

ZONING CODE

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CHAPTER 40

ZONING CODE

ARTICLE I – GENERAL PROVISIONS

40-1-1 **PURPOSE.** In accordance with State law, (**55 ILCS 5/5-12001**), this Code regulates lots, structures, uses, and similar matters in order to preserve, protect, and promote the public health, safety and general welfare. More specifically, this Code is intended to assist in achieving the following objectives:

(A) To encourage the development of buildings and uses on appropriate sites in order to maximize Countywide social and economic benefits while accommodating the particular needs of all residents;

(B) To discourage development on inappropriate sites and to protect prime farmland, farmland of statewide importance, wetlands, flood plains and groundwater;

(C) To protect and enhance the character and stability of sound existing residential, commercial and industrial areas, and to gradually eliminate nonconforming uses and structures;

(D) To conserve and increase the value of taxable property throughout the County;

(E) To ensure the provision of adequate light, air and privacy for the occupants of all buildings;

(F) To protect property from damage caused by fire, flooding, and adverse soil and topographical conditions;

(G) To provide adequate and well-designed off-street parking areas for all buildings and uses, and to reduce vehicular congestion on the public streets and highways; and

(H) To provide for the efficient administration and fair enforcement of all the substantive regulations set forth herein.

40-1-2 **JURISDICTION.** This Code shall be applicable throughout Randolph County, except within the corporate limits of municipalities which have adopted local zoning codes.

40-1-3 **INTERPRETATION.** Every provision of this Code shall be construed liberally in favor of the County, and every requirement imposed herein shall be deemed minimal. Whenever the requirements of this Code differ from the requirements of any other lawfully adopted ordinance, regulation, deed restriction, or covenant, the more stringent requirement shall prevail.

40-1-4 **DISCLAIMER OF LIABILITY.**

(A) Except as may be provided otherwise by statute or ordinance, no official, board member, agent or employee of the County shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties under this Code. (**See "Local Governmental and Governmental Employees Tort Immunity Act," 745 ILCS Sec. 10/1-101.**)

(B) Any suit brought against any official, board member, agent, or employee of the County, as a result of any act required or permitted in the discharge of his or her duties under this Code, shall be defended by the State's Attorney until the final determination of the legal proceedings.

40-1-5 **SEPARABILITY.** If any provision of this Code is declared unconstitutional or invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remainder of this Code.

40-1-6 **WHEN EFFECTIVE.** This Code shall take effect after its final passage, approval, and publication as provided by law, on the effective date set forth below.

The Randolph County Zoning Commission having completed its legal duties, this Code is passed by the Randolph County Board of Commissioners this **tenth (10th) day of June, 1991.** (See 55 ILCS Sec. 5/5-12007)

EFFECTIVE DATE: JULY 1, 1991.

ARTICLE II - DEFINITIONS

40-2-1 CONSTRUCTION OF TERMS. In construing the intended meaning of terminology used in this Code, the following rules shall be observed:

(A) Words and phrases shall have the meanings respectively ascribed to them in **Section 40-2-2** unless the context clearly indicates otherwise; terms not defined in **Section 40-2-2** shall have their standard English dictionary meanings.

(B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.

(C) Words used in the present tense shall include the future tense.

(D) Words used in the singular number shall include the plural number, and the plural the singular.

(E) The term "shall" is mandatory; the term "may" is discretionary.

(F) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(G) A general term that follows or is followed by enumeration of specific terms shall not be limited to the enumerated class unless expressly limited.

40-2-2 SELECTED DEFINITIONS.

"Abutting": Having a common lot line or district line. Synonym for "adjacent" and "contiguous".

"Access Way": A curb cut, ramp, driveway, or other means for providing vehicular access to an off-street parking.

"Accessory Structure/Use": Any structure or use which:

(A) is subordinate to and serves a principal structure or use;

(B) is subordinate in area, extent or purpose to the principal structure or use;

(C) contributes to the comfort, convenience or necessity of occupants of the principal structure or use served;

(D) does not change the basic character of the premises as determined by its principal structure or use.

"Administrator": The official appointed by the Randolph County Board of Commissioners to administer this Code, or his representative. **(Synonymous with "Zoning Administrator.")**

"Agriculture": Any one or more in combination of the following pursuits: the growing of farm or truck garden crops, dairying, pasturage, agriculture, horticulture, floriculture, animal/poultry husbandry, fish farming, sod farming and tree farming. The term "agriculture" encompasses buildings occupied as residences by persons engaged in agricultural activities. In addition, it includes non-residential accessory uses and structures customarily incidental to agricultural activities. Buildings occupied as residences by persons not engaged in agriculture shall not be considered as being used for agricultural purposes, even though they are located on agricultural land; and said buildings are subject to the provisions of this Code.

"Aisle": A vehicular traffic way within an off-street parking area, used as a means of access/egress from parking spaces.

"Alley": A public or private way (See definition of "street") which affords a secondary means of vehicular access to abutting premises that front on a nearby street.

"Alter": To change the size, shape, or use of a structure.

"Amendment": A change in the provisions of this Code {including those portions incorporated by reference), properly effected in accordance with State law and the procedures set forth herein.

"Anchor": Any approved device used to keep a mobile home firmly attached to the stand on which it is placed.

"Attached": As applied to buildings, "attached" means having a common wall and/or common roof.

"Board of Appeals": The Zoning Board of Appeals of Randolph County, Illinois.

"Boarding House": A residential building or portion thereof--other than a motel or hotel or bed & breakfast--containing lodging rooms for accommodation of **three (3) to ten (10) persons** who are not members of the keeper's family, and where lodging and/or meals are provided by prearrangement and for definite periods, but not on an overnight or per-meal basis, to the transient public.

"Buffer Strip": An area of land--undeveloped except for landscaping, fences, etc.--used to protect a use situated on **one (1) lot** from the deleterious effects of the use on the adjacent lot.

"Building": Any covered structure permanently affixed to the land and designed or used to shelter persons or chattels.

"Building Height": The vertical distance measured from the average grade at the front wall of a building to the highest point of the coping of a flat roof or to the deck line of mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs. Necessary appurtenances listed in **Section 40-3-9(A)** shall be excluded in building height calculation.

"Building Line": The line nearest the front of and across a lot, delineating the minimum open space required between the front of a structure and the front lot line.

"Certificate of Zoning Compliance, Initial": A permit issued by the Administrator indicating that proposed construction work is in conformity with the requirements of this Code and may, therefore, proceed.

"Certificate of Zoning Compliance, Final": A permit issued by the Administrator indicating that a newly completed structure complies with all pertinent requirements of this Code and may, therefore, be occupied or used.

"Clinic": An establishment wherein licensed physicians or dentists practice medicine or dentistry, but where overnight lodging for sick or injured persons is not provided.

"Club/Lodge": A nonprofit association of persons who are bona fide members organized for some purpose(s) and paying regular dues and whose facilities are restricted to members and their guests; but, not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

"Commercial Use/Establishment": Any use or establishment wherein goods and/or services, (See **Section 40-4-4**) are provided for remuneration, whether to the consuming public (retail) or to other businesses (wholesale).

"Conforming": In compliance with the applicable provisions of this Code.

"Convenience Store": Any small retail commercial or service establishment offering food and services.

"Corrective Action Order": A legally binding order issued by the Administrator in accordance with the procedures set forth herein to effect compliance with this Code.

"County": Randolph County, Illinois.

"Day Care Center": Any child care facility which regularly provides day care for less than **twenty-four (24) hours** per day for more than **eight (8) children** in a family home, or more than **three (3) children** in a facility other than a family home.

"Detached": As applied to buildings, "detached" means surrounded by yards on the same lot as the building.

"Develop": To erect any structure or to install any improvements on a tract of land, or to undertake any activity (such as grading) in preparation therefor.

"Dimensions": Refers to the depth and width of a lot or a structure.

"District Zoning": A portion of the territory of the County wherein certain uniform requirements or various combinations thereof apply to structures, lots and uses under the terms of this Code.

"Driveway": A minor way commonly providing vehicular access to a garage or off-street parking area.

" Dwelling": A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels, motels, bed & breakfast or other accommodations for the transient public.

" Dwelling, Multiple-Family": A building or portion thereof containing **three (3)** or more dwelling units.

" Dwelling, Single-Family": A dwelling on a permanent foundation containing one dwelling unit and intended for the occupancy of one family. A mobile home (see definition) with the wheels and tongue removed and placed on a permanent foundation shall be deemed a detached single-family dwelling.

" Dwelling, Two-Family": A dwelling containing **two (2) dwelling units**, a duplex.

" Dwelling Unit": One or more rooms designed or used as living quarters by one family. A "dwelling unit" always includes bathroom and kitchen facilities.

" Easement": A right to use another person's real property for certain limited purposes.

"Enclosed": As applied to a building, "enclosed" means covered by a permanent roof and separated on all sides from adjacent open space or other buildings by fixed exterior walls, with openings only for windows and doors.

"Enlarge": To increase the size of any existing use or structure (i.e., principal or accessory).
Synonym for "extend" and "expand".

"Erect": To build, construct.

"Existing": Actually built/constructed or in use operation on the effective date of this Code.

"Family": One person, or two or more persons related by blood, marriage or legal adoption, or not more than **three (3)** unrelated persons, maintaining a common household in a dwelling unit.

"Farmland of Statewide Importance": Land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage and oilseed crops. Criteria for defining and delineating this land is to be determined by the appropriate State agency or agencies. Generally, farmlands of statewide importance include those that are nearly prime farmlands and that economically produce high yields of crops when treated and managed according to acceptable farming methods.

"Farmstead": A farm and its buildings.

"Flood Plains": Flood plains as determined by the Federal Emergency Management Agency (FEMA) and as applicable to the National Flood Insurance Program (NFIP) means the lowland and relatively flat areas adjoining inland and coastal waters, including flood prone areas that at a minimum, are subject to a **one percent (1%)** or greater chance of flooding in any given year (i.e., a 100-year flood plain).

"Floor Area, Gross": The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes basement floors, attic floor space, halls, closets, stairwells, space devoted to mechanical equipment and enclosed porches.

"Foundation, Permanent": In order to be considered permanent, a foundation shall meet the following criteria:

(A) The foundation shall extend into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block or mortared brick extending into the ground below the frost line, shall satisfy the requirement for a permanent foundation.

(B) Piers may be used, extending into the ground below the frost line, to properly support the structure as per the manufacturer's recommendation. **(Ord. No. 10-06; 10-29-10)**

"Frontage": The lineal extent of the front (street-side) of a lot.

"Hereafter": Any time after the effective date of this Code.

"Home Occupation": Any business, profession, or occupation conducted for gain entirely on a residential premises in conformity with the provisions of this Code.

"Immobilize": As applied to a mobile home, "immobilize" means to remove the wheels, tongue and hitch and to place on a permanent foundation.

"Intensify": To increase the level or degree of.

"Intersection": The point at which **two (2)** or more public rights-of-way (generally streets) meet.

"Junk/Salvage": Scrap materials (i.e. metal, paper, glass, plastics and similar commodities) and discarded items (vehicles, equipment, appliances, batteries, tires and similar products) that are potentially recyclable.

"Lot": A tract of land intended as a unit for the purpose (whether immediate or future) of transfer of ownership or development. A "lot" may or may not coincide with a "lot of record." "Lot" is synonymous with "tract", "plot", and "site".

"Lot of Record": An area of land designated as a lot on a plat of subdivision or described by metes and bounds in a deed, and recorded with the Randolph County Recorder of Deeds.

"Lot, Corner": A lot having at least **two (2)** adjacent lot lines that abut for their full length upon streets. Both such lot lines shall be deemed front lot lines.

"Lot, Through": A lot having a pair of approximately parallel lot lines that abut **two (2)** approximately parallel streets. Both such lot lines shall be deemed front lot lines.

"Lot Area": The area of a horizontal plane bounded by the front, side, and rear lines of a lot.

"Lot Coverage": The portion of a lot that is occupied by structures, including accessory structures.

"Lot Depth": The average horizontal distance between the front lot line and the rear lot line of a lot.

"Lot Line, Front": Any lot boundary abutting a street.

"Lot Line, Rear": An interior lot line which is most distant from and most nearly parallel to the front lot line.

"Lot Line, Side": Any boundary of a lot which is not a front lot line or a rear lot line.

"Lot Width": The mean horizontal width of a lot measured at right angles to the side lot lines.

"Maintenance": The routine upkeep of a structure, premises, or equipment, including the replacement or modification of structural components to the extent necessary to keep said structure, etc. in sound condition.

"Materially": As applied to the impact of one thing on another, "materially" means significantly or substantially.

"Mobile Home": A structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. All mobile homes located in Randolph County after the adoption of this Code shall be constructed to the U.S. Department of Housing and Urban Development (HUD) requirements for mobile homes and shall have the proper seal to denote compliance.

"Mobile Home Park": A tract of land or **two (2)** or more contiguous tracts of land upon which contain sites with the necessary utilities for **five (5)** or more independent mobile homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such mobile home park. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a mobile home park if they are maintained and operated jointly. Neither an immobilized mobile home nor a motorized recreational vehicle shall be construed as being a part of a mobile home park.

"Mobile Home Stand": The part of a mobile home space beneath the mobile home that includes the concrete slab or runners on which the home is placed and to which it is anchored.

"Nonconforming": As applied to a lot, structure, or use, "nonconforming" means: (1) lawfully existing on the effective date of this Code or pertinent amendment thereto, but (2) not in compliance with the applicable provisions set forth herein.

"Nuisance": Any thing, condition or conduct that endangers health, unreasonably offends the senses, obstructs the free use and comfortable enjoyment of property and/or essentially interferes with the comfortable enjoyment of life as identified in **740 ILCS Sec. 55/221**.

"Nursery School": See "Day Care Center".

"Office": Any building or portion thereof in which the business (usually clerical and administrative affairs) of a commercial enterprise or professional person is transacted.

"Overlay District": A zoning district superimposed over one or more standard (primary) zoning districts or portions thereof for the purpose of controlling developmental problems.

