

Henry County Zoning Ordinance
Appendix B Wind Energy
Restoration Agreement

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Whereas, the Henry County Board adopted a text amendment to the Henry County Zoning Ordinance entitled Appendix B Wind Energy on September 13, 2005.

Whereas, Appendix B Wind Energy includes Sections 2.08 Restoration Requirement and 2.16 Wind Energy System Owner/County/Property Owner Restoration Agreement.

Whereas, Section 2.08 establishes minimum restoration requirements and Section 2.16 states each wind energy system shall have a WRITTEN AGREEMENT with Henry County and/or property owner regarding restoration requirements as discussed in this ordinance.

Whereas, each wind energy system owner may or may not have written restoration agreement included in the land lease and wind easement contract with each property owner.

Whereas, each wind energy system owner included restoration requirement information in zoning application and discussed same during the public meeting/hearing review process.

Whereas, each wind energy system special use permits approved by the Henry County Board include stipulations requiring restoration, written Restoration Agreement and financial assurance unless waived.

Whereas, Section 2.16 Wind Energy System Owner/County/Property Owner Restoration Agreement also states that performance/surety bonds or other financial assurance documents may be required to guarantee restoration (decommissioning) before a building permit can be issued.

Whereas, the Planning/Development Committee of the Henry County Board recommends that Henry County require a Written Restoration Agreement and that said agreement include provisions for financial assurance to guarantee restoration.

Whereas, the Henry County Board voted on February 20, 2007 to accept the recommendation of the Planning/Development Committee to require financial assurance to guarantee the availability of funding for restoration/decommissioning of wind turbines.

Whereas, the Planning/Development Committee recommends:

- A. Restoration Agreement. Each wind energy system facility owner shall prepare, sign, notarize and submit a written restoration agreement for each wind energy system facility before a building permit can be issued. Written restoration agreement shall include:
1. Acknowledgement of wind energy system facility owner obligation and promise to complete restoration at a future date as required in Henry County Zoning Ordinance Appendix B Wind Energy Section 2.08.
 2. Description of events that will initiate the restoration process as outlined in Section 2.08 (Notice of Abandonment, Notice of Termination).
 3. Description of restoration process as outlined in Section 2.08 (removal of wind turbines, above ground improvements, outdoor storage; removal of foundation pads and underground electrical wires to a depth of four (4) feet below the surface of ground; removal of hazardous materials.
 4. Acknowledgement that failure to comply with conditions or restrictions imposed on a special use permit shall be deemed a violation of the Henry County Zoning Ordinance.
 5. Provision that the terms of the Restoration Agreement shall be binding upon the wind energy system facility owner and any successors, assigns or heirs.
 6. Provision that in the case of restoration default by the wind energy system owner, Henry County and its agents shall have access to the wind energy system facility sites, pursuant to reasonable notice, to effect or complete restoration.
 7. Provision for identification of and procedures for Henry County access to financial assurance provided by the wind energy system facility owner.

- B. Certified Estimate of Restoration Costs. Restoration Agreement shall include a report estimating the wind energy system facility restoration costs certified by a Professional Engineer. Report should be similar in style and content to the Benson Wind Farm Decommissioning Report prepared for Navitas Energy, Inc. by STS Consultants, Ltd dated July 2006. Revised Certified Estimate of Restoration Costs shall be submitted every three (3) years beginning year fifteen (15) to verify current salvage values of wind turbine equipment.
- C. Financial Assurance. Restoration Agreement shall include a provision for financial assurance described as follows:
1. Acknowledgement of owner obligation and promise to provide financial assurance to Henry County in the amount of twenty-five thousand dollars (\$25,000) per each large wind energy system (turbine) included in the permitted wind energy system facility twelve years (12) from the date the first wind energy system (turbine) begins generating electricity.
 2. The financial assurance shall be adjusted every three (3) years beginning year fifteen (15) for increases/decreases in consumer price index (CPI) and wind turbine equipment salvage values.
 3. At the beginning of year twenty-four (24) the financial assurance shall be adjusted to a minimum of thirty-five thousand dollars (\$35,000) per each large wind energy system.
 4. The financial assurance may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee, or escrow account as long as the security is equal to or greater than a surety bond as determined by the Henry County State's Attorney
 5. Provision that if wind energy system facility restoration costs exceed salvage value and financial assurance amounts, the wind energy system facility owner, NOT HENRY COUNTY, shall be responsible for the difference.
- D. State of Illinois. The State of Illinois has been working on restoration (decommissioning/reconstruction) legislation that would provide uniform restoration requirements for all wind energy system facilities

located throughout the State. Proposed legislation may or may not become law and may or may not supersede local restoration requirements. Henry County will review legislation if and when it becomes law and will amend Restoration Agreement as necessary to make it compliant with the law as necessary.

**APROVED AND ADOPTED ON THIS 10TH DAY OF MARCH 2009
BY THE HENRY COUNTY BOARD, HENRY COUNTY, ILLINOIS.**

Attest: Barbara M. Smith Jim Nicholson
County Clerk Chairman

**REJECTED ON THIS 10TH DAY OF MARCH 2009 BY THE HENRY
COUNTY BOARD, HENRY COUNTY, ILLINOIS.**

Attest: _____
County Clerk Chairman