

COUNTY OF MONROE

ORDINANCE NO. 2021-01

**AN ORDINANCE AMENDING
CHAPTER 40 "ZONING CODE"
OF THE REVISED CODE OF ORDINANCES
FOR THE
COUNTY OF MONROE**

**ADOPTED BY THE
COUNTY COMMISSIONERS
OF
MONROE COUNTY**

THIS 19TH DAY OF JANUARY, 2021

**Published in pamphlet form by authority of the County Board of
Monroe County, Illinois this 19th day of January, 2021.**

UNDER THE SUPERVISION OF STATE'S ATTORNEY

ORDINANCE NO. 2021-01

AN ORDINANCE AMENDING CHAPTER 40 OF THE REVISED CODE OF ORDINANCES OF THE COUNTY OF MONROE, ILLINOIS.

WHEREAS, the County Board of Commissioners of Monroe County, Illinois has the authority to adopt ordinances pursuant to statutory authority in 55 ILCS 5/5-1113; and

WHEREAS, Monroe County Board of Commissioners has the power to regulate land uses through the establishment of a Zoning Code pursuant to Section 55 ILCS 5/5-12001; and

WHEREAS, the Zoning Board of Appeals of Monroe County held a public hearing on December 2, 2020 and has recommended approval of the amendment to the Zoning Code regulating "Wind Energy Conversion Systems".

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF MONROE COUNTY, ILLINOIS THAT:

SECTION 1: Amendment. The Monroe County Zoning Code, Division V, Section 40-4-61 et seq. be amended as follows:

[SEE EXHIBIT "A" FOLLOWING]

SECTION 2: Severability of Provisions. Each section, paragraph, sentence, clause and provision of this Ordinance is severable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance, nor any part thereof, other than that part affected by such decision.

SECTION 3: Conflicting Ordinances. Any conflicting ordinances, code provisions or pertinent portions thereof in effect at the time this ordinance takes effect are hereby repealed.

SECTION 4: Effective. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

SECTION 5: Passed this 19th day of January, 2021 by the County Board of the County of Monroe, Illinois, and deposited and filed in the office of the County Clerk in said County on that date.


JONATHAN MCLEAN
MONROE COUNTY CLERK

NAME	AYE	NAY	ABSTAIN	ABSENT	CONFLICT
Vicki Koerber, Chairman	✓				
Dennis Knobloch	✓				
George Green	✓				

Signed by the County Board Chairman of the County of Monroe, Illinois, this 19th day of January, 2021.


VICKI KOERBER
MONROE COUNTY CHAIRMAN

ATTEST:

JONATHAN MCLEAN
MONROE COUNTY CLERK

(SEAL)

COUNTY CLERK'S CERTIFICATE

STATE OF ILLINOIS)
) **ss. COUNTY CLERK'S OFFICE**
COUNTY OF MONROE)

I, Jonathan McLean, County Clerk of the County of Monroe, Illinois, do hereby certify that the following Ordinance of the County of Monroe, Illinois, published by authority of the County Board was duly passed by the County Board of the County of Monroe, Illinois, approved by the Chairman, and published in pamphlet form according to law on this date, and that this ordinance is a true and perfect copy of the ordinance, as passed, approved, and now of record and on file in my office as provided by law.

In witness whereof, I have set my hand and affixed the Corporate Seal of the County of Monroe, Illinois, this 19th day of January, 2021.



JONATHAN MCLEAN
COUNTY CLERK
MONROE COUNTY, ILLINOIS

(SEAL)

EXHIBIT "A"

DIVISION V – WIND ENERGY CONVERSION SYSTEMS

40-4-61 **PURPOSE.** It is the purpose of this Division to promote the safe, effective, and efficient use of Wind Energy Conversion Systems within Monroe County while preserving and protecting the public health, public safety, natural resources, property values, and aesthetic conditions within Monroe County.

40-4-62 **DEFINITIONS.** As used in this Division, the following terms shall have the meanings indicated:

Applicant: The entity or person who has submitted an application for a Special Use Permit for a WECS project, commonly known as a Wind Farm.

