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Linn County Planning and Zoning Commission  
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**RE: Iowa Environmental Council Comments on CHAPTER 107 UNIFIED DEVELOPMENT CODE (UDC) TEXT AMENDMENTS for Utility-Scale Wind.**

Renewable energy is at the heart of addressing climate change. On April 22, 2021, the U.S. announced a long-term national policy to ensure the U.S. achieves a carbon-free electricity sector by 2035, effectively eliminating electricity produced using coal and fossil gas. To put the U.S. on a pathway to achieve net zero by 2050, the Inflation Reduction Act (IRA) was signed on August 16, 2022. The IRA creates significant tax credits and incentives through 2032 to move to a clean energy economy.

We commend Linn County for adopting a resolution on December 4, 2019, declaring a climate crisis and committing to accelerated efforts to limit the global average temperature increase. The creation of the sustainability program and a sustainability director further demonstrate Linn County’s long record of taking action to encourage the use of renewable energy. IEC was especially encouraged by the sustainability department’s educational outreach on December 19, 2023, providing insight to the significant renewable energy and energy efficiency opportunities available as a result of the IRA.

**Linn County Comprehensive Plan**

It is the policy of Iowa, as stated in §476.41, “to encourage the development of alternate energy production facilities and small hydro facilities in order to conserve our finite and expensive energy resources and to provide for their most efficient use.” The Linn County comprehensive plan incorporates this policy as follows:

“Encourage and support the use of alternative and renewable energy resources and energy efficiency strategies. Use alternative and renewable energy resources and energy efficiency strategies to build the local economy, improve the environment, and reduce long-term risks associated with traditional energy supply. Removing local market barriers that limit and slow development of local resources will help create self-sustaining alternative energy markets.”

As a part of the comprehensive plan, objective 3.2 is to “encourage development of local alternative and renewable energy resources *through identification and removal of regulatory barriers.*” (*emphasis added*)

As proposed, IEC does not believe the utility-scale wind amendment is consistent with the comprehensive plan objective of removing regulatory barriers. Instead, the amendment does the opposite by creating new and unwarranted regulatory barriers.

### **Balancing Land Use and Purpose**

Carbon-free electricity is required to address climate change, but the true value of electricity is often overlooked and undervalued. It is too easy to flip the switch with the expectation that the electricity will be there on demand. As we balance how land is used, we need to be cognizant that electricity is a necessity of modern life.

In 2022, Linn County had 298,331 acres of cropland. As documented in the Linn County comprehensive plan, agricultural land in Linn County from 1987 to 2007 declined by about 20,622 acres. “The total number of acres of agricultural land may continue to decrease, as the population of the county continues to grow and land is annexed by cities and/or rezoned to accommodate development needed to support the additional population.”<sup>1</sup>

Not to be lost in balancing land use is that more electricity will be necessary to support the additional population. As additional electric generation is added to support our collective societal needs, utility scale wind can provide significant benefits to farmers and the county. In addition to the financial benefits to a farmer’s bottom line and increased county tax revenue, wind farms provide an excellent balance to preserving agricultural land while meeting our electricity needs.

The Duane Arnold nuclear plant had a rated output of 601 megawatts (MW) and is located on 500 acres, which is an energy density of 1.2 MW/acre. By way of comparison, the Diamond Trail wind farm near Marengo utilized 3.7 MW wind turbines. The wind farm consists of 46 geographically dispersed turbines which occupy on average one acre per turbine. This provides an energy density 3.7 MW/ acre.

### **General Comments**

In addition to supporting Linn County’s sustainability efforts including the use of alternative and renewable energy resources and energy efficiency strategies, IEC shares the expressed goals of protecting land from detrimental lasting effects that may prevent land from being returned to agricultural use in the future. We applaud comprehensive approaches to facilitate good neighbor practices and responsible corporate behavior regarding land use, robust and good-paying labor practices, and decommissioning of projects no longer in service. However, in the spirit of supporting those shared goals, we believe the draft changes to the UDC for utility scale wind create unwarranted and costly regulatory barriers to utility scale wind contrary to the comprehensive plan objective of removing regulatory barriers. The comments below represent our primary concerns and suggest opportunities for the planning and zoning commission to

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<sup>1</sup> Linn County Comprehensive Plan, vol. 2 (July 19, 2013), at 24.

reconsider language that would achieve all stated goals while still facilitating robust utility-scale wind development.

### **Draft Ordinance Regulatory Barriers**

In updating the utility scale wind ordinance, IEC believes requirements for renewable energy development need to be consistent with the ordinances controlling other development in Linn County. If utility scale wind is required to create plans or submit analyses not required of other development, then the ordinance represents an unequal application of planning and zoning and creates regulatory barriers to renewable development.

If a developer wants to develop a utility scale wind project in Linn County, the following increase costs and obligations for the project, ultimately increasing the cost of our electricity. IEC believes any requirement imposed in the ordinance needs to answer two fundamental questions: is it necessary to protect Linn County residents, and are the requirements reasonable?

#### **1. Viewshed analysis**

The utility scale wind energy conversion system (UWECS) facility owner/operator shall submit a Zone of Visual Influence (ZVI) analysis detailing the area of land around the project where the turbines will be seen. Given that wind turbines are visible from significant distances, this requirement lacks specificity and purpose. IEC believes this is a regulatory barrier without a specific purpose.

