unless the owner of such facilities or such right of way or the applicable public utility facility owner provides written consent or approval to the location of such above ground Wind Energy Accessory Building or Structure. Any such setback distances shall be indicated and specified in the Site Plan Review and Approval Permit application.

r. Meteorological towers shall be removed within one year of the commencement of operation of any WECS. Any MET tower that will be left in place on a more permanent basis shall have a continuous strobe light of sufficient wattage to be visible horizontally for 360° and overhead 180° from a distance of one (1) mile affixed at the top and be painted in equal vertical bands of alternating colors of red and white, which bands shall be no less than 24" and not more than 48" wide.

Section 6. Mitigation of Damages. In the event there are any damages that occur during the construction or maintenance of a WECS, the Owner/Developer shall be fully responsible for mitigating and correcting any such damages to public or private infrastructure.

a. Drainage System. The Owner/Developer shall be required to obtain a separate permit prior to commencing construction of the WECS 's underground electrical collection cable system if such construction activity is planned to span across organized drainage districts tile systems within the unincorporated areas of Palo Alto County. A request for an underground construction permit may be initiated by filing an application with the Palo Alto County Auditor upon forms prescribed for these purposes and available upon request from the County Auditor or as a download from the Palo Alto County website. Within 45 days of receiving an application for an underground construction permit, the Palo Alto County Board of Supervisors shall vote on the application at a special meeting or one of their regularly scheduled meetings. An underground construction permit shall be subject to the following criterion at a minimum:

i. All underground electrical collection cable systems planned to be installed in organized drainage districts or in areas with private tile systems shall be installed by trenching (and not plowing).

ii. All underground electrical collection cable systems shall be installed at a cover depth of no less than five feet (60") below grade and eight feet (96") below established drainage ditches and other open waterways.

iii. All underground electrical collection cable systems shall be installed so as to maintain a two (2) foot separation distance in all directions, i.e.: horizontal and

vertical and diagonal from existing public drainage tile and public drainage structures.

iv. The applicant shall remedy any adverse effect on any organized drainage tile districts or private tile systems caused by the construction or repair of the WECS. To complete such repairs, the applicant shall hire appropriate drain tile contractor(s) that are familiar with the organized drainage tile districts and private tile systems within Palo Alto County. The applicant shall obtain written approval from the Palo Alto County Board of Supervisors of the contractor(s) selected prior to commencing the construction of the underground electrical collection cable system.

The Board of Supervisors may prescribe additional appropriate conditions and safeguards as part of the underground construction permit, in conformity with this Ordinance and the ordinances of Palo Alto County. Approval of the underground construction permit shall be valid for a period of two (2) years from the date such permit is granted, unless construction has commenced or the Board of Supervisors specifically grants a longer period of time for the underground construction permit.

b. Roads. Costs of repair from damage or maintenance of County roads, rights of way, or any County infrastructure resulting from the construction or repair of a W. E.C.S. shall be the responsibility of the Owner/Developer of such WECS. A separate road agreement which clearly lays out the rights and obligations of the County and the Owner/Developer with respect to the construction, maintenance, and use of County roads in connection with the development of the WECS will be required prior to the start of construction and may be made a condition to the Site Plan Review and Approval permit.

c. Electronic Interference. Any electronic devices that existed in the vicinity of the WECS prior to the submittal of an application for a Site Plan Review and Approval Permit by Owner/Developer and which experience substantial interference as a result of the WECS shall be remedied or compensated for such interference by the Owner/Developer of the WECS . This shall include, but not be limited to, interference with local broadcasts and radio waves, or other personal communication systems.

d. Sound. Sound produced by any Wind Energy Device(s) under normal operating conditions as measured at the exterior wall of a Permanent Residential Dwelling existing as of the date of issuance of the Site Plan Review and Approval Permit shall not exceed 50 dBA. Sound levels, however, may be exceeded during short term events out of the Owner/Developer's control, such as utility outages and/or severe wind or weather conditions.

Section 7. Decommissioning at End of Serviceable Life or Discontinuance or Abandonment. Each application for a Site Plan Review and Approval Permit for a WECS shall include a decommissioning plan outlining the anticipated means and cost of removing each Wind Energy Device at the end of its serviceable life or upon becoming a discontinued use. Such cost estimates shall be made by a professional engineer licensed in the State of Iowa, agreeable to the County. The decommissioning plan shall also outline proposed financing methods adequate for the decommissioning of the WECS. Prior to the issuance of a Site Plan Review and Approval Permit, the County and the Owner/Developer shall enter into a separate decommissioning agreement, which shall clearly lay out the rights and obligations of the County and the Owner/Developer with respect to the management and potential decommissioning and removal of the Wind Energy Devices either at the end of their serviceable life or upon becoming a discontinued use.