Class III Special Resource Groundwater: A unique classification for areas that either have been determined by the Illinois Pollution Control Board to be "demonstrably unique...or...vital for a particularly sensitive ecological system...or...groundwater that contributes to a dedicated nature preserve..." (Ill. Admin. Code 620.230). In addition to lands dedicated as Nature Preserves, groundwater recharge basins or known cave systems in Monroe County also are designated as Class III Special Resource Groundwater resources.

Collector Substation: 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.

Consultant: A person(s) who provide expert advice and/or studies of a professional or specialized nature. Consultants who are members of professions that generally require licensing or certifications, are to be licensed in the State of Illinois.

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

Karst: An internationally used term as defined by geologists: karst terrane refers to a fault-bounded area or region with a distinctive stratigraphy, structure, and geological history, generally underlain by limestone...in which the topography is chiefly formed by dissolving of rock, and which may be characterized by sinkholes, sinking streams, closed depressions, subterranean drainage, and caves.

Karst-Sinkhole Plain: The area of southwest Illinois, principally within Monroe, Randolph, and St. Clair Counties, the Illinois sinkhole plain contains the highest concentration of karst features in the state. The bedrock geology is Mississippian-age limestone with an overburden of loess and glacial till soil averaging less than **twenty-six and one-quarter (26.25) feet** thickness. Thin soils, presence of numerous solution-enlarged crevices in the limestone bedrock, collapse of soil into the crevices, create large numbers of cover-collapse sinkholes. In Monroe County, greatest sinkhole density is in areas of known and suspected cave systems.

Landowner: A person/persons or entity holding title to a tract of land.

Nonconsenting Parcel: A parcel on which the landowner has an easement agreement with the Owner, Operator or Applicant of a WECS but does not consent to a tower being placed on the landowner's property.

Nonparticipating Parcel: A parcel on which the landowner has no financial or easement agreement with the Owner, Operator or Applicant of a WECS project.

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

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

Participating Parcel: A parcel on which the landowner has entered into a financial or easement agreement with the Owner, Operator or Applicant of a WECS project.

Primary Structure: 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: A qualified individual who is licensed as a professional engineer in the required area of expertise.

Safety/Evacuation/Fall Zone: The wind turbine manufacturers' determined (and certified) distance from a wind turbine which is safe from falling tower components in the event of turbine failure or malfunction. This distance marks the safe zone for Emergency First Responders and repair crews.

Setback: The distance from the closest point of a WECS feature to the center of a WECS tower or the edge of a substation to a property line.

Tower Height: The distance from the rotor blade at its highest point to the surface of the ground.

WECS: A Wind Energy Conversion System is a system by which wind energy is converted to electricity including wind turbines, towers, support systems, blades, and associated control and conversion electronics. Size, electric-generating capacity, and the end-user of the electricity so generated also are specified:

(A) **Industrial-scale WECS.** A wind turbine energy conversion system generating 2 Mw or more electricity.

(B) **Utility-scale (or large scale) WECS.** A wind turbine energy conversion system generating 100 Kw to 1.99 Mw of electricity.

(C) **Small-scale WECS.** A wind turbine energy conversion system generating less than 100 Kw of electricity.

(D) **Sole-User of Small-scale WECS.** Property owners' use of small-scale WECS' generated electrical power on only their own property and for their own needs; that is, use of power only on the property and/or parcel where the WECS is sited and the electrical power is used.

WECS Perimeter: The outer boundaries of the WECS site.

WECS Project: 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 Site: All parcels of land making up a WECS project; may include nonparticipating parcels as well as participating parcels.

WECS Tower: The support structure, nacelle, rotor, gear box and blades.

40-4-63 **APPLICABILITY.** This Section shall govern all applications for special use permit for a WECS. Industrial-scale and/or utility scale WECS and small scale WECS and applications for these permits may be for sites in Industrial Land Use and Agricultural zoned areas, excepting areas that lie within or directly adjacent to lands geologically demarcated as Karst-sinkhole plain, as mapped and analyzed by the Illinois Geological Survey.

