

### DIVISION III – WIND ENERGY CONVERSION SYSTEMS

**40-5-51 PURPOSE.** The purpose of this Division is to facilitate the construction, installation, and operation of Wind Energy Conversion Systems (WECS) in Randolph County in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. It is the intent of this Division to encourage the development of WECS that reduce the reliance on foreign and out-of-state energy resources, bolster local economic development and job creation. This Division is not intended to abridge the safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this Division shall not be deemed to nullify any provisions of local, state or federal law.

**40-5-52 DEFINITIONS.** The definitions applicable to this Division are as follows:

**Applicant** means the entity or person who has submitted an application for a Special Use Permit for a WECS Project, commonly known as a Wind Farm.

**Financial Assurance** means reasonable assurance from a creditworthy party, examples of which include surety bond, cash escrow, or irrevocable letter of credit.

**Noise** means sound that adversely affects the psychological or physiological well-being of people.

**Non-participating Parcel** means a parcel of real estate that is neither a Project Parcel nor a Participating Parcel.

**Operator** means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third-party subcontractors.

**Owner** means the entity or entities with an equity interest in the WECS, including their successors and assigns. Owner does not mean the landowner from whom the land is leased for locating the WECS, unless the property owner has an equity interest in the WECS.

**Participating Parcel** means a parcel on which the landowner has entered into a financial or easement agreement with the owner, operator or applicant of a WECS project.

**Principal Use Structures** means the structure that one or more person(s) occupy the majority of the time on that property for either business or personal reasons. Primary structure includes structures such as residence, commercial building, hospital, and day-care facility. Primary structure excludes structures such as hunting shed, storage shed, pool house, unattached garage, and barn.

**Professional Engineer** means a qualified individual who is licensed in the State of Illinois as a professional engineer in the required area of expertise.

**Project Parcel** means the parcel or parcels of real estate on which all or any part of a WECS Project will be constructed.

**Setback Easement** shall mean a legal document from a neighboring parcel owner granting the applicant/owner of a WECS Project a waiver of one or more of the setback requirements contained herein for the duration of the life of the WECS Project (including repowering with a substantially similar system).

**Shadow Flicker** means the on-and-off flickering effect of a shadow caused when the sun passes behind the rotor of a wind turbine.

**Structural Engineer** means a qualified individual who is licensed as a structural engineer in the State of Illinois.

**Substation** means the apparatus that connects with the electrical collection system of the WECS and increases the voltage for connection with the utility's transmission line or high-voltage electric transmission grid.

**Wind Energy Conversion Systems (WECS)** means all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS tower to the substations.

**WECS Project** means all WECS, substations and ancillary facilities, WECS towers, underground cable installations, and third-party transmission lines associated with the project up to the point of connection with the high-voltage electric transmission grid.

**WECS Tower** means the support structure to which the nacelle and rotor are attached.

**WECS Turbine** means the support structure to which the nacelle and rotor are attached, and the nacelle and rotor.

**40-5-53 PERMIT REQUIREMENTS.** To obtain siting approval, the Applicant must first submit a Special Use Permit Application to the Land Resource Management office and be subject to recommendation by the Zoning Board of Appeals, and approval by the County Board of Commissioners. In addition to the regularly required information on a Special Use Permit Application, the Applicant shall provide a site plan containing the following information and meeting the following requirements:

(A) The boundaries of all WECS Project parcels and participating parcels.

(B) The boundaries of all non-participating parcels located adjacent to the boundary of the WECS Project parcels.

(C) The names and addresses of the owners of all WECS Project parcels, participating parcels, and all non-participating parcels located adjacent to the boundary of the WECS Project parcels.

(D) Existing zoning of each WECS Project parcel and all required setbacks on each WECS Project parcel.

(E) The proposed location of all components of the proposed WECS Project, including but not limited to the WECS turbine, WECS tower, access roads, control facilities, construction staging area(s), maintenance facility or facilities, and all power collection and transmission systems.

(F) The location and description of all structures located on WECS Project parcels, participating parcels, and any non-participating parcel located adjacent to the boundary of a WECS Project parcel and participating parcel of where said structures are located within **three thousand five hundred (3,500) feet** of a WECS Turbine.