#### **2. Operation and Maintenance Plan**

The UWECS facility owner/operator shall submit an operation and maintenance plan including all necessary services, frequency of service, preventative maintenance measures, and monitoring. The owner/operator is required to submit annual reporting and verification on the status or changes to ongoing service schedule.

Clearly, Linn County is not the owner/operator which raises the question of the purpose of the operation and maintenance plan. Unless other forms of development are required to submit an operation and maintenance plans with annual updates, then IEC believes the ordinance represents an unequal application planning and zoning and creates regulatory barriers to utility scale wind development.

#### **3. Decommissioning, abandonment, and site restoration plan.**

The UWECS facility owner/operator shall submit a decommissioning plan. Although IEC agrees that the developer needs to have a decommissioning plan, the following requirement at section (e)(9)(b) is an unwarranted and costly regulatory barrier:

*Removal of any hazardous materials at the facility, as determined by a Toxic Characteristic Leaching Procedure (TCLP) or other similar test approved by Linn County and as described in the facility's Operations and Maintenance Plan. TCLP testing shall be performed prior to any ground disturbance at the project site.*

The TCLP was designed to determine if a “waste” is hazardous and simulates the potential leaching from the waste material once it is placed in a landfill. Unless there is reason to believe the sites where the turbines are placed have experienced contamination from prior activity, or that the operation of a wind turbine involves the use and release of hazardous chemicals, no basis exists for requiring the developer to utilize the TCLP. Importantly, the TCLP is just a procedure to test for toxicity. But unless the ordinance identifies specific chemicals of concern related to wind turbines, incorporating TCLP into the ordinance is a meaningless and overly burdensome regulatory barrier. The draft ordinance would require the developer to conduct the equivalent of a contaminated site remedial investigation at the location of each turbine. This is not only expensive and unwarranted, but unless other forms of development are required to use TCLP in advance of construction without a basis for requiring a remedial site investigation, then IEC believes the ordinance represents an unequal application planning and zoning and creates regulatory barriers to utility scale wind development. We encourage the commission to remove this requirement from the draft ordinance.

#### **4. Agricultural Impact Mitigation Plan**

The agricultural impact mitigation plan presents several project requirements that both increase the complexity of the ordinance and significantly raise technical and material costs for developers. These requirements also necessitate the employment or contracting of third-party soil health and agricultural professionals, contracting soil health laboratories, and establishing complicated, technical schedules for soil testing and reporting. Each of these requirements significantly drives up project costs and does little to protect soil health.

Under current practices, the land that is most suitable for utility-scale wind development in Linn County, agricultural land, sits uncovered for over half the year and intensively farmed with large machinery and considerable amounts of fertilizer and pesticides. Requiring a complicated and costly soil testing and reporting regime is unwarranted and represents an unfair barrier for wind developers. Requiring a third-party independent monitor on site during construction and mandating reporting every 30 days during construction is also an unworkable and unfair barrier for wind development. The value of a third-party independent monitor to verify construction activities is questionable at best, and unless a monitor is required for development other than renewable energy it represents an unwarranted regulatory barrier.

#### **5. Wildlife Monitoring and Mitigation Plan (WMMP)**

Under the proposed ordinance, the UWECS facility owner/operator shall submit a WMMP to mitigate risk to avian and bat populations during the construction and operation phases of the project. It would require a third-party professional to conduct a baseline study of the avian and bat habitat within the project boundary and a 2-mile perimeter outside the project boundary. Post construction avian and bat fatality monitoring would be conducted by a third party licensed professional for three years following completion of the project construction phase.

Although IEC understands the concern regarding avian and bat populations, we note that project-related actions are required to comply with federal and state wildlife regulations. Additionally, the ordinance can require that design criteria include measures to minimize avian and bat

collisions without the need of a third-party study. The developer could consider techniques such as painting one of the blades black, which has been shown to be a potentially mitigating design reducing bird collisions<sup>2</sup>, or Natural Power's Detection and Active Response Curtailment (DARC™) system studied in 2020 at Alliant Energy's 170-megawatts English Farms wind power plant in Iowa that aimed to reduce wind energy's impact on bats.<sup>3</sup> The value of a third-party study to evaluate the impact of the wind turbines on avian and bat populations creates data without a potential purpose, and unless a study is required for development other than renewable energy such as the Alliant tower or Bankers Trust, it represents an unwarranted regulatory barrier.

### **Concluding Remarks**

IEC shares Linn County's objective of encouraging development of local alternative and renewable energy resources through identification and removal of regulatory barriers. However, the proposed utility scale wind amendments are antithetical of removing regulatory barriers. While project developers should have obligations to protect the interests of the county and the interests of both participating and non-participating landowners, as written this ordinance amendment imposes significant new regulatory barriers to utility-scale wind.

IEC stands ready to assist Linn County in its efforts to balance the interests of all parties involved in utility-scale wind development and we hope that you will consider our recommendations fully. We recognize the work that has gone into this process, and we encourage to work towards an ordinance that supports your efforts to grow utility-scale wind in Linn County.

Sincerely,

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<sup>2</sup> [AWWI-Research-Brief Paint-it-Black-11\\_19\\_21.pdf \(rewi.org\)](#)

<sup>3</sup> [New Tool Protects Bats While Increasing Energy Production | Department of Energy](#)