40-4-64 **PROCEDURE.**

(A) To obtain a special use permit and siting approval, the applicant must first submit a special use application to the County along with the established website. The developer shall maintain a public-view non-commercial website, excluding sole user, through the application process and the life of the project that includes all the following information pertaining to special use permitting and siting approval procedure, and additional information as specified further in this Division. The developer will allow the County to place a link to said website on the County's website and no charges for the County or for users and viewers of the "WECS website" will be allowed. The special use application shall contain or be accompanied by the following information:

- (1) WECS project summary, including a general description of the project, including:
 - (a) Approximate name plate generation capacity.
 - (b) Potential equipment manufacturer.
 - (c) Type of WECS.
 - (d) Number of WECS.
 - (e) Name plate generation capacity of each WECS.
 - (f) Maximum height of the WECS towers.
 - (g) Maximum diameter of the WECS rotor.
 - (h) Turbine color and rotor direction.
 - (i) General location of the project.
 - (j) WECS tower manufacturer's safety/evacuation/fall zone specification(s).

- (2) A description of the applicant, owner and operator, including the respective financial structures and financial statement and certification that the applicant has obtained a minimum of **Five Million Dollars (\$5,000,000.00)**, with a **three percent (3%)** annual inflation adjustment, insurance coverage for liability, bodily and property damage. Such insurance coverages are to be maintained throughout the life of the project and annual proof of continuing coverage is to be provided to the County by the applicant and/or successors.
- (3) The name, address, and phone number of the applicant, owner, and operator, and all property owners within the WECS perimeter.
- (4) A site plan for the installation of the WECS project showing the boundaries of the project, the location or planned location of:
 - (a) Each WECS tower.
 - (b) Guy wires and anchor bases (if any).
 - (c) Primary structures.
 - (d) Property lines (including identification of adjoining properties).
 - (e) Setback lines.
 - (f) Public access roads and turnout locations.
 - (g) Substation.
 - (h) Electrical cabling from WECS tower to the substation.
 - (i) Ancillary equipment.
 - (j) Third-party transmission lines.
 - (k) Private access roads.
 - (l) Wells.
 - (m) Septic fields.
 - (n) Existing easements.
 - (o) Floodplain location and elevation (if applicable).
 - (p) Wetland locations (if applicable).
 - (q) Layout of all structures within the geographic boundaries of any applicable setback.
- (5) Distances from proposed towers on each site to all property lines; existing residences within **three thousand (3,000) feet** of any tower; existing structures within **two (2) times** the tower height; utility lines within **two (2) times** the tower height; all underground utility lines on site.
- (6) A topographic map of the proposed site within the WECS perimeter including **two (2) foot** contour lines across the site and extending **one hundred (100) feet** in all directions from the limits of construction.
- (7) All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Section, federal and state laws, and administrative provisions, including, but not limited to:
 - (a) Noise assessment, including average and maximum noise levels at perimeter property lines and at housing units within the project.
 - (b) Avian screening report by a qualified third party and all correspondence with the Illinois Department of Natural Resources and United States Fish and Wildlife Service regarding the project.
 - (c) Letter from the Federal Aviation Administration stating the project is in compliance with Federal Aviation Administration height and lighting requirements.
 - (d) The applicant shall apply for consultation with the Illinois Department of Natural Resources.
 - (i) If IDNR consultation recommends the developer obtain Incidental Takings Permits for wildlife species from either or both U.S. Fish and Wildlife Service (USFWS) and IDNR (pursuant to Section 10 of the Endangered Species Act and pursuant to Section 5.5 of the Illinois Endangered Species Protection Act), such permits and supporting documentation must be presented with the application.