(G) The location of all major above- and below-ground utility lines, telephone lines, and railroad rights-of-way located within and adjacent to the WECS Project, and within **three thousand five hundred (3,500) feet** of a proposed WECS.

(H) The location of all public roads and right-of-way located within and adjacent to the WECS Project parcels and within **three thousand five hundred (3,500) feet** of a proposed WECS.

(I) Municipal boundaries, **one and one-half (1.5) mile** municipal extraterritorial jurisdiction radii, civil township boundaries, county boundaries, and school district boundaries.

(J) The location of all mapped wetlands (per USFWS National Wetlands Inventory) and Special Flood Hazard Areas (per the Randolph County Flood Insurance Rate Maps) within the WECS Project.

(K) Dimensional representation and sizes of the structural components of the WECS construction including the base, footings, tower, and blades.

(L) Schematic of electrical systems associated with the proposed WECS Project including all existing and proposed electrical connections.

(M) WECS manufacturer's specifications (including nameplate capacity) and installation and operation instructions, or specific WECS design information (in English), including whether or not proposed equipment is new or used.

(N) All required studies, reports, certifications, and approvals, demonstrating compliance with the provision of this Division, federal and state laws, and administrative provisions.

(O) Any other information required by the Land Resource Management Office.

(P) Copies of all necessary access easements, necessary utility easements and setback easements.

The applicant shall notify the County of any changes to the information provided in the subsections above that occurs while the special use application is pending.

**40-5-54 STANDARDS FOR DESIGN AND INSTALLATION.**

**(A) Location.**

(1) WECS governed by the provisions of this Division shall be permitted as special use in Agricultural and Industrial zoned land.

(2) WECS governed by the provisions of this Division shall be prohibited within designated historical areas as registered and defined by the National Park Service, state and county historic districts.

**(B) Prohibition.** No WECS or WECS Project governed by the Division shall be constructed, erected, installed, or located within Randolph County unless prior Special Use Permit Application has been approved for each individual WECS or WECS Project pursuant to this Division. Upon special use approval, a Zoning Compliance and Building Permit shall be obtained from the Land Resource Management Office prior to the commencement of construction of any WECS or WECS Project or any part thereof.

**(C) Conformance with Approved Application and Plans.**

(1) The Applicant for the WECS Project shall construct the WECS Project in substantial accordance with submitted Special Use Permit Application and all accompanying documents.

(2) The Applicant shall be bound by any and all proposals and representations made under oath at the public hearing(s) before the Zoning Board of Appeals, which shall be considered supplementary conditions of the Special Use Permit Application granted by the Randolph County Board of Commissioners, even if not directly specified herein.

(3) The Applicant and/or owner/operator of the WECS Project shall obtain all required permits from other governmental agencies (such as the Federal Aviation Administration) prior to commencing construction or as otherwise required by the applicable laws and regulations. Copies or evidence of such permits shall be submitted to the Land Resource Management Office on or before the issuance of an Initial Certificate of Zoning Compliance and Building Permit for any WECS.

(4) Construction activity associated with WECS turbines shall not commence before **5:00 A.M.** nor continue past **10:00 P.M.** on any day of the week.

(5) Construction of the WECS Project within Randolph County shall commence within **twenty-four (24) months** of the date of the Special Use Permit Application approval by the County Board of Commissioners. The County Board of Commissioners may grant an extension, after petitioning the Land Resource Management Office, of the foregoing time period upon the Applicant and/or owner/operator of the WECS Project demonstrating reasonable justification for such a request.

**(D) Design Safety Certification.**

(1) All components of the WECS Project shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI") and the American Wind Energy Association ("AWEA"). As a part of the Special Use Permit Application, Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL") or an equivalent third party.

(2) Following the granting of a Special Use Permit, a professional engineer and/or structural engineer, in the relevant area of expertise, shall certify, as part of the Zoning Certificate of Compliance and Building Permit Application, that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

**(E) Setbacks.**

(1) All WECS turbines shall be set back a distance of at least **one and one-half (1.5) miles (7,920 feet)** from any incorporated municipality's boundaries unless that municipality chooses to exercise its siting authority pursuant to Illinois law.

(2) All WECS turbines shall be set back at least **two thousand five hundred (2,500) feet** from principal use structures on a non-participating parcel.

