

RESOLUTION NO. 12 - 2021

**A RESOLUTION ESTABLISHING A MORATORIUM AND PROVIDING FOR THE  
SUSPENSION OF CERTAIN TYPES OF IMPROVEMENTS ON ANY LAND WITHIN  
THE UNINCORPORATED AREA OF CHEROKEE COUNTY; AND DIRECTING  
THAT POTENTIAL LAND DEVELOPMENT REGULATIONS FOR CHEROKEE  
COUNTY BE DEVELOPED.**

**WHEREAS**, Cherokee County, pursuant to K.S.A. 19-101 *et seq.*, has the authority to determine its local affairs and to establish such regulations as are necessary for the protection of the public health, safety, and welfare; and

**WHEREAS**, Cherokee County does not presently provide regulations or standards that are specific to commercial Wind Energy Conversion Systems (“WECS”), often referred to as “wind farms”; and

**WHEREAS**, Kansas statutes authorize counties to establish land development regulations to address their local development concerns and needs; and

**WHEREAS**, due to a number of impacts that WECS have or might have on both nearby property owners and also future development, the Board of County Commissioners recognize that a need exists to develop, consider, and potentially adopt land development regulations and/or standards that may pertain to such property uses; and

**WHEREAS**, the time necessary to complete the task of developing, considering, and potentially adopting any regulations and/or standards for WECS would likely take multiple months; and

**WHEREAS**, the time necessary to adopt any regulations and/or standards for WECS could result in an influx of such WECS that may not be in the best interests of Cherokee County; that could be detrimental to the health, safety, and general public welfare of the citizens of Cherokee County; and, that might be inspired to occur only in an attempt to become established before any new land development regulations and/or standards are adopted which might limit, restrict, or prohibit such development; and

**WHEREAS**, pursuant to K.S.A. 19-101, *et seq.*, Cherokee County has the police power and statutory authority to regulate the conduct of development through this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CHEROKEE COUNTY, KANSAS that:

**SECTION 1.**

A one-year moratorium is hereby adopted on the approval of any requests to use Cherokee County roads, resources, or infrastructure for the purposes of the construction of any WECS within the unincorporated area of Cherokee County and the issuance of any permits that would include WECS are suspended as indicated within this Resolution.

**SECTION 2.**

During the term of such moratorium construction of any WECS within the unincorporated areas of Cherokee County is prohibited.

For purposes of this resolution, a WECS shall include all electricity generation facilities comprised of multiple wind turbines generating electrical power for sale and off-site use. This prohibition includes any construction activity to install roads, turbine foundations, or other infrastructure intended to be used for the purposes of a WECS. This probation does not include any soil testing or wind measurement activities in preparation for the commencement of a WECS project.

**SECTION 3.**

All Cherokee County officials, agencies, staff, agents, commissions, and/or boards charged with the responsibility to approve, license, permit, or otherwise authorize the establishment and/or construction of WECS facilities on property within the unincorporated area of Cherokee County are directed to suspend the granting of such approval, licenses, permits, or authorization for the period stated within this Resolution.

**SECTION 4.**

During the term of this moratorium, the Board of County Commissioners intends to determine the viability of enacting a comprehensive plan and a zoning ordinance as authorized by Kansas statutes, either limited or broad, or other potential regulatory options for Cherokee County.

**SECTION 5.**

The moratorium imposed by this Resolution may be extended, amended, or terminated earlier than its expiration date by subsequent resolution approved by the Board of County Commissioners.

**SECTION 6.**

Violations of this Resolution shall be punishable by a fine of up to \$1,000.00 per day. In addition, Cherokee County may require the cessation and abatement of any violation. In addition to the fine provided for herein, this Resolution may be enforced by an action for injunction to prevent or abate any violations or threatened violation, which shall be enforced by the Cherokee County Attorney

or Cherokee County Counselor.

**SECTION 7.**

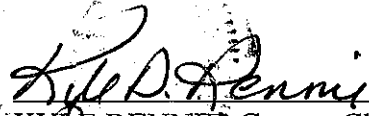
If any section of this Resolution shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Resolution as a whole or any part or provision thereof, other than the part so declared invalid or unconstitutional.


**SECTION 8.**

This Resolution shall take effect and be in full force and effect after its adoption and publication in the official county newspaper and shall remain in effect until August 29, 2021. The County Clerk is directed to publish this Resolution once in the official county newspaper.


ADOPTED in regular session this 30<sup>th</sup> day of August, 2021.

BOARD OF COUNTY COMMISSIONERS  
OF CHEROKEE COUNTY, KANSAS

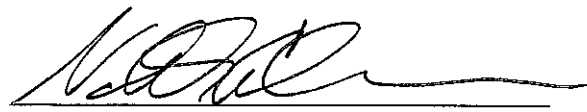
ATTEST:  
  
KYLE RENNIE, County Clerk

  
CORY MOATES, Chairman  
Commissioner, Third District

  
MYRA CARLISLE FRAZIER  
Commissioner, First District

  
LORIE JOHNSON  
Commissioner, Second District

APPROVED AS TO FORM:

  
NATHAN R. COLEMAN  
County Counselor