"Parking Area/Lot, Off-Street": Land that is improved in accordance with this Code and used primarily for the storage of passenger motor vehicles, free of charge or for compensation. An "off-street parking lot", depending on the circumstances of its use, may be either a principal use or an accessory use.

"Parking Space, Off-Street": An area within an off-street parking area lot or garage, used for the storage of **one (1)** passenger motor vehicle according to the Illinois Accessibility Code.

"Permitted Use": Any use which is or may be lawfully established in a particular district.

"Person": Any individual, firm, association, organization, or corporate body.

"Premises": A lot and all the structures and uses thereon.

"Prime Farmland": Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops. As determined by the United States Department of Agriculture, prime farmland has the soil quality, growing season and moisture supply needed to economically produce sustained high yields of crops when treated and managed according to acceptable farming methods.

"Principal Structure/Use": The main structure erected on or the main use occupying a lot as distinguished from an accessory (subordinate) structure or use.

"Property Line": See "Lot Line".

"Reconstruct": As applied to nonconforming structures, "reconstruct" means to rebuild after partial or total destruction.

"Relocate": To move to another portion of a lot or to a different lot.

"Repair": To restore to sound condition, but not to reconstruct.

"Restrictive": Tending to keep within prescribed limits.

"Retail": Refers to the sale of goods or services directly to the consumer rather than to another business.

"Right-of-Way, Public": A strip of land which the owner/subdivider has dedicated to a unit of government for streets, alleys, or other public purposes.

"Salvage/Yard/Recycling Center": Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used-lumber yards, and yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including establishments where such uses are conducted entirely within a completely enclosed building, and not including establishments for the sale, purchase, or storage of used cars in operable condition, or storage of materials incidental to manufacturing operations.

"Sanitary Landfill": A tract of open land used for the permanent disposal of refuse in accordance with the requirements of the Illinois Environmental Protection Agency (IEPA). At a "sanitary landfill" the refuse is periodically covered with soil or foam, as approved by the IEPA.

"Seasonal Dwelling": A structure used on a part-time basis for recreational purposes--not a primary residence (e.g. weekend cabin).

"Screening": Trees, shrubs, walls, solid fences, etc., used as a means of visual and noise control.

"Service Use/Establishment": Any use or establishment wherein services are provided for remuneration either to individuals or to other firms.

"Setback": The horizontal distance from the lot line in question to the side of the structure facing that lot line or to the edge of the area of operation of the principal use (in case of a use which does not involve a structure).

"Setback Line": See "Building Line".

"Small Retail": Any business, profession, or occupation conducted for gain as distinguished from a commercial establishment in conformity with the provisions of this Chapter. **(Ord. No. 19-09; 06-27-19)**

"Special Use": A use that has unusual operational, physical, or other characteristics which distinguish it from the permitted uses of a district, but which can be made compatible with the intended overall development within a district. Special uses are allowed only by permit and generally must meet special standards not necessarily applicable to permitted uses in the district.

"Special Use Permit": A permit issued in accordance with the provisions of this Code to regulate development of a special use.

"Stop Order": A type of corrective action order used by the Administrator to halt work in progress that is in violation of this Code.

"Storage Containers": Industrial-grade steel containers used for storage. Also known as freight containers, ISO containers, intermodal containers, shipping containers, high-cube containers, portable storage units, conex boxes or sea cans. **(Ord. No. 19-07; 06-27-19)**

"Street": A public or private way for motor vehicle travel. The term "street" includes a highway, thoroughfare, parkway, through way, road, pike, avenue, boulevard, lane, place, drive, court, and similar designations, but excludes an alley or a way of pedestrian or bicycle use only.

"Street, Private": Any street providing access to abutting property that is not maintained by and dedicated to the County or other unit of government.

"Stringent": Binding, exacting.

"Structure": Anything constructed or erected on the ground, or attached to something having a fixed location on the ground. All buildings are structures but not all structures are buildings.

"Structure, Temporary": Any structure that is not attached to a permanent foundation.

"Topography": The relief features or surface configuration of an area.

"Travel Trailer": A structure designed for temporary occupancy which is designed to be moved by a motor vehicle, i.e., RV (recreational vehicles).

"Travel Trailer Park": A lot developed with facilities for accommodating temporarily occupied travel trailers, including campgrounds, recreational camps and private/leased lots used for weekend homes, mobile homes, campers and RV (recreational vehicles).

"Use": The purpose or activity for which land or a structure thereon is designed, arranged, intended, occupied, and/or maintained.

"Variance": A relaxation of the strict application of the lot size, setbacks, or other area-bulk requirements applicable to a particular lot, structure or use.

"Wetlands": Wetlands are those areas as determined by the Natural Resource Conservation Service and U.S. Army Corps of Engineers. Wetlands generally include swamps, marshes, bogs and similar areas, such as sloughs, potholes, wet meadows, river overflows, mudflats and natural ponds.

"Wholesale": Refers to the sale of goods or services by one business to another business.

"Yard": Open space that is unobstructed except as specifically permitted in this Code and that is located on the same lot as the principal structure.

"Yard, Front": A yard which is bounded by the side lot lines, front lot lines, and the building line.

"Yard, Rear": A yard which is bounded by the side lot lines, rear lot line, and the building line.

"Yard, Side": A yard which is bounded by the rear lot line, front lot line, side lot line, and the building line.

"Yard Line": A line in a lot that is parallel to the lot line along which the yard in question extends and which is not nearer to such lot line at any point than the required depth or width of said yard.

"Zoning Map": The map and any amendments thereto designating zoning districts, and incorporated into this Code by reference.

ARTICLE III - GENERAL SUBSTANTIVE REGULATIONS

40-3-1 ESTABLISHMENT OF DISTRICTS. In order to implement the regulatory scheme of this Code so to achieve the objectives stated in **Section 40-1-1**, all the territory of Randolph County other than territory within the corporate limits of municipalities which have adopted local zoning codes is hereby divided into the following zoning districts:

<u>DISTRICT</u>	<u>DESIGNATION</u>	<u>MINIMUM AREA*</u>
Agricultural	A	40 acres
Rural Single Family Residential	R-1	10 acres
Community Residential	R-2	5 acres
Commercial	C	2 acres
Industrial	I	5 acres
Flood Plain Overlay	O-FP	None

* The "minimum area" requirement (which is intended to prevent spot zoning) refers to the smallest total area of contiguous parcels that can properly be given the particular district classification. The minimum area requirement is not satisfied merely because the acreage of numerous noncontiguous parcels, when aggregated, happen to equal or exceed the minimum area indicated above.

40-3-2 ZONING MAP AND DISTRICT BOUNDARIES. The boundaries of the listed zoning districts are hereby established as shown on the official zoning map of the County. This map, including all notations and other information thereon, is hereby made a part of this Code by reference. The official zoning map shall be kept on file in the Administrator's office.

40-3-3 DETERMINING TERRITORY OF DISTRICTS WITH PRECISION. In determining with precision what territory is actually included within any zoning district, the Administrator shall apply the following rules:

(A) Where a district boundary as indicated on the zoning map approximately follows any of the features listed below on the left, the corresponding feature on the right shall be deemed the district boundary:

- | | | |
|-----|--------------------------------------|----------------------------------|
| (1) | Center line of any street or alley | Such centerline. |
| (2) | Lot line | Such lot line. |
| (3) | Railroad tracks | Right-of-way line of such tracks |
| (4) | Stream | Center of such stream |
| (5) | Section, fractional, or survey lines | Such lines |

(B) Whenever any public right-of-way is legally vacated, the zoning districts of the owners of the underlying fee of such vacated public way shall automatically extend to the Vacated Way and all territory included in the vacated way shall thereafter be subject to all regulations of the extended districts.

(C) The final determination of the boundaries of the Flood Plain Overlay District shall be based upon the current National Flood Insurance Program (NFIP) "Maps" for Randolph County, Illinois prepared by the Federal Emergency Management Agency (FEMA) and on file in the Zoning Administrator's office.

40-3-4 GENERAL PROHIBITION. Hereafter, it shall be unlawful to:

(A) erect, use, occupy, enlarge, alter, relocate or reconstruct any structure or part thereof;

(B) create any lot; or

(C) use, occupy, or develop any lot or part thereof except in conformity with the provisions of this Code.

40-3-5 UNLISTED USES PROHIBITED. Any use not specifically listed as permitted or allowed by special use permit within a particular zoning district shall be deemed prohibited in that district until the County Board rezones the property in question or otherwise amends this Code in accordance with **Sections 40-9-30 through 40-9-35.**

40-3-6 MEETING MINIMUM REQUIREMENTS. Except as specifically provided otherwise in this Code, every lot must independently meet the minimum area, minimum dimensions and minimum setback requirements of the district in which it is located (i.e. without counting any portion of an abutting lot).

40-3-7 ACCESS REQUIRED. No structure shall be erected on any lot unless such lot abuts or has permanent access to a public street or a private street that conforms to the standards set forth in the Randolph County Subdivision Code.

40-3-8 FRONT SETBACKS - CORNER/THROUGH LOTS. Every lot with multiple frontages (e.g. corner or through lots) shall meet the front setback requirements of the district in which it is located on every side that abuts a street.

40-3-9 INTRUSIONS INTO YARDS. To the extent indicated, the following features of principal buildings may intrude into required yards without thereby violating the minimum setback requirements:

<u>FEATURES</u>	<u>MAXIMUM INTRUSION</u>
(A) Cornices, chimneys, planters or similar architectural features	Two (2) feet.
(B) Fire escapes	Four (4) feet.
(C) Patios	No limit.
(D) Porches, if unenclosed <u>and</u> at ground level	Six (6) feet.
(E) Balconies	Four (4) feet.
(F) Canopies, roof overhangs	Four (4) feet.

40-3-10 EXCEPTIONS TO HEIGHT LIMITS.

(A) **Necessary Appurtenances.** Chimneys, church spires, parapet walls, cooling towers, elevator bulkheads, fire towers, antennas, or other necessary appurtenances commonly constructed above the roof line shall be permitted to exceed the maximum height limitations of the district in which they are located provided they comply with all other pertinent regulations of the County, State and Federal government.

(B) **Intersections.** On corner lots, in the triangular portion of land bounded by intersecting street lines and a line joining these street lines at points **thirty (30) feet** from the point of intersection, no obstruction, whether natural or manmade, shall intrude into the air space that is between **two (2) feet** and **ten (10) feet** above the level of the adjacent street.

(C) **Airport Hazard Areas.** Notwithstanding any other provision of this Code, all structures erected within any airport hazard area, as defined by State law, shall conform to the location,

height and identification requirements imposed by the Illinois Department of Transportation pursuant to "An Act relating to Airport Zoning" (**See 620 ILCS 5/48**) and "An Act in relation to Zoning to Eliminate Airport Hazards" (**See 620 ILCS 25/1 - 25/37**).

40-3-11 SEWERS, SEPTIC TANKS. In all districts, property owners of all structures and places where people live, work, or assemble shall provide for the sanitary disposal of all sewage in accordance with the following requirements:

(A) Whenever the public sanitary sewerage system is reasonably accessible (i.e. when the distance from the property in question to the nearest public sewer with available capacity does not exceed **three hundred (300) feet** for single family residences and **one thousand (1,000) feet** for commercial establishments or multi-family dwellings), all sewage shall be discharged into such system, whether or not a private sewer system is more convenient.

(B) Whenever the public sewer system is not reasonably available, a private sewer system (whether central or individual) shall be installed and used. All private sewer systems shall be designed, constructed, operated, and maintained in conformity with the following requirements:

- (1) Illinois Private Sewage Disposal Licensing Act, **225 ILCS 225**, as amended from time to time;
- (2) Illinois Private Sewage Disposal Code No. 4.002, promulgated by the Director of the **Illinois Department of Public Health**, and as amended from time to time;
- (3) Pertinent, current regulations issued by the **Illinois Environmental Protection Agency**; and
- (4) Applicable County or local codes and ordinances, particularly the **Randolph County Subdivision Code**.

(C) A building permit shall not be issued until a private sewage permit has been issued by the Monroe-Randolph Bi-County Health Department.

The Administrator shall not issue any initial certificates of zoning compliance unless, following consultation with technically qualified persons as necessary, he is satisfied that these requirements will be met. Furthermore, no final certificate shall be issued until all final qualifications are met.

40-3-12 ONE DWELLING PER LOT. Except as specifically provided otherwise herein (the important exceptions being multiple-family complexes, mobile home parks, and residences in agricultural districts occupied by persons engaged in agricultural activities), only one dwelling may be situated on any lot or lot of record. Thus, for example, it shall generally be unlawful to place a mobile home on any lot which there is an existing dwelling.

40-3-13 ACCESSORY USES. Any accessory use (**See Sec. 40-2-2 "Selected Definitions"**) shall be deemed permitted in a particular zoning district if such accessory use is:

- (A) accessory to a principal structure or use that is permitted in that zoning district or allowed by a special use permit that has been granted; and
- (B) in compliance with the restrictions set forth in **Section 40-3-14**.

40-3-14 ACCESSORY USE RESTRICTIONS.

(A) **Height.** No accessory use shall be higher than:

- (1) **fifteen (15) feet** in any Residential District; or
- (2) **twenty-five (25) feet** in the Commercial and Industrial District.

(B) **Setbacks.**

- (1) In the Commercial or Industrial District, no accessory use shall encroach into any part of any yard (front, side or rear) that is required by the minimum setback regulations of the particular district.

- (2) In any Residential District, accessory uses are prohibited in any required front yard, but permitted in any side or rear yard provided such accessory uses are not closer than **seven (7) feet** to any side or rear lot line.
- (3) In any Agricultural District, accessory uses are prohibited in the required front yard.

(C) **Use As Dwelling.** Use of any accessory structure as a dwelling is strictly prohibited in every zoning district.

40-3-15 AGRICULTURAL EXEMPTION. The provisions of this Code shall not be exercised so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes (as defined herein), or with respect to the erection, maintenance, repair, alteration, remodeling, or extension of structures used or to be used for agricultural purposes upon such land; except that said structures are required to meet building setback requirements applicable in the district in which the structure is to be built. Should said land or structure cease to be used solely for agricultural purposes then, and only then, shall the other provisions of this Code apply (**55 ILCS Sec. 5/12000**).