(a) The WECS Project Applicant may negotiate a setback easement to reduce this setback requirement.

(3) All WECS turbines shall be set back at least **two thousand five hundred (2,500) feet** from boundary of designated historical areas as registered and defined by the National Park Service and state and county historic districts.

(4) All WECS turbines shall be set back a distance of at least **one thousand (1,000) feet** the WECS turbine height from the property line of a non-participating parcel.

(a) The WECS Project Applicant may negotiate a setback easement to reduce this setback requirement.

(5) All WECS turbines shall be set back at least **1.25 times** the WECS turbine height from public roads, third party transmission lines, and communication towers.

(6) The WECS Project Applicant does not need to obtain a variance from Randolph County upon the granting of a setback easement by a parcel owner. Any negotiated setback easement(s) shall run with the land and be recorded with the Randolph County Clerk and Recorder as part of the chain of the title in the deed of the parcel granting said setback easement(s).

(F) **Height.** WECS turbine height shall not exceed **six hundred fifty (650) feet** anywhere in Randolph County for any WECS Project, as measured from the natural grade to the tip of the rotor blade at its highest point.

(G) **Equipment.**

(1) Used Equipment is permitted only if recertified to factory specifications or better by the factory or an appropriate professional engineer.

(2) No experimental or prototype equipment still in testing shall be utilized.

(H) **Controls and Brakes.**

(1) All WECS Projects shall be equipped with manual and automatic controls and mechanical brakes to limit rotation of blades to a speed below the designed limits of a WECS. A professional engineer or authorized factory representative must certify that the rotor and overspeed control design and fabrication conform to good engineering practices.

(2) No changes or alterations from certified design shall be permitted unless accompanied by a professional engineer's or authorized Factory Representative's statement of certification.

(I) **Electrical Components.**

(1) All electrical components of the WECS shall conform to applicable state and national codes, and relevant national and international standards (i.e. ANSI and International Electrical Commission).

(2) All electrical wires and lines used to collect power from individual WECS turbines, as well as communication lines, shall be trenched-in, installed and located underground at a depth consistent with local utility and telecommunication underground lines standards.

(3) The Applicant or owner/operator of the WECS Project shall provide information on underground facilities constructed and/or installed as part of the WECS Project to the "One-Call System" operated by the joint Utility Locating Information for Excavators company, commonly known as "JULIE."

(J) **Color.** WECS turbines shall be painted white or gray or another non-reflective, unobtrusive color.

(K) **Warnings.**

(1) A visible "High Voltage" sign shall be placed at the base of all WECS Projects, pad mounted transformers and substations. The sign must have a minimum of **six (6) inch** letters. Signs shall be placed at all points of site ingress.

(2) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of **fifteen (15) feet** from the ground.

(L) **Advertisements and Signs.** No advertising material and/or signage other than warning, equipment identification, or ownership information shall be allowed on the WECS. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners, or waving, fluttering or revolving devices on the WECS, but not including any meteorological devices.

(M) **Climb Prevention.** All WECS Project towers shall be unclimbable by design or protected by anti-climbing devices such as:

(1) Fences with locking portals at least **six (6) feet** high; or

(2) Anti-climbing devices **twelve (12) feet** vertically from the base of the WECS tower; or

(3) Anchor points for the guy wires supporting tower shall be enclosed by a **six (6) foot** high fence or shall be located within the confines of a yard that is completely fenced.

(N) **FAA Compliance.** The WECS Project shall comply with all applicable Federal Aviation Administration (FAA) requirements, which shall be explained in the Special Use Permit Application. The applicant shall obtain all of the necessary approvals and permits from the FAA and be responsible for a determination of no significant impact to air navigation. The Special Use Permit Application shall contain all construction drawings illustrating the location, number of lights, and color of lights and intensity of lights as approved by the FAA.

(O) **Compliance with Additional Regulations.** Nothing in this Special Use Permit is intended to preempt other applicable state and federal laws and regulations.

(P) **Use of Public Roads.**

(1) Any proposed public roads that will be used for construction purposes shall be identified and approved by the respective Township Road Commissioner and County Engineer prior to the granting of the Special Use Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads will require a permit from the respective highway authority.