A Wind Energy Device shall be considered discontinued or abandoned after one (1) year without energy production, unless a timely plan is developed and submitted within such one (1) year period to the Administrator outlining the steps and schedule for returning the Wind Energy Device to active service.

All Wind Energy Devices and accessory facilities shall be removed to a depth of four (4) feet below grade within 180 days of becoming a discontinued use.

Section 8. Penalty. It shall be unlawful for any person, firm or corporation to construct, install, or operate any Commercial Grade WECS that is not in compliance with this Ordinance or with any special conditions contained in the Site Plan Review and Approval Permit. Wind Energy Devices installed prior to the adoption of this Ordinance are exempt. Administrator or other representative of Palo Alto County may enter upon or into any property for which a permit has been issued under this Ordinance to conduct an inspection to determine whether the conditions stated in the permit have been satisfied.

Any person who fails to comply with any provision of this ordinance shall be deemed subject to a county infraction and punishable by a civil penalty of not less than $65.00 but not to exceed $625.00 plus court costs for the first offense and not less than $100.00 but not to exceed $1,000.00 plus court costs for each repeat offense. Palo Alto County may seek all relief prescribed by State law for county infractions. The County Auditor and the Palo Alto County Attorney and his or her assistances are the officers authorized to enforce this ordinance by issuance of civil citations for county infractions. Each Wind Energy Device determined to be in violation will be considered a separate infraction. Each day that a violation occurs or continues to exist constitutes a separate offense.

The failure to comply with any of the conditions or restrictions imposed on the building permit issued for the WECS shall be deemed a violation of the Palo Alto County Wind Energy Conversion Ordinance and subject to the penalties described herein.

Section 9. Change of Ownership. The Owner/Developer shall submit notification to the Administrator upon change of ownership of all or part of any WECS. The ownership of a WECS shall not be assigned without the written consent of the Palo Alto County Board of Supervisors and such consent shall not be unreasonably withheld.

INTERPRETATION AND REGULATIONS.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law, other rules, regulations, or ordinances, the provisions of this Ordinance shall govern. This Ordinance is not intended to abrogate or annul any easement covenant or other private agreement provided that where any provision of this Ordinance is more restrictive or imposes a higher standard requirement than such easement, covenant or other private agreement, the provisions of this Ordinance shall govern.

REPEAL AND SAVINGS CLAUSE.

Effective on the applicable date of this Ordinance, all ordinances or parts of ordinances previously adopted by Palo Alto County which are in conflict with the provisions of this Ordinance, or amendments thereto, are hereby repealed. The repeal of said ordinance shall not have the effect to release or relinquish any penalty, forfeiture or liability incurred under said ordinance or any part thereof, and such ordinance and all parts thereof shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability.

VALIDITY & SEVERABILITY CLAUSE.

Should any section, provision or any part of this Ordinance, or amendments thereto, be declared by a court of competent jurisdiction to be invalid or unconstitutional, such ruling shall not affect the validity of the Ordinance as a whole or provision or part thereof not specifically included in said ruling.

EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after its adoption and publication as required by law and provided for in the Code of Iowa or amendments thereto.

ADOPTION

Supervisor Keith Wirtz introduced the above Ordinance No. 9-21-16 and it was placed on file and read for the first time on 9-13-2016.

Furthermore, the second reading of Ordinance No. 9-27-16 was held on 9-20-16.

Furthermore, the third readings of Ordinance No. 9-27-16 was held on 9-27-2016.

Supervisor Keith Wirtz therefore moves for the approval and passing of the ordinance.

Supervisor Craig Merrill seconded the motion to adopt the ordinance.

THE RECORDED VOICE VOTE WAS MADE:

Keith Wirtz ✓
Ron Graettinger ✓
Ed Noonan ✓
Craig Merrill ✓
Linus Solberg ✓

Passed and approved this 27th day of September, 2016.

MOTION CARRIED RESOLUTION ADOPTED ~~(NOT ADOPTED)~~.

Chairperson, Palo Alto County Board of Supervisors

Attest:

Palo Alto County Auditor

I hereby certify that on the following dates the foregoing was published as Ordinance 9-27-2016 in Palo Alto County, Iowa.

9-6-2016 Emmetsburg Reporter
9-7-2016 Graettinger Times/Ruthven ZipCode
9-8-2016 West Bend Journal