ARTICLE IV - REGULATIONS FOR SPECIFIC DISTRICTS

DIVISION I - AGRICULTURAL DISTRICT

40-4-1 "A" AGRICULTURAL DISTRICT'S PURPOSE. The carrying out of agricultural activities has long been, and continues to be, an important part of the way of life for Randolph County residents, and such activities provide a large portion of the income derived by the County's population. Thus, to promote and protect this mainstay of the local economy, it has been established as official policy that the County should protect, preserve and encourage the pursuit of agriculture by its residents. The creation of the "A" Agricultural District is an integral part of that policy. The "A" District encompasses sparsely developed farm and woodland areas which, because of the fertility of the soil, topography, the availability of water, and other factors, including the suitability of the land for the raising of animals, have agricultural productivity. The regulations for this district are intended to preserve such agricultural land by severely restricting the encroachment of non-agricultural uses and structures. The owners and renters of property, whether farm or non-farm, in this district should realize that they will likely encounter the smells, sights and sounds attendant to agricultural operations.

40-4-2 PERMITTED USES. Provided all pertinent requirements of this Code are met (see especially **Section 40-4-30**), the following uses are permitted in the **"A" District**:

Agriculture, including all of the uses and structures included in the definition of agriculture set forth in **Section 40-2-2**.

Animal hospitals and veterinarian offices, provided that adequate safeguards are taken to protect adjacent properties from any adverse effects resulting from such uses.

Bed and Breakfast establishments.

Carnivals and picnics sponsored by a government entity or a civic organization, provided that adequate safeguards are taken to protect adjacent properties from any adverse effects resulting from such operations, and that such carnivals and picnics do not last more than **seven (7) consecutive days**.

Cemeteries and mausoleums.

Churches and other places of formal worship.

Commercial grain elevators and storage facilities.

Detached single-family dwellings -- additional single-family dwellings shall be permitted on an agricultural lot of record provided the occupants of said single-family dwellings are directly related by birth, marriage, or adoption to the owners and residents of the lot of record. Each additional single-family dwelling shall be located on a lot of at least **one (1) acre** in size. Only one such additional dwelling lot can be conveyed unless such additional lots comply with **Section 34-1-3** of the **Randolph County Subdivision Code** and the **Illinois Compiled Statutes**.

Government uses of the County or Road District or municipality covered by this Code.

Home occupations in accordance with **Section 40-5-2**.

Kennels and stables.

Non-commercial recreational uses.

Parks and playgrounds.

Railroad tracks and accessory equipment, but not including classification yards, terminal facilities, or maintenance facilities.

Rental of farm dwellings by the owner of the farm on which they are located to persons not engaged in farming, provided that no lot separate from the farm is created, that the buildings are rented as single-family dwellings, and that the buildings existed before the effective date of this Code.

Storage container homes. (**Ord. No. 19-07; 06-27-19**)

Storage containers. (**Ord. No. 19-07; 06-27-19**)

Accessory uses in accordance with **Section 40-3-13**.

40-4-3 **SPECIAL USES.** The following uses shall be permitted in the "A" District only upon the issuance of a special use permit in accordance with the provisions of **Section 40-9-2:**

- Agricultural product processing plants.
- Airports.
- Commercial carnivals, circuses, and similar temporary, transient amusement activities not sponsored by a government entity or civic organization
- Commercial recreational uses.
- Farm dwellings existing before the effective date of this Code may be sold as non-farm dwellings, provided at least **two (2) acres** is deeded with the dwelling, and provided further that, notwithstanding any contrary provision of this Code, the property owner may demolish the farm dwelling and replace it with a new non-farm dwelling.
- Government uses of a municipality not covered by this Code.
- Oil wells and gas drilling operations.
- Rented or leased seasonal dwellings.
- Schools.
- Small retail. (**Ord. No. 19-09; 06-27-19**)
- Stockyards.
- Temporary non-farm dwellings, including mobile homes, on the same lot as another principal use.
- Underground and surface mining, loading and hauling of coal or other minerals, provided that the provisions of **Sections 40-5-8** and **40-5-9** are met as appropriate.
- Utility substations, including electrical substations, gas regulation stations and similar facilities.
- Wind energy conversion systems in accordance with **Sections 40-5-51 et seq.**

40-4-4 **RESERVED.**

DIVISION II - RESIDENTIAL DISTRICTS

40-4-5 **"R-1" RURAL SINGLE-FAMILY RESIDENTIAL DISTRICT: PURPOSE.** As stated in **Section 40-4-1**, the preservation of agricultural land has been established as County policy. However, it is recognized that some present and future County residents may desire to reside in a low-density, non-farm rural setting. Thus, the "R-1" Rural Single-Family Residential District has been created to accommodate this demand. The "R-1" District is not intended, however, to restrict agricultural operations; indeed, the owners and renters of land within the "R-1" District should realize that they will likely encounter the smells, sights and noises attendant to agricultural operations.

The "R-1" Rural Single-Family Residential District encompasses various hilly/wooded areas scattered throughout the County's rural environs. The topography, soils, heavy tree cover and other characteristics of these areas--and the consequent difficulty of extending public utilities and services to them--impose significant constraints on both large-scale farming and intensive urban development. However, land in this district is well-suited for low-density residential development and related uses. Thus, the district regulations are designed to encourage construction of single-family homes on large lots and to discourage development of incompatible uses.

40-4-6 **PERMITTED USES.** Provided all pertinent requirements of this Code are met (see especially **Section 40-4-30**), the following uses are permitted in the "R-1" District:

- Agriculture, including all of the uses and structures included in the definition of agriculture set forth in **Section 40-2-2.**
- Cemeteries and Mausoleums.
- Churches and other places of formal worship.
- Detached single-family dwellings.

Government uses of the County or Road District or municipality covered by this Code.
Home occupations in accordance with **Section 40-5-2**.
Institutional uses such as convents, retreat houses, etc.
Non-commercial recreational uses.
Parks and playgrounds.
Railroad tracks and accessory equipment, but not including classification yards, terminal facilities or maintenance facilities.
Schools.
Accessory uses in accordance with **Section 40-3-13**.

40-4-7 **SPECIAL USES.** The following uses shall be permitted in the "R-1" District only upon the issuance of a special use permit in accordance with the provisions of **Section 40-9-2**:

Bed and Breakfast establishments.
Commercial recreational uses.
Government uses of a municipality not covered by this Code.
Mobile homes on individual lots, provided all applicable requirements of this Code are met (see **Sections 40-4-30 and 40-5-5**).
Mobile home parks in compliance with **Section 40-5-6**.
Storage container homes. (**Ord. No. 19-07; 06-27-19**)
Temporary non-farm dwellings, including mobile homes, on the same lot as another principal use (see **Section 40-3-15**: Agricultural Exemption)
Travel trailer and RV (recreational vehicle) parks in conformity with State requirements.
Utility substations, including electrical substations, gas regulation stations and similar facilities.

40-4-8 - 40-4-9 **RESERVED.**

40-4-10 **"R-2" COMMUNITY RESIDENTIAL DISTRICT: PURPOSE.** The "R-2" Community Residential District encompasses land within or near municipalities or other built-up areas that are best suited for the development of various housing types and compatible uses. The regulations for this district are intended to stabilize and preserve sound existing neighborhoods developed at varying densities, and to promote construction of new single-family houses, duplexes and multi-family dwellings.

40-4-11 **PERMITTED USES.** Provided all pertinent requirements of this Code are met (see especially **Section 40-4-30**), the following uses are permitted in the "**R-2**" District:

Agriculture, including all of the uses and structures included in the definition of agriculture set forth in **Section 40-2-2**, provided that adequate safeguards are taken to protect adjacent properties from any adverse effects resulting from such operations.
Boarding houses.
Churches and other places of formal worship.
Clinics, medical/dental.
Clubs or lodges, but not those which have as their chief activity a service customarily carried on as a business.
Convenience stores.
Day care centers.
Detached single-family dwellings and duplexes.
Government uses of the County, Road District, or Municipality covered by this Code.
Home occupations in accordance with **Section 40-5-2**.
Parks and playgrounds.

Schools.
Accessory uses in accordance with **Section 40-3-13**.

40-4-12 **SPECIAL USES.**

Bed and Breakfast establishments.
Government uses of a municipality not covered by this Code.
Hospitals and nursing homes, long term care facilities.
Mobile homes on individual lots, provided all applicable requirements of this Code are met (see **Sections 40-4-30** and **40-5-5**)
Mobile home parks in conformity with **Section 40-5-6**.
Multiple-family dwellings.
Railroad tracks and accessory equipment, but not classification yards, terminal facilities or maintenance facilities.
Storage container homes. (**Ord. No. 19-07; 06-27-19**)
Temporary non-farm dwellings, including mobile homes, on the same lot as another principal use (see **Section 40-3-15**: Agricultural Exemption)
Travel trailer park. (**Ord. No. 09-01; 12-12-08**)
Utility substations, including electrical substations, gas regulation stations and similar facilities.

40-4-13 - 40-4-14 **RESERVED.**

DIVISION III - COMMERCIAL DISTRICT

40-4-15 **"C" COMMERCIAL DISTRICT: PURPOSE.** The "C" Commercial District encompasses those areas--primarily within municipalities covered by this Code or on the outskirts of municipalities--where a wide variety of goods and services is available to the general public at retail or wholesale.

40-4-16 **WHEN SCREENING IS REQUIRED.** Screening approved by the Administrator-- which may include a wall, solid fence, or closely planted shrubbery at least **six (6) feet** high and of sufficient density to completely block the view from the adjacent residential property -- shall be installed along the side and rear lot lines of any lot that abuts any Residential District.

40-4-17 **PERMITTED USES.** Provided all pertinent requirements of this Code are met (see especially **Section 40-4-30**), the following uses are permitted in the **"C" District**:

Agricultural uses.
Bed and Breakfast establishments.
Churches and other places of formal worship.
Commercial uses/establishments.
Detached single-family dwellings and duplexes.
Government uses of the County, Road District or Municipality covered by this Code.
Mixed residential/commercial.
Multi-family dwellings.
Offices.
Service uses/establishments.
Utility substations.
Accessory uses in accordance with **Section 40-3-13**.

40-4-18 **SPECIAL USES.**

Industrial uses.
Schools.

40-4-19 **RESERVED.**

DIVISION IV - INDUSTRIAL DISTRICT

40-4-20 **"I" INDUSTRIAL DISTRICT: PURPOSE.** The "I" Industrial District encompasses areas where manufacturing and processing plants, research facilities, warehouses, and similar uses may locate without detriment to the remainder of the County. In these areas, a satisfactory correlation of factors required by such uses exists or can be readily achieved.

40-4-21 **USE RESTRICTIONS.**

(A) **No Nuisances.** No production, processing, cleaning, servicing, testing, repair, sale, or storage of goods, materials or equipment shall unreasonably interfere with the use, occupancy, or enjoyment of neighboring properties. Unreasonable interferences include, but are not limited to, excessive traffic congestion, loud or shrill noises, excessive emission, offensive glare, and noxious odors.

(B) **Buffer Strips.** Wherever any industrial use located in this district abuts any Residential or Commercial District, a **ten (10) foot** wide view and noise control buffer strip shall be installed. Such buffer strip shall consist of densely planted shrubbery that is at least **four (4) feet** high when planted and that can be expected to reach a height of **ten (10) feet** when full grown.

40-4-22 **PERMITTED USES.** Provided all pertinent requirements of this Code are met (see especially **Subsection 40-4-21** above and **Section 40-4-30**), the following uses are permitted in the "I" District:

- Agricultural uses.
- Assembly, manufacturing or processing of any commodity from raw or semi-finished materials.
- Commercial establishments, wholesale.
- Government uses of the County, road district or municipality covered by this Code.
- Recycling center.
- Research and development facilities.
- Storage containers. (**Ord. No. 19-07; 06-27-19**)
- Utility substations.
- Warehouses and storage yards.
- Accessory uses in accordance with **Section 40-3-13**.

40-4-23 **SPECIAL USES.**

- Salvage/junk yards, but only in accordance with **Section 40-5-4**.
- Government uses of a municipality not covered by this Code.
- Oil wells and gas drilling operations.
- Sanitary landfills.
- Schools.
- Underground and surface mining, loading and hauling of coal or other minerals, provided that the provisions of **Sections 40-5-8** and **40-5-9** are met as appropriate.
- Wind energy conversion systems in accordance with **Sections 40-5-51 et seq.**

40-4-24 **RESERVED.**

DIVISION V - FLOOD PLAIN OVERLAY DISTRICT

40-4-25 "O-FP" - FLOOD PLAIN OVERLAY DISTRICT: PURPOSE. The "O-FP" Flood Plain Overlay District delineates areas of the County as identified by the National Flood Insurance Program (NFIP) "Maps" for Randolph County, Illinois prepared by the Federal Emergency Management Agency (FEMA) that, in the absence of adequate flood protection measures, are subject to periodic flooding which may result in injury to or loss of life and property, disruption of private and governmental services, impairment of the tax base, and the need for extraordinary relief measures. The purpose of this district is to alert the property owners and residents to the potential flood hazards associated with the land included in this district. Although it is not a requirement of this Code, owners of property located in this district are encouraged to limit development of this land to (1) uses which inherently have low flood damage potential and (2) other uses allowed in the primary districts (those districts overlain by the "O-FP" District), provided adequate protective measures have been taken.

40-4-26 - 40-4-29 RESERVED.

DIVISION VI – LOT SIZE, SETBACK AND HEIGHT RESTRICTIONS BY DISTRICT

40-4-30 RESTRICTIONS. Every lot or the principal structure thereon (as the case may be) shall comply with the minimum lot size, minimum setbacks, and maximum height restrictions for the particular district in which said lot/principal structure is located.