(2) Any road damage caused by the transport of the facility's equipment, the installation, maintenance, or removal, must be completely repaired to the satisfaction of the Township Road Commissioner and the County Engineer. The Township Road Commissioner and County Engineer may choose to require remediation of the road repair upon completion of the project or are authorized to collect fees for overweight and/or oversized load permits.

(3) Financial assurance in an amount to be fixed by the Township Road Commissioner or the County Engineer to insure the township or the county that future repairs are completed to their satisfaction. If required, said financial assurance shall be in place prior to the granting of a Special Use Permit.

(Q) **Drainage to Farmland.**

(1) To the extent practical, all underground wiring or cabling for the WECS Project shall be at a minimum depth of **four (4) feet** below grade or deeper if required to maintain a minimum **one (1) foot** of clearance between wire or cable and any agricultural drainage tile.

(2) To the extent practical, the Applicant shall locate all existing agricultural drainage tile prior to establishing staging areas, construction access lanes or driveways, construction of the WECS, substations, and installation of underground wiring or cabling. The Applicant shall contact affected landowners and tenants for their knowledge of the tile locations prior to the proposed construction. Drainage districts shall be notified at least **two (2) weeks** prior to disruption of tile.

(3) All identified drainage tile lines shall be located and marked prior to construction to alert construction crews of possible need for tile repairs.

(4) Any agricultural drainage tile located underneath construction staging areas, access lanes, driveways, and substations shall be replaced properly.

(5) All exposed tile lines shall be protected to prevent foreign materials from entering into the tile.

(6) Permanent repairs shall be made within **fourteen (14) days** of the tile damage provided the weather and soil conditions are suitable; if conditions are not suitable within that time, a temporary tile repair shall be made. Immediate temporary repair shall be required if water is flowing through any damaged tile line.

(7) All damaged tile shall be repaired so as to operate as pre- and post-construction.

(8) Following the completion of the WECS Project construction, the applicant shall be responsible for correcting all tile line repairs completed by applicant that fail.

(9) All soil conservation practices (such as terraces, waterways, etc.) that are damaged by the WECS construction shall be restored by the applicant to the pre-construction characteristics.

(R) **Use of Consultants.** The County may desire to retain experts in the areas of engineering, planning, environmental, and legal in order to properly and effectively review the documentation submitted by the Applicant. In such instance, the Applicant will be advised of the required service and be provided an estimate of the expert's fees. Since such fees are beyond the customary fees associated with smaller and less complex matters, the Applicant will be required to pay for the expert services as part of the review process and such payments shall occur regardless of the findings of the expert or the action ultimately taken by the County on the application. After notice to the Applicant of the cost of such required experts, the Applicant will be required to escrow all fees into a County account. The Applicant will be provided with duplicate copies of consultant invoices and may comment on each invoice. A monthly statement of the manner in which the escrowed funds in the account are utilized will be made available to the Applicant and if required the Applicant shall replenish the account.

#### **40-5-55 OPERATION AND MAINTENANCE.**

##### **(A) Interference.**

(1) No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, wireless phone, or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No WECS shall be installed in a location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

(2) The Applicant shall provide the applicable microwave transmission providers, local emergency service providers, and the local phone company copies of the project summary and site plan. If these providers demonstrate a likelihood of interference with their communications resulting from the WECS, the Applicant shall take measures to mitigate anticipated interference or relocate the WECS tower or facility. If, after the construction of the wind farm, the owner/operator receives a written complaint related to the above mentioned interference, the owner/operator shall take corrective measures to cure the problem.

##### **(B) Coordination with Emergency Response Providers.**

(1) The Applicant shall submit to the local fire district(s), the Sheriff's Department and other relevant police authorities a complete copy of the application for the wind farm project along with an analysis of the anticipated fire and police protection needs.

(2) The Applicant shall cooperate with the fire protection district(s) and Sheriff's Department and other relevant police authorities and develop emergency response plans that describe the potential emergency services that may be required and an analysis of the fire and police capabilities in terms of equipment and manpower to respond to potential emergency conditions. The Applicant or owner/operator shall work with local rescue authorities to provide training (at Applicant or owner/operators expense) to personnel who can assist with rescue from a wind turbine or tower.

(3) The emergency response plans developed shall be submitted to the Land Resource Management Office before an Initial Zoning Compliance and Building Permit is issued.