- (ii) The developer must provide documentation of contacts and correspondence with USFWS and compliance with their guidelines regarding potential impacts to summer and winter populations of Bald Eagles.
- (e) Emergency plan.
- (f) An evaluation of the geotechnical stability of areas proposed for wind turbine areas, including a thorough investigation of soil and bedrock properties.
- (g) If WECS site planning includes areas within **ten (10) miles** of known cave systems in the karst-sinkhole plain, **one (1) year** of pre-construction and **two (2) years** of post-construction seismic testing within these cave systems is required. Pre-construction monitoring would provide baseline information on the source, magnitude, and frequency of vibrations currently experienced within cave systems and allow later differentiation from turbine-created vibrations. Post-construction monitoring, for the same vibratory effects, also will include monitoring for any movement and/or damage of speleothems, and will be used to identify the bearings and magnitudes of vibrations caused by turbines and correlate them with wind speeds. The developer must obtain permits and file annual reporting as required by the Illinois Department of Natural Resources and the Illinois Nature Preserves Commission for scientific research for seismic activity monitoring. At the time of application, the developer must submit a copy of the initial year approved permit for scientific research and a plan of research and/or copy of the initial report of seismic monitoring. Pre-construction and post-construction seismic monitoring reports must be filed with the Illinois State Geologic survey (to be forwarded to the U.S. Geologic Survey as the ISGS deems needed), and posted on the "WECS Website" on the **six (6) month** minimum basis but must commence with the first month of post-construction/first month of initial WECS operations.
- (h) A report with computer-generated simulations of any/all potential shadow flicker areas and the applicants' plan(s) for compliance with zero-shadow flicker tolerance.
- (8) Any other information normally required by the County Zoning Code.
- (9) Copies of all necessary access easements and necessary utility easements, copies of which shall be submitted to the Zoning Office.
- (10) Legal description for the planned location of the WECS project and/or substation.

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

40-4-65 **USED EQUIPMENT.** Used equipment is permitted only if recertified to factory specifications or better by the factory or an appropriate professional engineer.

40-4-66

SETBACKS.

(A)

Tower Setbacks.

- (1) Tower setback from the WECS site perimeter shall be **one and one-half (1.50) times** the WECS tower's safety/evacuation/fall zone, or **one and one-half (1.50) times** tower height whichever is greater.
- (2) Tower setback from a principal structure shall be **one and one-half (1.50) times** the WECS tower's safety/evacuation/fall zone, or **one and one-half (1.50) times** tower height whichever is greater.
- (3) Tower setback from the property line of a nonparticipating parcel(s) shall **two thousand six hundred forty (2,640) feet** or **one and one-half**

- (1.5) times the WECS tower's safety/evacuation/fall zone, whichever is greater.
- (4) Tower setback from the property line of a nonconsenting parcel(s) shall be **two thousand six hundred forty (2,640) feet** or **one and one-half (1.5) times** the WECS tower's safety/evacuation/fall zone, whichever is greater.
 - (5) Tower setback from public road right-of-way lines, third-party utility property or easement lines, communication towers, and any other structures shall be **one and one-half (1.5) times** the WECS tower's safety/evacuation/fall zone.
 - (6) Tower setback from Illinois Department of Natural Resource-owned property, State Parks, designated Nature Preserves, registered Land & Water Reserves, and Illinois Natural Area Inventory site boundaries shall be **one (1) mile**.
 - (7) Towers are not permitted within Illinois Environmental Protection Agency Class III groundwater areas.
 - (8) Tower setback for small-scale, sole end-user WECS will be what state regulations require from their property lines.
- (B) **Substation Setbacks.**
- (1) All hardware and any potentially noise emitting equipment must be fenced with sound walls. Setbacks must be a minimum of **one thousand fifty (1,050) feet** from all fronts, rear and side property lines of any non-participating property line as measured from the sound wall.
 - (2) For a WECS collector substation in the designated Industrial zoned, area setbacks shall be **fifty (50) feet** from all front, rear and side property lines.
- (C) New principal structures adjacent to a WECS shall maintain the same setback from the WECS as the WECS is required to observe.

40-4-67 PROHIBITION. No WECS or WECS project governed by this Division shall be constructed, erected, installed, or located within Monroe County unless prior Special Use Permit application has been approved by the Monroe County Board of Commissioners after receipt of a report by the Zoning Board of Appeals as to whether the County Board should deny, grant, or grant subject to conditions of the special use for each individual WECS or WECS Project pursuant to this Division. Upon special use approval, a construction permit shall be obtained from the Zoning Department prior to the commencement of construction of any WECS or WECS project or any part thereof.