RESTRICTIONS	"A" DISTRICT	"R-1" DISTRICT	"R-2" DISTRICT	"C" DISTRICT	"I" DISTRICT
(A) Minimum District Area	40 acres	10 acres	5 acres	2 acres	5 acres
(B) Minimum Lot Area	30 acres	1 acre	12,000* sq. ft. or 3,000 sq. ft. per dwelling unit, whichever is greater	6,000* sq. ft.	20,000* sq. ft.
(C) Minimum Lot Width (at established building line)	800 ft.	150 ft.	50 ft.	50 ft.	125 ft.
(D) Minimum Lot Depth	800 ft.	150 ft.	100 ft.	100 ft.	150 ft.
(E) Minimum Setbacks					
1. From Front Lot Line	50 ft.	50 ft.	25. Ft.	None	50 ft.
2. From Side Lot Line	25 ft.	25 ft.	7 ft.	None	25 ft.
3. From Rear Lot Line	25 ft.	25 ft.	25 ft.	None	25 ft.
(F) Maximum Structure Height	None	35 ft.	35 ft.	35 ft.	None

* Except that when a private sewerage system dependent on a soil absorption system is to be used, the minimum lot area shall be **one (1) acre** (i.e. 43,560 sq. ft.)

ARTICLE V - SUPPLEMENTARY REGULATIONS FOR SPECIFIC USES

DIVISION I - GENERALLY

40-5-1 **APPLICABILITY OF ARTICLE.** This Article establishes lot and structure requirements, design standards and use limitations for specific, potentially troublesome, structures and uses. These regulations apply in every zoning district where the specific structure or use is permitted; but, if more stringent regulations are applicable in any particular district, such regulations shall prevail.

40-5-2 **HOME OCCUPATIONS.** A "home occupation" means any business, profession or occupation conducted for gain or support entirely within any dwelling or on any residential premises. No home occupation shall be established or conducted except in conformity with the following regulations:

(A) **Unrelated Employees.** A home occupation shall employ not more than **one (1)** individual who is unrelated to the family residing on the premises.

(B) **Floor Space.** In Residential Districts, the total area used for a home occupation shall not exceed **twenty-five percent (25%)** of the gross floor area of the dwelling, or **three hundred (300) square feet**, whichever is less.

(C) **Dwelling Alterations.** A dwelling shall not be altered to accommodate a home occupation in such a way as to materially change the residential character of the building.

(D) **Outdoor Storage.** Outdoor storage of equipment or materials used in connection with a home occupation is prohibited in Residential Districts; however, limited use of an enclosed accessory structure is permissible for such storage needs.

(E) **Nuisances.** A home occupation shall not generate any offensive noise, vibration, smoke, dust, odors, heat, glare or electrical interference noticeable at or beyond the boundary lines of the lot.

(F) **Parking.** Every home occupation shall provide **two (2)** off-street parking spaces in addition to the usual requirements for the dwelling (see **Section 40-6-8**). Said parking spaces shall be located on the same lot as the dwelling.

(G) **Sign.** A home occupation may display only **one (1)** identification/advertising sign. The area of said sign shall not exceed **six (6) square feet**.

40-5-3 **BED AND BREAKFAST.**

(A) "Bed and breakfast establishment" shall mean an operator-occupied residence providing accommodations for a charge to the public with no more than **five (5) guest rooms** for rent, in operation for more than **ten (10) nights** in a **twelve (12) month** period. Breakfast and light snacks/refreshments may be provided to the guests only. Bed and breakfast establishments shall not include motels, hotels, boarding houses or food service establishments.

"Operator" shall mean the owner of the bed and breakfast establishment, or the owner's agent, who is required by this Act to reside in the bed and breakfast establishment, or on contiguous property.

"Guest room" shall mean a sleeping room intended to serve no more than **two (2)** transient guests per night.

(B) Bed and breakfast establishments shall be a permitted use in the Agricultural and Commercial Districts and shall require a special use permit in all Residential Districts.

40-5-4 **SALVAGE/JUNK YARDS.**

(A) No part of any salvage/junk yard (see definition in **Section 40-2-2**) shall be located closer than **five hundred (500) feet** to the boundary of any Residential District.

(B) All vehicles, parts and equipment shall be stored within a completely enclosed structure or within an area screened by a wall, solid fence, or closely planted shrubbery at least **ten (10) feet** high and of sufficient density to block the view from adjacent property.

40-5-5 MOBILE HOMES ON INDIVIDUAL LOTS. No person shall place any mobile home on an individual lot (i.e. a lot not in a mobile home park) except in conformity with the following regulations:

(A) **Same Lot Size/Setbacks.** A mobile home may be placed on any individual lot only if the district's minimum lot size and setback requirements are strictly observed.

(B) **One Per Lot.** Only **one (1)** mobile home shall be placed on any individual lot.

(C) **Foundation.** Every mobile home shall be placed on a permanent foundation as set forth in this Code.

(D) **Anchors.** Anchors capable of withstanding a vertical tension force of **four thousand eight hundred (4,800) pounds** shall be installed at the corners of every mobile home stand or as otherwise necessary for protection against high winds. Every mobile home shall be securely tied down to such anchors.

(E) **Skirting.** Every mobile home shall be skirted with fire-resistant material. The skirting shall be equipped with an inspection door at least **twenty-four (24) inches** wide to allow access to the underside of the home.

(F) **Tie-Down Requirements.** Every mobile home shall meet all Illinois Department of Public Health tie-down requirements.

40-5-6 MOBILE HOME PARKS. After the effective date of this Code, no mobile home park shall be established except in conformity with the requirements of the subsections below:

(A) **Compliance with Illinois Law.** Every mobile home park shall, at a minimum, conform to the requirements of:

(1) "An Act to provide for, license and regulate mobile homes and mobile home parks" (**210 ILCS 115/1**), and as amended; and

(2) "Rules and Regulations for Mobile Home Parks," Illinois Department of Public Health, and as amended.

(B) **Minimum Lot Area, Setbacks, Etc.**

(1) **Minimum Lot Area.** No mobile home park shall be located on a tract less than **two (2) acres** in area.

(2) **Minimum Dimensions.** No mobile home park shall be developed on any tract that is less than **two hundred fifty (250) feet** in both width and depth.

(3) **Minimum Setbacks.** No part of a mobile home or other structure in any mobile home park shall be situated closer than **twenty-five (25) feet** to any lot line of the park.

(4) **Maximum Height.** No structure in any mobile home park shall be more than **thirty-five (35) feet** in height.

40-5-7 SANITARY LANDFILLS. Any person who intends to establish or conduct a sanitary landfill within Randolph County shall obtain a permit from the Illinois Environmental Protection Agency indicating that the sanitary landfill fully complies with the "Solid Waste Rules and Regulations" and other regulations promulgated by the IEPA pursuant to the authority granted by State law and must be consistent with Randolph County Solid Waste Plan.

40-5-8 SURFACE MINING. It shall be unlawful for any operator to engage in surface mining in Randolph County until a permit has been properly obtained from the Illinois Department of Natural Resources (IDNR) and has posted a performance bond in accordance with the provisions of applicable State statutes and regulations. Note: referenced to current regulatory departments.

(A) **Reclamation Plans.** As set forth in State law, whenever any land in the County is proposed to be surface-mined, the prospective mine operator shall file a reclamation plan for public inspection at the County Courthouse not less than **sixty (60) days** prior to any action on said plan by the

Illinois Department of Natural Resources (IDNR). Within **forty-five (45) days** of receiving said plan, the County Board may:

- (1) request that a public hearing be conducted in the County by the Illinois Department of Natural Resources (IDNR); and
- (2) propose the uses for which surface-mined land is to be reclaimed.

40-5-9 **UNDERGROUND MINING.** It shall be unlawful for any operator to engage in underground mining in Randolph County until a permit has been properly obtained from the Illinois Department of Natural Resources (IDNR).

(A) **Specific Requirements.** The following requirements must be met as a condition for obtaining a special use permit for underground mining activities:

- (1) no open pit or shaft shall be less than **five hundred (500) feet** from an existing residence or Residential District established by this Code; and
- (2) all structures for screening, crushing, washing, mixing or storage shall be located not less than **one thousand (1,000) feet** from an existing residence or any Residential District established by this Code.

40-5-10 **GAS/OIL DRILLING OPERATIONS.** It shall be unlawful for any operator to engage in gas/oil drilling operations in Randolph County until a permit has been properly obtained from the Illinois Department of Natural Resources (IDNR). Gas/oil wells and gas/oil storage tanks shall conform to the setback requirements of the zoning district in which they are located.

40-5-11 **SCREENING.** Any screening (see definition in **Section 40-2-2**) must conform to the front yard (any yard that abuts a street) setback requirements of the district in which it is located, unless it is of a height and/or type that does not obstruct or physically interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or physically interfere with a motor vehicle operator's view of approaching, merging or intersecting traffic.

40-5-12 **STORAGE CONTAINER HOMES ON INDIVIDUAL LOTS.** A "storage container home" means any fully intact storage container that has been modified for, and is being used, for the purposes of a dwelling. No person shall play any intact storage container on an individual lot for single unit residential purposes except in conformity with the following regulations:

(A) **Same Lot Size/Setbacks.** A storage container may be placed on an individual lot only if the district's minimum lot size and setback requirements are strictly observed.

(B) **One Per Lot.** Only one storage container home shall be placed on an individual lot.

(C) **Foundation.** Every storage container home shall be placed on a permanent foundation as set forth in this Chapter.

(D) **Anchors.** Anchors capable of withstanding a vertical tension force of **four thousand eight hundred (4,800) pounds** shall be installed at the corners of storage container home stand or as otherwise necessary for protection against high winds. Every storage container home shall be securely tied down to such anchors.

(E) **Aesthetics.** Commercial logos and other marks of commercial use shall be covered with siding or paint.

(Ord. No. 19-07; 06-27-19)

40-5-13 **SMALL RETAIL.** A "small retail establishment" is a specialty designation for commercial enterprises allowed as a special use in agricultural districts (A). No small retail establishment shall be established or conducted except in conformity with the following regulations:

(A) **Unrelated Employees.** A small retail establishment shall employ not more than **one (1)** individual who is unrelated to the family residing on the premises.

(B) **Floor Space.** The total area for the small retail establishment shall not exceed **three percent (3%)** of the area of the lot up to **six thousand (6,000) square feet**.

(C) **Nuisances.** A small retail establishment shall not generate any offensive noise, vibration, smoke, dust, odors, heat, glare or electrical interference noticeable at or beyond the boundary lines of the lot.

(D) **Parking.** Every small retail establishment shall provide **two (2)** off-street parking spaces in addition to the usual requirements for the dwelling if one exists. Said parking spaces shall be located on the same lot as the small retail establishment.

(Ord. No. 19-09; 06-27-19)

40-5-14 - 40-5-30 RESERVED.

DIVISION II – SOLAR ENERGY SYSTEM REGULATIONS

40-5-31 PURPOSE. The purpose of this regulation is to facilitate the construction, installation, and operation of Solar Energy Systems (SES) 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 regulation to encourage the development of SESs that reduce reliance on foreign and out-of-state energy resources, bolster local economic development and job creation. This regulation is not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this regulation shall not be deemed to nullify any provisions of local, state or federal law.

40-5-32 DEFINITIONS.

Accessory: As applied to a building, structure, or use, one which is on the same lot with, incidental to and subordinate to the main or principal structure or use and which is used for purposes customarily incidental to the main or principal structure, or the main or principal use.

Building Integrated Photovoltaic Systems: A solar energy system that consists of integrating photovoltaic modules into the building structure as the roof or façade and which does not alter the relief of the roof.

Collective Solar: Solar installations owned collectively through subdivision homeowner associations, college student groups, or other similar arrangements.

Commercial/Large Scale Solar Farm: A utility scale commercial facility that converts sunlight to electricity, whether by photovoltaics, concentrating solar thermal devices, or various experimental technologies for onsite or offsite use with the primary purpose of selling wholesale or retail generated electricity.

Community Solar Garden: A community solar-electric (photovoltaic) array, of no more than **five (5) acres** in size, that provides retail electric power (or financial proxy for retail power) to multiple households or businesses residing in or located off-site from the location of the solar energy system.

Facility Owner: A person with a direct ownership interest in a Commercial wind energy facility or a Commercial solar energy facility, or both, regardless of whether the person is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the consideration and operation of the

facility, and (ii) at the time the facility is being developed, a person who is acting as a developer of the facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person will own or operate the facility.

Ground Mount Solar Energy System: A solar energy system that is directly installed into the ground and is not attached or affixed to an existing structure.

Net Metering: A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

Nonparticipating Property: Real property that is not a participating property.

Nonparticipating Residence: A residence that is located on Nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the Commercial wind energy facility or the Commercial solar energy facility is filed with the county.

Occupied Community: Any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the Commercial wind energy facility or the Commercial solar energy facility is filed with the county: a school, place of worship, day care facility, public library, or community center.

Participating Property: Real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose constructing a Commercial wind energy facility, a Commercial solar energy facility, or Supporting facilities.

Participating Residence: A residence that is located on Participating property and that is existing and occupied on the date that an application for a permit to develop the Commercial wind energy facility or the Commercial solar energy facility is filed with the county.

Protected Lands: Property that is: (1) subject to a permanent conservation right consistent with the Real Property Conservation Rights Act; or (2) registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

Photovoltaic System: A solar energy system that produces electricity by the use of semiconductor devices calls photovoltaic cells that generate electricity whenever light strikes them.

Qualified Solar Installer: A trained and qualified electrical professional who has the skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved.

Roof Mount: A solar energy system in which solar panels are mounted on top of a building roof as either a flush mounted system or as modules fixed to frames which can be tilted toward the south at an optical angle.

Solar Access: Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

Solar Collector: A device, structure or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System (SES): The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic systems, solar thermal systems and solar hot water systems.

Solar Storage Battery/Unit: A component of a solar energy device that is used to store solar generated electricity or heat for later use.

Solar Thermal Systems: Solar thermal systems directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water and heating pool water.

Supporting Facilities: Transmission lines, substations, access roads, meteorological towers, storage containers, and equipment associated with the generation and storage of electricity by the Commercial wind energy facility or Commercial solar energy facility.