(4) Nothing in this Section shall alleviate the need to comply with all other applicable fire, life safety and/or emergency response laws and regulations.

(C) **Lighting.** The WECS shall not be lighted except as required by the FAA or other state and federal laws.

(D) **Materials Handling, Storage, and Disposal.**

(1) All solid wastes related to the construction, operation, and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.

(2) All hazardous materials related to the construction, operation, and maintenance of the WECS shall be handled, stored, transported, and disposed of in accordance with all federal, state, and local laws.

(E) **Annual Inspection.** Every WECS Project must be inspected by an authorized factory representative to certify that it is in good working condition and is not a hazard to the public. The WECS owner/operator will pay for the inspection. A copy of said annual inspection must be filed with the Land Resource Management Office within **fifteen (15) days** after the inspection report is received by the project owner/operator.

**40-5-56 IMPACT.**

(A) **Noise.**

(1) Noise levels from each wind farm tower or wind farm shall be in compliance with the applicable Illinois Pollution Control Board (ICPB) regulations. (35 Illinois Administrative Code, subtitle H: Noise Parts 900, 901, 910 and other applicable provisions of this Code, as amended from time to time).

(2) The Applicant shall submit manufacturer's wind sound power level characteristics and other relevant data regarding wind turbine noise adequate to continue to provide an evaluation and review for determining compliance with all noise regulation.

(3) The Applicant through the use of a qualified professional, as part of the Special Use Permit Application process, shall appropriately demonstrate compliance with the above noise requirements.

(4) The Applicant shall submit a map of the relevant noise contours for the proposed wind farm and indicate the proposed wind farm towers and all existing principal buildings within at least **three thousand five hundred (3,500) feet** of any WECS turbine.

(5) If a computer model is used to generate the required noise contours, the Applicant shall state the assumptions of the model's construction and algorithms so that a competent and objective third party can as simply as possible verify the adequacy of the methodology and resultant data.

(6) After construction of the WECS Project, the Land Resource Management Office shall take appropriate enforcement action as necessary to investigate noise complaints in order to determine the validity of the complaints and undertake any necessary enforcement actions as required to mitigate the noise violation. Such actions may not be limited to:

(a) The Land Resource Management Office may seek authorization from the County Board of Commissioners to retain the services of noise consultant to determine compliance with the relevant regulations and applicable laws. In such instance, the WECS Project owner/operator shall be notified of the action and the cost of such service and shall submit an adequate escrow payment to cover the cost of the consultant's services.

(b) The Land Resource Management Office shall require the WECS Project owner/operator to cooperate fully with the noise consultant in the enforcement action including shutting down all WECS turbines in order to allow for proper documentation of ambient noise levels. The Land Resource Management Office shall fully cooperate with the owner/operator in order to minimize any harmful effect on the operation, maintenance and economic viability of the WECS Project.

(c) In the event that a violation of the IPCB noise regulations is identified, the Land Resource Management Office may require the WECS Project owner/operator to take whatever actions necessary to stop the violation. The Land Resource Management Office may seek further consultation from other sources including but not limited to the Randolph County State's Attorney. The WECS Project owner/operator shall be responsible for all costs incurred by the County for evaluating identifiable violations. The WECS Project owner/operator shall not be responsible for County services in which there are no identifiable violations.

**(B) Shadow Flicker.**

(1) The Applicant shall conduct a study on potential shadow flicker. The study shall identify the locations of shadow flicker that may be caused by the project and expected durations of the flicker at these locations. The study shall identify problem areas where shadow flicker may interfere more than **thirty (30) hours** per year with principal use structures and describe measures that shall be undertaken to eliminate or mitigate the problems. Any safety problems identified by the County Engineer caused by shadow flicker on county or road district roads shall be mitigated.

(2) After construction of the WECS Project, the Land Resource Management Office shall take appropriate enforcement action as necessary to investigate shadow flicker complaints in order to determine the validity of the complaints and undertake any necessary enforcement actions as required to mitigate the noise violation. Such actions may not be limited to:

(a) In the event that a violation of regulations is identified, the Land Resource Management Office may require the WECS Project owner/operator to take whatever actions necessary to stop the violation. The Land Resource Management Office may seek further consultation from other sources including but not limited to the Randolph County State's Attorney. The WECS Project owner/operator shall be responsible for all costs incurred by the County for evaluating identifiable violations. The WECS Project owner/operator shall not be responsible for County services in which there are no identifiable violations.

**(C) Environmental Impact Study.**

(1) A site-specific pre- and post-construction environmental impact study shall be conducted by a qualified professional, such as a certified wildlife biologist, in consultation with the U.S. Fish and Wildlife Service, and the Illinois Department of Natural Resources.

(2) A site-specific pre- and post-construction environmental impact study shall address the direct and indirect impacts of the proposed WECS Project upon birds and bats as defined by the federal and state threatened and endangered species requirements.

(3) A site-specific pre- and post-construction environmental impact study shall include an examination of known environmentally sensitive areas and other natural resources that may be impacted by the proposed WECS Project.

(4) A site-specific pre- and post-construction environmental impact study shall take place from the beginning of the spring migration for birds and bats, whichever comes earlier in the calendar year, through the end of the fall migration for birds and bats, whichever comes latest in the calendar year.

(5) The above environmental impact studies shall be submitted as part of the Special Use Permit Application.

**(D) Emergency Shutdown Plan.**

(1) The WECS owner/operator shall be required to immediately cease operations for the duration of an emergency. Emergency shall mean a proven condition or situation caused by the WECS Project or by any other conditions that present an imminent physical threat of danger to life or significant threat to property. A WECS that is found to present an imminent physical threat or danger to life or significant threat of damage to property shall be immediately shut down and repaired or otherwise made safe and certified so by a professional engineer prior to resumption of operation. The County shall have the right



to access all WECS to verify conditions and/or repair progress with reasonable notice of the WECS owner/operator. Within **twenty-four (24) hours** of an occurrence of a tower collapse, turbine failure, property damage or contamination, fires, thrown blade or hub, collector or feeder line failure, injured WECS worker or private person, the owner/operator shall notify the County of the occurrence and proposed remedial action.

(2) The above plan is to specifically include the procedures to be used in violent storm conditions to shut down all turbines in order not to interfere with Doppler radar and the safety of the local residents.

#### **40-5-57 DECOMMISSIONING.**

(A) A decommissioning and site reclamation plan must be submitted with the Special Use Permit Application to ensure that the WECS project is properly decommissioned and the site properly reclaimed. The decommissioning and reclamation plan shall, at a minimum, include:

(1) Provisions describing the triggering events for decommissioning the WECS project.

(2) An estimate of the decommissioning costs certified by a professional engineer. The manner in which salvage value will be considered must be considered and documented. All costs will be itemized.

(3) Provision for anticipated repairs to any public roads or facilities used for the purpose of reclamation of the WECS project and all costs related to removal of structural materials and access roads.

(4) Provisions for the removal of structures, concrete, debris and cabling, including those below the soil surface to a depth of **five (5) feet**.

(5) Provisions for the disconnecting of all cabling from the high-voltage power grid or any other possible source of energy.

(6) Provisions for the restoration of the soil and vegetation.

(7) A provision that the terms of the decommissioning plan shall be binding upon the owner or operator and any of their successors, assigns, or heirs by way of sale, gift, and assignment in fact or at law or any other such transfer of financial interest of ownership in the WECS project. Any successor or assigned shall assume the terms, covenants, and obligations of this plan and must agree to assume all reclamation liability and responsibility for the WECS project.

(8) A provision that this plan is governed by Illinois law.

(9) A provision that indemnifies the County with respect to any and all liability arising out of the decommissioning and site reclamation plan.

(10) A provision that the County shall have access to the site, pursuant to reasonable notice, to effect, inspect or complete decommissioning if necessary.

(11) A provision that the applicant, or owner/operator shall notify the Land Resource Management Office by certified mail of the commencement of a voluntary or involuntary bankruptcy proceeding, naming the applicant, owner or operator as debtor, within **thirty (30) days** of the beginning of the proceeding.

(12) Financial assurance, in the form of an irrevocable letter of credit, secured by the owner or operator, for the purpose of adequately performing decommissioning and site reclamation, in an amount equal to **one hundred fifty percent (150%)** of the professional engineer's certified estimate of the decommissioning and site reclamation costs.