40-5-33 GROUND MOUNT AND ROOF MOUNT COMMERCIAL/RESIDENTIAL APPLICATION (SES) PERMITTED AS AN ACCESSORY USE. Ground Mount and Roof Mount (SES) shall be permitted by a building permit in all zoning districts where there is a principal structure. An application shall be submitted to the Land Resource Management Administrator demonstrating compliance with the then existing Randolph County Zoning Code in addition to the following requirements below:

- (A) **Height.**
 - (1) Building or roof mounted solar energy systems shall not exceed the maximum allowed height for principal structures in any zoning district.
 - (2) Ground or pole-mounted solar energy systems shall not exceed **twenty (20) feet** in height which oriented at maximum tilt.
 - (3) Ground mounted solar energy systems may be placed in the front yard, but shall not exceed **thirty (30) inches** above grade.
- (B) **Setbacks.**
 - (1) Ground mounted solar energy systems shall meet the accessory structure setbacks for the zoning district in which the unit is located.
 - (2) Ground mounted solar energy systems shall not extend beyond the side yard or rear yard setback when oriented at minimum design tilt.
 - (3) In addition to building setbacks the collector surface and mounting devices for roof mounted systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector or mounting system has been engineered to safely extend beyond the edge, and setback requirements are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
- (C) **Reflection Angles.** Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties.
- (D) **Aviation Protection.** For solar units located within **five hundred (500) feet** of an airport or within approach zones of an airport, the applicant shall complete and provide the results of the Solar Glaze Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federal Obligated Airports, or most recent version adopted by the FAA.
- (E) **Visibility.** Solar energy systems shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the North while still providing adequate solar access for collectors.
- (F) **Safety.**
 - (1) Roof or building mounted solar energy systems, excluding building integrated systems, shall allow for adequate roof access for firefighting

purposes to the south facing or flat roof upon which the panels are mounted.

- (2) All solar energy systems shall be performed by a qualified solar installer.
- (3) Any connection to the public utility grid shall be inspected by the appropriate public utility and a letter of inspection sent to Land Resource Management Office within **forty-five (45) days** after inspection.
- (4) All solar energy systems shall be maintained and kept in good working order. If it is determined by the Land Resource Management Administrator that a solar energy system is not being maintained, kept in good working order, or is no longer being utilized to perform as intended for **six (6) consecutive months**, the property owner shall be given **thirty (30) day notice** for removal of the unit and all equipment. If the solar energy system is not removed within **thirty (30) days** the Land Resource Management Administrator shall issue a Notice of Violation and Notice to Appear before the Randolph County Circuit Court as an ordinance violation.
- (5) All persons, individuals, businesses and business entity installing a solar energy system, if burying underground cables, shall become a member of the Illinois One Call System, known as JULIE, Inc. for the purpose of marking any buried cables for excavation purposes.

(G) **Approved Solar Components.** Electric Solar energy system components shall have a UL listing or approved equivalent and solar hot water systems shall have an SRCC rating.

(H) **Restrictions on Solar Energy Systems Limited.** Consistent with **765 ILCS 165/** no homeowner’s agreement, covenant, common interest community or other contracts between multiple property owners within a subdivision of unincorporated Randolph County shall prohibit or restrict homeowners from installing solar energy systems.

40-5-34 BUILDING INTEGRATED SYSTEMS. Building Integrated Systems shall be permitted outright in all Zoning Districts.

40-5-35 COMMUNITY SOLAR GARDENS (SES). Development of Community Solar Gardens is permitted by Special Use as a principal use in all zoning districts subject to the following requirements:

(A) **Rooftop Gardens Permitted.** Rooftop gardens are permitted in all zoning districts where buildings are permitted.

(B) **Ground Mount Gardens.** Ground mount community solar energy systems must be less than **five (5) acres** in total size, and require a special use in all districts. Ground-mount solar developments covering more than **five (5) acres** shall be considered a solar farm.

(C) **Interconnection.** An interconnection agreement must be completed with the electric utility in whose service the territory the system is located.

(D) **Dimensional Standards.** All solar related structures in newly platted and existing platted subdivisions shall comply with the principal structure setback, height, and coverage limitations for the district in which the system is located.

(E) **Aviation Protection.** For solar units located within **five hundred (500) feet** of an airport or within approach zones of an airport, the applicant shall complete and provide the results of the Solar Glaze Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federal Obligated Airports, or most recent version adopted by the FAA.

(F) **Other Standards.**

- (1) Ground Mount Systems shall comply with all required standards for structures in the district in which the system is located.
- (2) All solar gardens shall comply with the then existing Special Use Permitting process of the Randolph County Zoning Code.

- (3) All solar gardens shall also comply with all other State and Local Requirements.

40-5-36 COMMERCIAL/LARGE SCALE SOLAR FARM (SES). Ground Mount solar energy systems that are the primary use of the lot, designed for providing energy to off-site uses or export to the wholesale market require a Special Use in the Agriculture Districts of the Randolph County Zoning Code. The following information shall also be submitted as part of the application:

- (A) A site plan with existing conditions showing the following:
 - (1) Existing property lines and property lines extending **one hundred (100) feet** from the exterior boundaries including the names of adjacent property owners and the current use of those properties.
 - (2) Existing public and private roads, showing widths of the road and any associated easements.
 - (3) Location and size of any abandoned wells, sewage treatment systems.
 - (4) Existing buildings and impervious surfaces.
 - (5) A contour map showing topography at **two (2) foot** intervals. A contour map of surrounding properties may also be required.
 - (6) Existing vegetation (list type and percent of coverage: i.e. cropland/plowed fields, grassland, wooded areas, etc.)
 - (7) Any delineated wetland boundaries.
 - (8) A copy of the current FEMA FIRM maps that show the subject property including the **one hundred (100) year** flood elevation and any regulated flood protection elevation, if available.
 - (9) Surface water drainage patterns.
 - (10) The location of any subsurface drainage tiles.
- (B) A Site Plan of proposed conditions showing the following:
 - (1) Location and spacing of the solar panels.
 - (2) Location of access roads.
 - (3) Location of underground or overhead electric lines connecting the solar farm to a building, substation or other electric load.
 - (4) New electrical equipment other than at the existing building or substation that is to be the connection point for the solar farm.
- (C) **Fencing and Weed/Grass Control.**
 - (1) The applicant shall submit an acceptable weed/grass control plan for property inside and outside the fenced area for the entire property. The Operating Company or Successor during the operation of the Solar Farm shall adhere to the weed/grass control plan.
 - (2) Perimeter fencing having a height of **six (6) to eight (8) feet** shall be installed around the boundary of the solar farm. The fence shall contain appropriate warning signage that is posted such that it is clearly visible on the site.
 - (3) The applicant shall maintain the fence and adhere to the weed/grass control plan. If the Operating Company does not adhere to the proposed plan a fine of **Five Hundred Dollars (\$500.00)** per week will be assessed until the Operating Company or Successor complies with the weed/grass control and fencing requirements.
- (D) **Manufacturers Specifications.** The manufacturer’s specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles and racks.
- (E) **Connection and Interconnection.**
 - (1) A description of the method of connecting the SOLAR array to a building or substation.
 - (2) Utility interconnection details and a copy of written notification to the utility company requesting the proposed interconnection.

- (F) **Setbacks.**
- (1) **Occupied Community Buildings and Dwellings on Nonparticipating Properties.** 150 feet from the nearest the outside wall or the structure.
 - (2) **Boundary Lines of Participating Property.** None
 - (3) **Public Road Right-of-Way.** 50 feet from the nearest edge.
 - (4) **Boundary Lines of Nonparticipating Property.** 50 feet to the nearest point on the property line of the Nonparticipating property.

These requirements may be waived subject to the written consent of the owner of each affected Nonparticipating property.

(G) **Aviation Protection.** For solar energy systems located within **five hundred (500) feet** of an airport or within approach zones of an airport, the applicant shall complete and provide the results of the Solar Glaze Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federal Obligated Airports, or most recent version adopted by the FAA.

(H) **Fire Protection.** A fire protection plan for the construction and the operation of the facility, and emergency access to the site.

(I) **Endangered Species and Wetlands.** Solar Farm developers shall be required to initiate a natural resource review consultation with the Illinois Department of Natural Resources (IDNR) through the Department's online EcoCat Program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation shall be borne by the developer.

(J) **Road Use Agreements.** All routes on either County or Township Roads that will be used for the construction and maintenance purposes shall be identified on the site plan. All routes for either egress or ingress need to be shown. The routing shall be approved subject to the approval of the Randolph County Highway Engineer in coordination with the Township Road Commissioners. The Solar Farm Developer shall complete and provide a preconstruction baseline survey to determine existing road conditions for assessing potential future damage due to development related traffic. The development shall provide a road repair plan to ameliorate any and all damage, installation or replacement of roads that might be required by the developer. The developer shall provide a letter of credit or surety bond in an amount and form approved by the Highway/Road Officials when warranted.

(K) **Decommissioning of the Solar Farm.** The Developer shall provide a decommissioning plan for the anticipated service life of the facility or in the event the facility is abandoned or had reached its life expectancy. If the solar farm is out of service or not producing electrical energy for a period of **twelve (12) months**, it will be deemed nonoperational and decommissioning and removal of that facility will commence according to the decommissioning plan as provided and approved. A cost estimate for the decommissioning of the facility shall be prepared by a professional engineer or contractor who has expertise in the removal of the solar farm. The decommissioning cost estimate shall explicitly detail the cost before considering any projected salvage value of the out of service solar farm. The decommissioning cost shall be made by a cash, surety bond or irrevocable letter of credit before construction commences. Further a restoration plan shall be provided for the site with the application. The decommissioning plan shall have the following provided:

- (1) Removal of the following within **six (6) months**:
 - (a) All solar collectors and components, aboveground improvements and outside storage.
 - (b) Foundations, pads and underground electrical wires and all electrical equipment shall be removed by the solar company installer and/or the property owner. The site shall be reclaimed to a depth of **four (4) feet** below the surface of the ground.
 - (c) Hazardous material shall be removed from the property and disposed of in accordance with Federal and State law.
- (2) The decommissioning plan shall also recite an agreement between the applicant and the County that:
 - (a) The financial resources for decommissioning shall be in the form of a Surety Bond, or shall be deposited in an escrow account with an escrow agent acceptable to the Land Resource Management Administrator.

- (b) A written escrow agreement will be prepared, establishing upon what conditions the funds will be disbursed.
- (c) The County shall have access to the escrow account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within **six (6) months** of the end of project life or facility abandonment.
- (d) The County is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
- (e) The County is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the County's right to seek reimbursement from applicant or applicant successor for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.
- (f) Financial provisions shall not be so onerous as to make solar power projects unfeasible.

40-5-37 **COMPLIANCE WITH STATE AND FEDERAL LAWS.** All solar energy systems shall comply with all Federal and State requirements.

40-5-38 **LIABILITY INSURANCE.** The owner or operator of the solar farm shall maintain a current general liability policy covering bodily injury and property damage and name Randolph County as an additional insured with limits of at least **Two Million Dollars (\$2,000,000.00)** per occurrence and **Five Million Dollars (\$5,000,000.00)** in the aggregate with a deductible of no more than **Five Thousand Dollars (\$5,000.00)**. Proof of insurance must be sent to Land Resource Management Office from insurance company on annual basis.

40-5-39 **ADMINISTRATION AND ENFORCEMENT.** The Land Resource Management Administrator shall enforce the provisions of this Section through an inspection of the solar farm every year. The Land Resource Management Administrator is hereby granted the power and authority to enter upon the premises of the solar farm at any time by coordinating a reasonable time with the operator/owner of the facility. Any person, firm or cooperation who violates, disobeys, omits, neglects, refuses to comply with, or resists enforcement of any of the provisions of this Section may face fines of not less than **Twenty-Five Dollars (\$25.00)** nor more than **Five Hundred Dollars (\$500.00)** for each offense.

40-5-40 **FEES CHARGED FOR BUILDING PERMITS.** The fees for processing the applications for building permits and mechanical permits shall be collected by the Land Resource Management Administrator who shall be accountable to the County for such fees as follows:

(A) There is a standard **Thirty-Five Dollar (\$35.00)** fee for initial certificate of compliance application. **(See Appendix "A")**

40-5-41 **ANNUAL UPDATE REQUIREMENTS.** All contact information including name, phone number, and address of the current property owner, leasor, lessee, and utility company shall be submitted annually within **thirty (30) days** of the anniversary date of the Special Use Permit until decommissioning has been completed at which point the Special Use Permit will be null and void.

40-5-42 - 40-5-50 **RESERVED.**

(Ord. No. 2023-07; 05-26-23)

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 effects 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) **Participating Residences.** 1.1 times the maximum blade tip height of the Wind Tower to the nearest point on the outside wall of the structure.
Nonparticipating Residences. 2.1 times the maximum blade tip height of the Wind Tower to the nearest point on the outside wall of the structure.
 - (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 **2.1 times the maximum blade tip height of the Wind Tower** 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 **1.1 times the maximum blade tip height of the Wind Tower** to the nearest point on 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 **1.1 times** the maximum blade tip 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) state and federal laws.

Lighting. The WECS shall not be lighted except as required by the FAA or other

(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

(A)

IMPACT.

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 wound 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.

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. 2023-07; 05-26-23)

[See Section 1-1-20 for Code Penalties]

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ARTICLE VI - OFF-STREET PARKING

40-6-1 **APPLICABILITY OF ARTICLE.** Off-street parking shall be provided in accordance with this Article for all structures and uses erected or established after the effective date of this Code.

40-6-2 **EXISTING OFF-STREET PARKING.**

(A) Existing off-street parking located on the same lot as the use served shall not be reduced--or if already less than, shall not be further reduced--below the requirements and standards for similar new structures or uses.

(B) When an existing structure is damaged or destroyed and subsequently repaired or rebuilt, off-street parking equivalent to any maintained at the time of such damage or destruction shall be restored, but additional off-street parking need not be provided unless Subsection (C) or (D) applies.

(C) Whenever the use of any structure or premises is intensified through addition of dwelling units, increased floor area, greater seating capacity, etc., additional off-street parking commensurate with such increases in use and/or intensity shall be provided.

(D) Whenever the existing use of a structure or premises is changed to a different use, off-street parking shall be provided as required herein for such new use.