(B) Every **five (5) years** a professional engineer's certified estimate of decommissioning and site reclamation costs will be submitted and an adjustment to the financial assurance will be required.

#### **40-5-58 FINANCIAL ASSURANCES.**

(A) At the time of approval of the Special Use Permit the amount of the irrevocable letter of credit shall be **one hundred fifty percent (150%)** of an independent engineer's cost estimate to complete the work. The County has the right to require multiple letters of credit based on the regulations governing federal insurance for deposits or other federal and state regulations and laws.

(B) It is recognized that there may be a salvage value that will result from the reclamation process; however, the County may limit the amount that can be used for determining the amount of the irrevocable letter of credit.

(C) The Applicant, owner/operator, or legally responsible party shall gradually pay down the value of the irrevocable letter of credit by placing cash deposits in an escrow account over the first **seven (7) years** of the wind farm operation as follows, and replacement letters of credit shall be simultaneously issued in the reduced amount.

(1) The owner of the WECS Project and the County shall agree upon a mutually accepted financial institution in excellent financial standing at which an escrow account shall be established.

(2) The County shall be the beneficiary of the escrow account for the purpose of the reclamation of the WECS in the event that the wind farm owner is unwilling to or incapable of decommissioning the WECS project.

(3) The owner of the WECS project shall grant perfected security in the escrow account by use of a control agreement establishing the County as an owner of record.

(4) At all times the total combined value of the irrevocable letter of credit and the escrow account shall be increased annually as necessary to reflect actual rates of inflation over the span of the wind farm, and the amount shall be equal to or exceed the following:

(a) The amount of the engineer's cost estimate as increased by known and documented rates of inflation since the WECS project was approved; plus

(b) An amount for any future years left in the anticipated life span of the wind farm at an assumed rate of inflation of **three percent (3%)** per year.

(5) Interest accrued on the escrow account that is over and above the total initial valuation value required shall go to the WECS owner, subject to the terms of the decommissioning and site reclamation agreement.

(6) In order to provide funding for the decommissioning at the time of decommissioning, the owner may exchange a new irrevocable letter of credit in an amount equal to the amount in the escrow account in exchange for the County agreeing to a release of the full amount of the escrow account.

(D) The County may draw down on the funds in the escrow account in the event of the following situations and when the owner shall determine not to take any action to remedy the conditions. The terms under which such action may be taken should be defined in the decommissioning agreement but generally be limited to the following examples:

(1) In the event that any wind turbine or component thereof ceases to function and becomes mechanically inoperative for more than **six (6) consecutive months** and the owner is not diligently repairing such turbine or component thereof.

(2) In the event that the owner declares any wind turbine or component to be functionally obsolete for tax purposes.

(E) The decommissioning and site reclamation provision shall be included as part of the Special Use Permit Application. The irrevocable letter of credit and evidence of the escrow account must be submitted to the County prior to any construction permit being issued.

**40-5-59 CESSATION OF OPERATIONS.** If any WECS has not been in operation and producing electricity for at least **two hundred seventy (270) consecutive days**, it shall be removed. The Land Resource Management Office shall notify the owner to remove the system. Within **thirty (30) days**, the owner/operator shall either submit evidence showing that the system has been operating and producing electricity or under repair or remove it. If the owner fails to or refuses to remove the WECS, the violation shall be referred to the Randolph County State's Attorney for enforcement.

**40-5-60 BUILDING PERMIT FEES.**

(A) No structure shall be erected until a Randolph County building permit is issued per **Section 6-2-1** of the Randolph County Building Codes.

(B) By resolution, the County Board shall establish (and may periodically amend) a schedule of special building permit fees for the construction of Wind and Solar Energy Conversion Systems. See **Appendix "A"** and **"B"** of this Code for a current schedule of fees.

**40-5-61 PENALTY.** Any person, firm, or corporation, or agents, employees, or contractors of such, who violate, disobey, omit, neglect, or refuse to comply with, or who resist enforcement of, any provisions of this Division, shall be subject to a fine of not more than **Five Hundred Dollars (\$500.00)** for each offense; and each day a violation continues to exist shall constitute a separate offense.

**(Ord. No. 2019-14; 09-20-19)**