40-6-3 **PARKING LOT DESIGN STANDARDS.**

All off-street parking lots shall conform to the current edition of Architectural Graphic Standard.

40-6-4 **SURFACING.**

Parking lots shall be graded and improved with crushed rock at least **four (4) inches** thick and treated with a dust palliative approved by the Administrator.

40-6-5 **LOCATION OF OFF-STREET PARKING.**

All off-street parking shall be located in conformity with the following requirements:

(A) **For Dwellings.** Parking spaces accessory to dwellings shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any front yard except in the driveway, but may be located in the side or rear yards. Each parking space accessory to a multiple-family dwelling shall be unobstructed so that no vehicle need be moved to allow another vehicle to enter/exit the parking area.

(B) **For Commercial/Industrial Uses.**

(1) Every off-street parking space accessory to any commercial or industrial use shall be located within **five hundred (500) feet** of the use served; provided, that no portion of any parking lot for non-residential uses shall extend into any Residential District or into the Agricultural District except by written permission of the Administrator.

(2) In the Commercial or Industrial District, off-street parking facilities for different structures or uses may be provided collectively, but if the total number of spaces so located together is not less than the sum of the separate requirements for each structure or use and only if all other pertinent regulations are observed.

40-6-6 **COMPUTATION OF REQUIRED PARKING SPACE.**

In computing the number of parking spaces required by this Code, the Administrator shall apply the following rules:

(A) In computing parking space requirements based on the number of employees, the maximum number of employees on the premises at any period of the day shall be used. "Employee

parking" means "one parking space shall be required per **one and one-half (1.5)** employees" unless otherwise stated.

(B) In computing parking space requirements on the basis of building floor area, the gross floor area shall be used.

(C) Whenever it is necessary to translate gross parking lot area into number of parking spaces, **three hundred fifty (350) square feet** of gross area shall be deemed one parking space.

(D) If computation of the number of parking spaces required by this Code results in a fractional space, any fraction of one-half or more shall be counted as one space.

(E) No space or portion thereof needed to satisfy the minimum applicable requirement for number of off-street parking spaces shall be counted as part of the off-street parking spaces required for another structure or use.

40-6-7 DESIGN AND LOCATION OF OFF-STREET LOADING FACILITIES. Where provided, all off-street loading facilities shall conform to the minimum standards indicated below:

(A) **Size Of Space.** Every off-street loading space shall be at least **twelve (12) feet** wide and sufficiently long to accommodate the type of vehicle expected to use the space. In no case shall a vehicle being loaded or unloaded overhang into the public right-of-way.

(B) **Access Way.** Every off-street loading space shall have a safe means of vehicular access to a street or alley. Such access way shall be at least **twelve (12) feet** wide.

(C) **Surfacing.** Every off-street loading area shall be improved with a compacted stone base at least **seven (7) inches** thick.

40-6-8 NUMBER OF PARKING SPACES REQUIRED. Off-street parking spaces shall be provided as indicated in table below. For any use not listed in the table, the same number of parking spaces shall be provided as are required for the most similar listed use. The Administrator shall make the determination of similarity:

<u>Use</u>	<u>Parking Spaces Required</u>
(A) <u>Dwellings, Lodgings:</u>	
Bed & breakfast, hotels, motels, boarding houses & lodges	1 space per lodging unit, plus employee parking
Mobile homes (including those in mobile home parks	2 spaces per mobile home
Multi-family dwellings	
1 bedroom	1.5 spaces per dwelling unit
2 or more bedrooms	2 spaces per dwelling unit
Single-family & two-family dwellings	2 spaces per dwelling unit
(B) <u>Educational, Institutional, Recreational:</u>	
Churches	1 space per 4 seats in the largest seating area
Hospitals	1 space per 2 beds, plus employee parking
Libraries, museums	1 space per 500 sq. ft. of floor area

<u>Use</u>	<u>Parking Spaces Required</u>
Nursing homes	1 space per 5 beds
Schools	
Elementary and junior high	1 space for every 20 students that the building is designed to accommodate, plus employee parking.
Senior High	1 space for every 4 students of driving age that the building is designed to accommodate, plus employee parking.
(C) <u>Commercial, Office, Service:</u>	
Note: All commercial and service uses, unless specifically indicated otherwise below.	1 space per 300 sq. ft. of floor area
Banks, savings & loans	
Walk-in	1 space per 300 sq. ft. of floor area
Drive-in	5 stacking spaces per teller window, plus employee parking
Beauty and Barber shops	2 spaces per chair, plus employee parking
Furniture and appliance stores	1 space per 600 sq. ft. of floor area
Home occupations	1 space per 150 sq. ft. of floor area devoted to the home occupation in addition to the parking requirements for the dwelling
Offices, medical/dental	1 space per 200 sq. ft. of floor area or 3 spaces per professional, whichever is greater
Mortuaries/funeral homes	1 space per 5 seats plus 1 space per funeral vehicle, but not less than 20 spaces per chapel or state room
Restaurants; refreshment stands	
Sit-down	1 space per 4 seats or 1 space per 50 sq. ft. of floor area, whichever is greater
Drive-in	1 space per 25 sq. ft. of building floor area
Service stations/automotive repair	2 spaces per service stall, plus employee parking

<u>Use</u>	<u>Parking Spaces Required</u>
Taverns	1 space per 4 seats or 1 space per 50 sq. ft. of floor area, whichever is greater
Theaters, meeting halls	1 space per 4 seats in the largest seating area
Vehicle sales (autos, boats, trailers, etc.)	1 space per 600 sq. ft. of enclosed floor area, plus 1 space per 2,500 sq. ft. of open lot area.

ARTICLE VII - NONCONFORMITIES

40-7-1 PURPOSE OF ARTICLE. The requirements imposed by this Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various districts. Lots, structures, and uses of land or structures that do not conform to the requirements of the district in which they are located impede appropriate development. For example, nonconformities are frequently responsible for truck traffic on residential streets, the overtaxing of parking facilities, the creation of nuisances, and/or the lowering of property values. The regulations in this Article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.

40-7-2 NONCONFORMING LOTS. Any vacant lot that does not conform to **one (1)** or more of the lot size requirements of the district in which it is located may be developed for any use permitted in that district, provided such vacant lot:

- (A) was recorded in the Randolph County Recorder of Deeds office prior to the effective date of this Code (or any pertinent amendment thereto); and
- (B) is at least **thirty (30) feet** wide; and
- (C) that no health hazards will be created by such use.

40-7-3 TWO OR MORE LOTS IN COMMON OWNERSHIP. If **two (2)** or more lots or combinations of lots and portions of lots with continuous frontage were of record and in common ownership on the effective date of this Code, and if **one (1)** or more of those lots does not meet the minimum lot width, depth and area requirements of the district in which it is located, the land involved shall be considered an individual parcel. No portion of any such parcel shall be developed except in compliance with this Code, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Code.

40-7-4 NONCONFORMING STRUCTURES. Any otherwise lawful structure which exists on the effective date of this Code but which could not be erected under the terms of this Code because of requirements/restrictions on the lot size, height, setbacks, or other characteristics of the structure or its location on the lot, may lawfully remain, subject to the following provisions. Nonconforming dwelling units are not subject to these provisions, and may lawfully remain.

(A) **Enlargement, Alterations.** No such structure shall be enlarged or altered in any way which increases its nonconformity.

(B) **Relocation.** No such structure shall be relocated unless, after relocation, it will conform to all the regulations of the district in which it is located.

(C) **Reconstruction.** No such structure which is destroyed or damaged by any means shall be reconstructed if the Administrator determines that the cost of such reconstruction exceeds **fifty percent (50%)** of the structure's market value at the time of loss, unless after reconstruction the structure will conform to all applicable regulations of the district in which it is located. In the event the Administrator determines the estimated cost of reconstruction is less than **fifty percent (50%)** of the structure's market value at the time of loss, repairs or reconstruction shall be permitted, provided such work starts within **six (6) months** from the date the damage occurred and is diligently pursued to completion. (The Administrator may provide for an extension of time.)

The Administrator may require that the reconstruction cost estimate be made by a bona fide construction contractor, and that the structure's market value at the time of loss be determined by a licensed real estate appraiser. The owner of the damaged structure shall be responsible for obtaining these estimates for the Administrator.

40-7-5 **NONCONFORMING USES.** Any otherwise lawful use existing on the effective date of this Code which would not be allowed under the terms of this Code may lawfully continue, subject to the following provisions. Dwelling units are not subject to these provisions, and may lawfully remain.

(A) **Maintenance.** Any structure housing a nonconforming use may be maintained through ordinary repairs.

(B) **Expansion of Use.** No nonconforming use may be expanded so as to occupy a larger portion of the structure or lot than was occupied on the effective date of this Code.

(C) **Change of Use.** A nonconforming use shall not be changed except to a use permitted under the applicable district regulations.

(D) **Relocation.** No nonconforming use shall be moved, in whole or in part, unless such use, upon relocation, will conform to all pertinent regulations of the district in which it is proposed to be located.

(E) **Discontinuance of Use.** When a nonconforming use is discontinued for **twelve (12)** consecutive months or for **thirty (30) months** during any **three (3) year** period, the nonconforming use shall not thereafter be resumed. Any discontinuance caused by government action and without any contributing fault by the nonconforming user shall not be counted in calculating the length of discontinuance.

40-7-6 **NONCONFORMITIES UNDER PERMIT AUTHORITY.** The regulations of this Article shall not affect the terms of any permit issued prior to the effective date of this Code or any pertinent amendment thereto, provided that the work authorized by such permit is completed within a reasonable time.

ARTICLE VIII - ADMINISTRATION AND ENFORCEMENT

40-8-1 ZONING ADMINISTRATOR. The office of Zoning Administrator of Randolph County is hereby established. The Administrator shall be appointed by the County Board Chairman with the advice and consent of the County Board of Commissioners, and shall continue to hold office at the pleasure of the County Board. The Administrator is hereby authorized and directed to administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following specific duties:

- (A) To review and pass upon applications for initial and final certificates of zoning compliance;
- (B) To inspect land, structures, and uses to determine compliance with this Code, and, where there are violations, to initiate appropriate corrective action;
- (C) To review and forward to the Zoning Board of Appeals all applications for special use permits, variances, appeals and amendments;
- (D) To maintain up-to-date records of this Code including, but not limited to, the district map, certificates of zoning compliance, special-use permits, variances, interpretative decisions of the Board of Appeals, amendments and all applications related to these matters;
- (E) To periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on these matters to the Zoning Board of Appeals at least once each year;
- (F) To provide information to the general public on matters related to this Code; and
- (G) To perform such other zoning-related duties as the County Board may prescribe.

40-8-2 INITIAL CERTIFICATES OF ZONING COMPLIANCE. Upon the effective date of this Code, no lot shall be created, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated or reconstructed until an initial certificate of zoning compliance has been issued. **(See Section 40-3-15, Agricultural Exemption.)** The Administrator shall not issue an initial certificate of zoning compliance unless, he determines that the proposed work conforms to the applicable provisions of this Code.

40-8-3 APPLICATION. Every applicant for an initial certificate of zoning compliance shall submit to the Administrator, in graphic and narrative form on forms provided by the County, the items of information listed below. The Administrator shall decide if any items are not applicable. **(NOTE: Filing fee generally required.)**

ITEMS OF INFORMATION:

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed lot, structure, or use, if different from (A);
- (C) Brief, general description/explanation of the proposal;
- (D) Location of the proposed lot, use or structure, and its relationship to adjacent lots, uses or structures;
- (E) Area and dimensions of the site for the proposed finished grade;
- (F) Height and setbacks of the proposed structure;
- (G) Number and size of proposed dwelling units, if any;
- (H) Location and number of proposed parking/loading spaces and access ways;
- (I) Identification and location of all existing or proposed utilities, whether public or private; and/or
- (J) Any other pertinent information that the Administrator may require.

40-8-4 **DURATION OF INITIAL CERTIFICATE.** Initial certificates of zoning compliance shall be valid for **one (1) year**, or until revoked for failure to abide by a corrective action order. The Administrator may renew initial certificates of zoning compliance for successive **one (1) year** periods upon written request, provided the applicant is making a good faith effort to complete the authorized work.

40-8-5 **FINAL CERTIFICATES OF ZONING COMPLIANCE.** No lot or part thereof, recorded or developed after the effective date of this Code, and no structure or use, or part thereof, that has been erected, enlarged, altered, relocated, or reconstructed after the effective date of this Code shall be used, occupied or put into operation until a final certificate of zoning compliance has been issued. **(See Section 40-3-15, Agricultural Exemption.)** The Administrator shall not issue a final certificate of zoning compliance until he has determined, **by inspection**, that the work authorized by this initial certificate of zoning compliance has been completed in accordance with an approved plan. Failure to obtain a final certificate of zoning compliance shall constitute a separate violation of this Code.

40-8-6 **CORRECTIVE ACTION ORDERS.** Whenever the Administrator finds, by inspection or otherwise, that any lot, structure, or use, or work thereon is in violation of this Code, the Administrator shall so notify the responsible party and order appropriate corrective action.

(A) **Contents of Corrective Order.** The order to take corrective action shall be in writing and shall include:

- (1) A description of the premises sufficient for identification;
- (2) A statement indicating the nature of the violation;
- (3) A statement of the remedial action necessary to effect compliance;
- (4) The date by which the violation must be corrected;
- (5) A statement that the alleged violator is entitled to a conference with the Administrator if he so desires;
- (6) The date by which an appeal of the correction action order must be filed, and a statement of the procedure for so filing; and
- (7) A statement that failure to obey a corrective action order shall result in revocation of the certificate of zoning compliance and may result in the imposition of fines.

(B) **Service of Corrective Action Order.** A corrective action order shall be deemed properly served upon the owner, occupant, or operator of the offending lot, structure, or use if it is:

- (1) Served upon him personally;
- (2) Sent by registered mail to his last known address; or
- (3) Posted in a conspicuous place on or about the affected premises.

(C) **Stop Order.** Whenever any work is being done in violation of an initial certificate of zoning compliance, the Administrator's corrective action order may state that the violation must cease immediately. **(See Section 40-8-6(A)(4).)** In such case, the corrective action order is equivalent to a stop order.

40-8-7 **EMERGENCY MEASURES.** Notwithstanding any other provisions of this Code, whenever the Administrator determines that any violation of this Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.

40-8-8 **COMPLAINTS.** Whenever any violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the Administrator. The Administrator shall record such complaints, promptly investigate, and, if necessary, institute appropriate corrective action.

40-8-9 **FILING FEES.** By resolution, the County Board shall establish (and may periodically amend) a schedule of filing fees for the various permits and procedures listed in this Code. Said fees are intended to defray the administrative costs connected with the processing/conducting of such permits or procedures; the fees do not constitute a tax or other revenue-raising device. All such fees shall be paid by the applicant to the County Treasurer's office and are non-refundable. A current schedule of filing fees shall be maintained in the Administrator's office and on file with the County Clerk. **(See Appendix "A" for applicable fees.)**

40-8-10 **PENALTIES.**
(A) Any person who is convicted of a violation of this Code shall be guilty of a Class B misdemeanor and shall be fined not less than **Twenty Dollars (\$20.00)**, nor more than **Five Hundred Dollars (\$500.00)**, plus costs. Each day that a violation continues shall be considered a separate offense.
(B) Nothing contained in this Section shall prevent the County from taking any other lawful action that may be necessary to secure compliance with this Code.

ARTICLE IX - SPECIAL PROCEDURES AND PERMITS

DIVISION I - BOARD OF APPEALS

40-9-1 **BOARD ESTABLISHED.** The Zoning Board of Appeals of Randolph County is hereby established in accordance with Illinois law. (**See 55 ILCS 5/5-12010**)

40-9-2 **MEMBERSHIP CHAIRMAN, RESIDENCY.** The Board of Appeals shall consist of **seven (7) members** appointed by the County Board Chairman with the advice and consent of the County Board of Commissioners. At the time of these appointments, one Board of Appeals member shall be named as chairman by the County Board Chairman; if the chairman's office becomes vacant, the County Board Chairman shall designate a new chairman. A majority of the members shall have agricultural-related backgrounds and these appointments shall also be equally distributed from within the area zoned by the County. All members of the Board of Appeals shall reside in the area affected by the Randolph County Zoning Code with failure to maintain this residency cause for removal from the Board.

40-9-3 **TERM OF OFFICE, VACANCIES.** Each member of the Board of Appeals shall hold office for **five (5) years** from the date of his appointment, and until his successor has been selected and qualified; provided, however, that the initial appointees to the Board of Appeals shall serve respectively for the following terms: **one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, one (1) for five (5) years, one (1) for six (6) years, and one (1) for seven (7) years.** The County Board may remove any member of the Board of Appeals for cause, after a public hearing. A vacancy on the Board of Appeals shall be filled for the unexpired term of the member whose place has become vacant in the same manner as provided for the appointment of a new member.

40-9-4 **COMPENSATION.** Each member of the Board of Appeals shall be compensated for his services on a per diem basis with a mileage allowance for travel. The amount of the compensation shall be determined by the County Board and paid by the County Treasurer.

40-9-5 **MEETINGS, QUORUM.** All meetings of the Board of Appeals shall be held at the call of the Chairman and at such times and places within the County as the Board of Appeals may determine. The Chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. **Four (4) members** of a **seven (7) member** Board of Appeals shall constitute a quorum; and the affirmative vote of at least **four (4)** of the **seven (7) members**, whichever the case may be, shall be necessary to recommend any variation or modification to the County Board.

40-9-6 **RECORDS.** The Board of Appeals shall keep minutes of its proceedings and examinations. These minutes shall indicate the absence of any member, the vote or abstention of each member on each question, and any official action taken. A copy of every rule, variance, order or decision of the Board of Appeals shall be filed in the Administrator's office and be a public record.

40-9-7 - 40-9-9 **RESERVED.**

DIVISION II - SPECIAL USE PERMITS

40-9-10 SPECIAL USES BY PERMIT. This Code divides the County into various districts and permits in each district, as a matter of right, only those uses which are clearly compatible with one another. Certain other uses, because of their special operational or physical characteristics, may or may not have a detrimental impact on nearby permitted uses, depending upon their precise location, manner of operation, and other factors. Such "special uses" require careful case-by-case review, and may be allowed only by permission of the County Board. **(See 55 ILCS 5/5-12009.5)**

40-9-11 APPLICATION. Every applicant for special use permit shall submit to the Administrator, in narrative and graphics form on forms provided by the County, the items of information listed below. [Every special use permit application shall also be filed with the Randolph County Soil and Water Conservation District as per State law, **(See 70 ILCS Sec. 405/22.02a)** and, if the land in question is within **one and one-half (1 1/2) miles** of a municipality, with the Clerk of that municipality.] The Administrator shall promptly transmit the completed application, and any comments or recommendation he deems appropriate, to the Board of Appeals. **(Note: Filing fee required.)**

ITEMS OF INFORMATION

- (A) name and address of the applicant;
- (B) name and address of the owner or operator of the proposed structure or use, if different from (A);
- (C) nature of the proposed use, including type of activity, manner of operation, number of occupants or employees, and similar matters;
- (D) location of the proposed use or structure, and its relationship to existing adjacent uses or structures;
- (E) area and dimensions of the site for the proposed structure or uses;
- (F) existing topography of the site (USGS contour data is acceptable), and proposed finished grade;
- (G) existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
- (H) height and setbacks of the proposed structure;
- (I) number and size of proposed dwelling units, if any;
- (J) number and location of proposed parking/loading spaces and access ways;
- (K) identification and location of all existing or proposed utilities, whether public or private; and/or
- (L) any other pertinent information that the Administrator may require.

40-9-12 PUBLIC HEARING NOTICE. The Board of Appeals shall hold a public hearing on every special use permit application within a reasonable time after said application is submitted to them. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date and place of the hearing, and the nature of the proposed special use, shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing:

- (A) by first class mail to the applicant and to all parties whose properties are adjacent to the property for which the special use permit is sought; and
- (B) by publication in a newspaper of general circulation within the County.

40-9-13 ADVISORY REPORT, FACTORS CONSIDERED. Within a reasonable time after the public hearing, the Board of Appeals shall submit its advisory report to the County Board. In deciding what its advice should be, the Board of Appeals shall consider the following factors:

- (A) whether the proposed design, location, and manner of operation of the proposed special use will adequately protect the public health, safety and welfare, and the physical environment.
- (B) the effect the proposed special use would have on the value of neighboring properties and on the County's overall tax base;
- (C) whether there are any facilities near the proposed special use (e.g. schools, hospitals, etc.) that require special protection or consideration.

40-9-14 ACTION BY COUNTY BOARD. The County Board shall act on each request for special use permit at its next regularly scheduled meeting following submission of the Board of Appeals' advisory report. Without further public hearing, the County Board may grant a special use permit by an ordinance passed by a simple majority vote. In a separate statement accompanying any such Code, the County Board shall state its findings of fact, and indicate its reasons for approving (with or without conditions) or denying the request for special use permit.

DIVISION III - APPEALS

40-9-15 NATURE OF AN APPEAL. Any person aggrieved by any decision or order of the Administrator in any matter related to the interpretation or enforcement of any provision of this Code may appeal to the Zoning Board of Appeals. Every such appeal shall be made and treated in accordance with Illinois law (**See 55 ILCS 5/5-12012**) and the provisions of this Article.

40-9-16 FILING, RECORD TRANSMITTAL. Every appeal shall be made within **forty-five (45) days** of the matter complained of by filing with the Administrator and the Board of Appeals a written notice specifying the grounds for appeal. [Every appeal shall be filed with the **Randolph County Soil and Water Conservation District** as per State law. (**See 70 ILCS 405/22.02a**) and, if the land in question is within **one and one-half (1 1/2) miles** of a municipality, with the Clerk of that municipality.] Not more than **five (5) working days** after the notice of appeal has been filed, the Administrator shall transmit to the Board of Appeals all records pertinent to the case. (**Note: Filing fee required.**)

40-9-17 STAY OF FURTHER PROCEEDINGS. An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Board of Appeals, after the notice of appeal has been filed with him, that, for reasons stated in the certificate, a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Circuit Court grants a restraining order for due cause and so notifies the Administrator.

40-9-18 PUBLIC HEARING, NOTICE. The Board of Appeals shall hold a public hearing on every appeal within a reasonable time after the filing of the appeal notice. At the hearing any interested party (including any school or other taxing district in which the property in question is located) may appear and testify, either in person or by duly authorized agent or attorney. All testimony shall be given under oath. Notice indicating the time, date, and place of the hearing, and briefly describing the issue to be decided shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

- (A) By first-class mail to the petitioner and to all parties whose properties are adjacent to the premises to which the appeal pertains;
- (B) By publication in a newspaper of general circulation within the County.

40-9-19 DECISION BY BOARD OF APPEALS. The Board of Appeals shall render a decision on the appeal within a reasonable time after the hearing. The Board of Appeals may reverse or

affirm, in whole or in part, or may modify or amend the decision or order appealed from the extent and in the manner that it deems appropriate. In so doing, the Board of Appeals has all the power of the Administrator.

DIVISION IV - VARIANCES

40-9-20 **PURPOSE OF VARIANCES.** A variance is a relaxation of the strict application of the lot size, setbacks, or other area-bulk requirements of this Code that are applicable to a particular lot, structure or use. Every request for a variance shall be treated in accordance with the Illinois law (**See 55 ILCS 5/5-12009**) and the provisions of this Article.

40-9-21 **APPLICATION FOR VARIANCES.** Every applicant for a variance shall submit to the Administrator, in narrative and graphics form on forms provided by the County, the items of information listed below. [Every variance application shall also be filed with the **Randolph County Soil and Water Conservation District** as per State law (**See 70 ILCS 405/22.02a**) and, if the land in question is located within **one and one-half (1 1/2) miles** of a municipality, with the Clerk of that municipality.] The Administrator shall promptly transmit said application to the Board of Appeals together with any recommendation or comments he may wish to make. (**Note: Filing fee required.**)

- (A) Name and address of the applicant;
- (B) Location of the lot, structure or use for which the variance is sought;
- (C) Relationship of said lot, structure or use to adjacent lots, structures or uses;
- (D) Specific section(s) of this Code containing the regulations which, if strictly applied, would cause a serious problem; and
- (E) Any other pertinent information that the Administrator may require.

40-9-22 **PUBLIC HEARING, NOTICE.** The Board of Appeals shall hold a public hearing on each variance request within a reasonable time after the variance application is submitted to them. At the hearing any interested party (including any school or other taxing district in which the property in question is located) may appear and testify, either in person or by duly authorized agent or attorney. All testimony shall be given under oath. Notice of the hearing shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing:

- (A) By first-class mail to the applicant and to all parties whose properties are adjacent to the property for which a variance is sought; and
- (B) By publication in a newspaper of general circulation within the County.

40-9-23 **CONTENTS OF NOTICE.** The notice of a public hearing on a variance request shall include the following information:

- (A) date, time and place of said hearing;
- (B) name and address of the applicant;
- (C) the particular location of the real estate for which the variation is requested by legal description and street address, and, if no street address, then by locating such real estate with reference to any well-known landmark, road or intersection;
- (D) whether or not the applicant is acting for himself or in the capacity of agent or representative of a principal, and stating the name and address of the true principal;
- (E) whether the applicant is a corporation, and if a corporation, the correct names and addresses of all officers and directors, and of all stockholders and shareholders owning any interest in excess of **twenty percent (20%)** of all outstanding stock of such corporation;
- (F) whether the applicant or his principal, if other than the applicant, is a business or entity doing business under an assumed name, and if so, the name and residence of all true owners of such business or entity;

- (G) whether the applicant is a partnership, joint venture, syndicate or an unincorporated voluntary association, and, if so, the names and addresses of all partners, joint venturers, syndicate members or members of the unincorporated voluntary association; and
- (H) a brief statement describing the proposed variance.

40-9-24 STANDARDS FOR VARIANCES. The Board of Appeals shall not grant any variance unless, based upon the evidence presented to them, they determine that:

- (A) The proposed variance is consistent with the general purpose of this Code (See **Section 40-1-1**); and
 - (B) Strict application of the district requirements would result in great practical difficulties or hardship to the applicant, and prevent a reasonable return on the property; and
 - (C) The proposed variance is the minimum deviation from such requirements that will alleviate the difficulties/hardship, and allow a reasonable return on the property; and
 - (D) The plight of the applicant is due to circumstances not of his own making; and
 - (E) The circumstances engendering the variance request are peculiar and not applicable to other property within the district, and therefore, that a variance would be a more appropriate remedy than an amendment (rezoning); and
 - (F) The variance, if granted, will not alter the essential character of the area where the premises in question are located nor materially frustrate implementation of the County's Comprehensive Plan; and
 - (G) The proposed variance will not result in a lot less than **two (2) acres** in size.
- (Ord. No. 19-08; 06-27-19)**

40-9-25 TERMS OF RELIEF, FINDINGS OF FACT. The Board of Appeals shall render a decision on every variance request within a reasonable time after the public hearing. The Board shall specify the terms of relief granted (if any) in one statement and its findings of fact in another statement. The findings of fact shall clearly indicate the Board of Appeals' reasons for granting or denying any requested variance.

40-9-26 - 40-9-29 RESERVED.

DIVISION V - REZONINGS AND TEXT AMENDMENTS

40-9-30 AMENDMENTS. The County Board may amend this Code in accordance with State law (**See 55 ILCS 5/5-12014**) and the provisions of this Section. Proposed alterations of district boundaries, proposed changes in the status of uses (permitted, special, or prohibited) and proposed text changes shall be deemed proposed amendments. Amendments may be proposed by the County Board, the Administrator, the Board of Appeals, or any party in interest.

40-9-31 FILING. Every proposal to amend this Code shall be submitted to Administrator in narrative and graphics form on forms provided by the County and shall include information as the Administrator considers necessary to allow the County Board to make an informed decision. (The person proposing an amendment shall also file a copy of this proposal with the **Randolph County Soil and Water Conservation District (See 70 ILCS 405/22.02a)** and, if the land in question is located within **one and one-half (1 1/2) miles** of a municipality, with the Clerk of that municipality.) The Administrator shall promptly transmit copies of the proposal, together with any comments or recommendations he deems appropriate to make, to the Board of Appeals. **(NOTE: Filing fee required.)**

40-9-32 PUBLIC HEARING, LOCATION. The Board of Appeals shall hold a public hearing on every amendment proposal within a reasonable time after said proposal has been submitted to them. Said hearing shall be held in the road district affected by the terms of the proposed amendment. However, if the proposed amendment would affect more than one road district, or in the case of general (text) amendments to this Code, the public hearing may be held in the County Courthouse instead of in the road district. At the hearing, any interested party (including any school or other taxing district in which the property in question is located) may appear and testify, either in person or by duly authorized agent or attorney. All testimony shall be given under oath.

40-9-33 NOTICE OF PUBLIC HEARING. Notice indicating the time, date and place of the public hearing, and the nature of the proposed amendment shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing:

- (A) By first-class mail to the applicant and to all parties whose properties are adjacent to the property that would be rezoned (in the case of rezoning); and
- (B) By publication in a newspaper of general circulation within the County.

40-9-34 ADVISORY REPORT. Within a reasonable time after the public hearing, the Board of Appeals shall submit an advisory report to the County Board. Said advisory report shall include a recommendation regarding adoption of the proposed amendment, and the reasons therefor. If the proposed amendment involves a rezoning, the advisory report shall include findings of fact concerning each of the following matters:

- (A) Existing use(s) and zoning of the property in question;
- (B) Existing use(s) and zoning of other lots in the vicinity of the property in question;
- (C) Suitability of the property in question for uses already permitted under existing regulations;
- (D) Suitability of the property in question for the proposed use;
- (E) The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since that property was initially zoned or last rezoned.
- (F) The effect the proposed rezoning would have on implementation of the County Comprehensive Plan.

40-9-35 ACTION BY COUNTY BOARD. The County Board shall act on every proposed amendment at their next regularly scheduled meeting following submission of the aforementioned advisory reports. Without further public hearing, the County Board may pass any proposed amendment by simple majority vote except as indicated below.

40-9-36 EXCEPTIONS. The favorable vote of all **three (3) members** of the County Board is required to pass an amendment to this Code in the following instances:

(A) in the case of a written protest against a proposed amendment, filed with the County Clerk, and signed or acknowledged by the owners of **twenty percent (20%)** of the frontage proposed to be altered, or by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across an alley therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered; or

(B) in the case of a written protest against a proposed amendment that affects land location within **one and one-half (1 1/2) miles** of the limits of a zoned municipality, provided that said written protest is:

- (1) submitted by the particular zoned municipality with limits nearest adjacent to the affected property; and
- (2) signed and acknowledged by the Mayor and City Council or by the Village President and Village Board of Trustees of said municipality; and
- (3) filed with the County Clerk.

ARTICLE X - PLANNED UNIT DEVELOPMENT (PUD)

40-10-1 INTENT AND PURPOSE. This Article establishes provisions for rezoning of land within the County to provide for a Planned Unit Development (PUD). The purpose of this Article, Planned Unit Development, is to achieve the objectives enumerated at **Section 40-1-1** (the intent and purpose of this Code) and the following additional objectives:

- (A) to provide a regulatory mechanism whereby the County can be assured that upon completion, approved development projects will substantially conform to the plans or models which constituted the basis for the County's issuance of the necessary zoning, subdivision, and/or building permits;
- (B) to permit development of a wide variety of building types and other structures and uses in a single comprehensively planned project;
- (C) to preserve the natural topography, scenic features, mature trees, and historic structures existing on sites proposed for development;
- (D) to encourage innovative site layouts and coordinated architectural treatment of different building types and other structures and uses;
- (E) to ensure the provision of usable common open space in planned developments, and to spur installation of various amenities therein;
- (F) to facilitate the economical installation of standard streets, sewers, utilities, and other improvements.

40-10-2 COMPLIANCE WITH ORDINANCES GENERALLY REQUIRED. IMPORTANT: Except as specifically provided otherwise in this Article, planned unit developments (PUDs) – including all buildings and other structures and uses therein – shall, at a minimum be built in conformity with all applicable codes and ordinances including this (Zoning) Code and the Subdivision Code.

40-10-3 DISTRICTS WHERE ALLOWED. Planned unit developments (PUDs) may be built in any zoning district, but only upon the issuance of a **special use permit** by the County Board of Commissioners.

40-10-4 PERMISSIBLE DEVIATION FROM CODE REQUIREMENTS. The planned unit development (PUD) concept is intended to afford both the developer and the County considerable flexibility in formulating development proposals. Consequently, to the extent indicated in this Section, PUDs may deviate from generally applicable ordinance requirements without a variance. Any proposed deviation not listed below, however, shall require a variance.

(A) **Mixed Uses.** PUDs may include all types of buildings and other structures and uses approved by the County Board of Commissioners; provided, that in approving such mixed construction and uses, the County Board of Commissioners may attach any conditions necessary to protect the public welfare.

(B) **Lot and Structure Requirements.** In PUDs, the County Board of Commissioners may approve any reasonable deviation from the lot and structure requirements of the particular zoning district so long as the different uses within the PUD are appropriately interrelated and property abutting the PUD is adequately protected from any potential adverse impacts of the development. "Lot and structure requirements" means minimum individual lot area, width, and depth; minimum setbacks; and maximum structure height.

(C) **Location of Parking/Loading Spaces.** By permission of the County Board of Commissioners, off-street parking and loading spaces in PUDs need not be located in accordance with generally applicable requirements. The minimum number of such spaces, however, shall not be less than the number required as per **Article VI**.

40-10-5 PRELIMINARY PUD DEVELOPMENT PLANS. Every applicant for preliminary PUD development plan approval shall comply with the procedural requirements of this Section. The required procedures are as follows:

- (A) filing PUD development plan with the Zoning Administrator;
- (B) review of the PUD development plan by the County Planning Commission;
- (C) public hearing by the County Zoning Board of Appeals as per the requirement of

Section 40-9-12;

- (D) recommendation by the County Zoning Board of Appeals to the County Board of Commissioners regarding approval/rejection of the PUD development plan; and
- (E) action by County Board of Commissioners on the PUD development plan.

40-10-6 APPLICATION, INFORMATION REQUIRED. Every applicant for approval of a preliminary PUD development plan shall submit to the Zoning Administrator, in narrative and/or graphic form, the items of information listed below:

(Written Documents)

- (A) legal description of the total site proposed for development;
- (B) names and addresses of all owners of property within or adjacent to the proposed PUD;
- (C) statement of the planning objectives to be achieved by the PUD through the particular approach proposed by the applicant, including a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;
- (D) development schedule indicating the approximate date when construction of the PUD or phases of the PUD can be expected to begin and be completed;
- (E) statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the PUD, such as land areas, building units, etc;
- (F) data indicating:
 - (1) total number and type of proposed building units,
 - (2) gross and net acreage of parcel,
 - (3) acreage of gross and usable open space, and
 - (4) area of various uses.

(Graphic Materials)

- (G) existing site conditions including contours at **five (5) foot** intervals and locations of water courses, flood plains, wetlands, unique natural and man-made features, and wooded areas;
- (H) proposed lot lines and plot designs;
- (I) proposed location, size (square feet), and general appearance of all existing and proposed buildings and other structures and uses;
- (J) location and size (acres or square feet) of all areas and facilities conveyed, dedicated, or reserved as common open spaces, public park and recreation areas, linear paths, and similar public and semi-public uses;
- (K) existing and proposed vehicular circulation system, including off-street parking and loading areas and major points of ingress and egress to the development (notations of proposed ownership—public or private—should be included where appropriate);
- (L) existing and proposed pedestrian and other specially identified circulation systems, including their relationship to the vehicular circulation system and proposed treatments of points of conflict;
- (M) existing and proposed utility systems including sanitary and storm sewers, and water, electric, gas, cable and telephone lines;
- (N) general landscape plan indicating the treatment of both private and common open spaces and the location of required buffer strips;
- (O) enough information on land areas adjacent to the proposed PUD to indicate the relationships between the proposed development and existing and proposed adjacent areas;
- (P) any additional information required by the County to evaluate the character and impact of the proposed PUD.

40-10-7 ADVISORY REPORT, CRITERIA CONSIDERED. The County Planning Commission shall submit to the County Zoning Board of Appeals a written advisory report concerning acceptance/rejection of the PUD development plan. In deciding what its advice should be, the County Planning Commission shall consider the following criteria:

- (A) the extent to which the proposed development is consistent with the County's Comprehensive Plan and with the purposes of this Zoning Code and of all other applicable codes and ordinances;
- (B) the extent to which the proposed development deviates from the regulations that are generally applicable to the property (including but not limited to, the use and lot and building regulations of the district), and the apparent merits (if any) of said deviations;
- (C) whether the proposed design of the PUD makes adequate provisions of vehicular, pedestrian and other specially identified circulation, off-street parking and loading, separation of the different land uses, open space, park and recreation areas and facilities, preservation of unique natural and man-made features, and so forth;
- (D) the compatibility of the proposed PUD with adjacent properties and surrounding area; and
- (E) any other reasonable criteria that the County Planning Commission may devise.

40-10-8 PUBLIC HEARING BY ZONING BOARD OF APPEALS. After the County Planning Commission has submitted its advisory report, the County Zoning Board of Appeals shall hold a public hearing as per the requirements of **Section 40-9-12**. Within a reasonable time following the hearing, the County Zoning Board of Appeals shall file a report of the hearing and its advisory report with the County Board of Commissioners accompanied by the advisory report of the County Planning Commission.

40-10-9 DECISION BY BOARD OF COMMISSIONERS. After the County Zoning Board of Appeals has submitted its advisory report, the County Board of Commissioners, by resolution, shall either approve or disapprove the preliminary PUD development plan. The County Board of Commissioners shall not approve any preliminary PUD development plan unless:

- (A) the State's Attorney has stated that all legal instruments (particularly the restrictive covenants) are satisfactory; and
- (B) the proposed PUD, as evidenced by the development plan, complies with all applicable codes and ordinances. (Deviations to the extent permitted under **Section 40-10-4** shall not be deemed non-compliance.)

40-10-10 FINAL DEVELOPMENT PLANS. With respect to the preparation, submission, and review of PUD final development plans, the developer and this County shall comply with the regulations of the following sections.

40-10-11 FILING, INFORMATION REQUIRED. Not later than **one (1) year** after the approval of the preliminary PUD development plan, the applicant shall file with the Zoning Administrator the final PUD development plan for the first phase of the proposed PUD. Said final PUD development plan shall contain in final form all the items of information listed in **Section 40-10-6**, plus the following:

- (A) proof that the developer has acquired legal title to all land within the PUD or has executed a binding agreement with all the owners of such land thereby giving the developer effective control over its development;
- (B) legal description of each lot to be individually owned and each parcel to be held in common;
- (C) articles of incorporation and bylaws of any/all property owners association(s) identified;

(D) restrictive covenants and any other legal instruments required by the State's Attorney guaranteeing the proper upkeep and use of the common open space and park and recreation areas and facilities therein; and

(E) legal instruments dedicating streets and other improvements to this County or conveying same to an identified property owners association (as the case may be).

40-10-12 ADVISORY REPORT. Not later than **sixty (60) days** after the application for final PUD development plan approval is filed, the County Planning Commission – following consultation with the Zoning Administrator, the County Engineer, and the State's Attorney – shall submit a written advisory report to the County Board of Commissioners. The County Planning Commission's advisory report shall fully discuss the extent to which the final PUD development plan conforms to the approved preliminary PUD development plan and to all other applicable codes and ordinances.

40-10-13 ACTION BY COUNTY BOARD. At its next regularly scheduled meeting following submission of the County Planning Commission's advisory report, the County Board of Commissioners shall, by resolution, either approve or disapprove the PUD final development plan. The County Board of Commissioners shall not approve any final PUD development plan unless:

(A) the developer has posted a performance bond or deposited funds in escrow in an amount the County Engineer deems sufficient to guarantee the satisfactory completion of all required improvements; and

(B) the State's Attorney has stated that all legal instruments (particularly restrictive covenants and "dedications") are satisfactory; and

(C) the proposed PUD, as evidenced by the final PUD development plan, complies with all applicable codes and ordinances and substantially conforms to the approved preliminary PUD development plan.

40-10-14 CHANGES IN APPROVED PLANS. No changes shall be made to any approved PUD development plan except as follows:

(A) **Minor** changes if required by engineering or other circumstances not foreseen at the time the final PUD development plan was approved.

(B) All other changes shall require a public hearing before the County Zoning Board of Appeals and a resolution by the County Board of Commissioners.

(C) No approved change shall have any effect until it is recorded with the County Clerk/Recorder of Deeds as an amendment to the recorded copy of the PUD development plan.

40-10-15 FAILURE TO BEGIN DEVELOPMENT. If a substantial amount of construction has not begun within the time stated in the approved construction schedule, the PUD development plan shall lapse upon written notice to the applicant from the County Board of Commissioners and shall be of no further effect. However, in its discretion and for good cause, the County Board of Commissioners may extend for a reasonable time the period for the beginning of construction. If a final PUD development plan lapses as per this Section:

(A) the special use permit shall be automatically revoked;

(B) any building permits shall automatically become null and void; and

(C) all regulations applicable before the PUD was approved shall automatically be in full effect.

(Ord. No. 04-34; 12-17-04)

APPENDIX "A"

LARGE SCALE SOLAR/WIND FEES

Application/Fee	Filing Fee	Publication Cost	Total Fee
Zoning	\$35.00	\$0.00	\$35.00
Special Use Permit	160.00	40.00	200.00
Map Amendment	160.00	40.00	200.00
Appeal	160.00	40.00	200.00
Variance	160.00	40.00	200.00
Late Fee	25.00	0.00	25.00
Building Permit			2.00 per \$1,000 total cost of project

(Ord. No. 2023-07; 05-26-23)