40-4-68 NOISE. Noise levels from each WECS or WECS project shall be in compliance with the applicable Illinois Pollution Control Board (IPCIB) 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). Noise levels must have a maximum allowable level of **thirty (30) decibels** from **10:00 P.M. to 7:00 A.M.** and **thirty-five (35) decibels** from **7:00 A.M. to 10:00 P.M.**

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

(B) The applicant, through the use of a qualified professional, as part of the siting approval application process, shall appropriately demonstrate compliance with the above noise requirements.

(C) The applicant shall submit a map of the relevant noise contours for the proposed WECS or WECS project and indicate the proposed WECS or WECS project towers and all existing principal buildings within at least **two thousand (2,000) feet** of any WECS or WECS project tower.

(D) 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.

(E) After construction of the WECS or WECS project the Zoning Administrator 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 include, but not be limited to:

- (1) The Zoning Administrator may seek authorization from the County Board to retain the services of a noise consultant to determine compliance with the relevant regulations and applicable laws. In such instance the WECS owner 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.
- (2) The Zoning Administrator may require the WECS or WECS project owner to cooperate fully with the noise consultant in the enforcement action, including shutting down all wind turbines, in order to allow proper documentation of ambient noise levels. The Zoning Administrator shall fully cooperate with the WECS owner in order to minimize any harmful effect on the operation, maintenance and economic viability of the WECS or WECS project.
- (3) In the event that a violation of the IPCB noise regulations is identified, the Zoning Administrator may require the WECS owner to take whatever actions are necessary to stop the violation. The Zoning Administrator may seek further consultation from other sources, including, but not limited to, the Monroe County States Attorney. The WECS owner shall be responsible for all costs incurred by the County for evaluating identifiable violations. The WECS owner shall not be responsible for County services in which there are no identifiable violations.

(F) **Substation Noise.**

- (1) Reading for nighttime ambient noise levels must be conducted on property line.
- (2) Low-impulse noise equipment and active noise control technology must be used.
- (3) Noise levels from equipment must be no more than **ten (10) decibels** above existing nighttime ambient and **one thousand (1,000) feet** from substation sound walls or **fifty (50) feet** from sound wall if located in the designated Industrial zone. The requirement for sound barriers or sound walls will be governed by the Institute of Electrical and Engineers Standards Association Standard 1127-2013.

40-4-69 **APPEARANCE.** The WECS surface shall be a nonreflective, unobtrusive color (usually gray or white). No advertising signs or graphic designs shall be permitted on the WECS. The manufacturer's identification with kilowatt ratings is allowed.

40-4-70 **CERTIFICATION.** The WECS shall conform to applicable industry standards, including, but not limited to, those of the American National Standards Institute (ANSI). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third party. Following the granting of a special use permit under this Division, a professional engineer shall certify, as part of the building permit application, that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

40-4-71 **CODES.** All applicable County, State and National construction and electric codes shall be followed.

40-4-72 **BRAKING.** All WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

40-4-73 **POWER LINES.** All new power lines used to collect power from WECS or WECS project turbines to the substation and all communication lines shall be underground. In instances where they cross public roads they shall be bored as required in the County Road Agreements and located underground at a depth of at least **four (4) feet** or what the National Electric Safety Code requires, whichever is greater. In certain instances, the County may authorize the location of utilities in public rights-of-way. All electrical

lines connecting each turbine to other turbines shall be installed underground. The applicant shall install marker tape in any cable trench.

40-4-74 **UTILITY LOCATION.** The applicant shall become a member of the Illinois statewide one-call notice system (otherwise known as the joint utility locating information for excavators or "JULIE" and provide "JULIE" with all of the information necessary to update its records with respect to the WECS or WECS project.

40-4-75 **FAA COMPLIANCE.** The WECS or WECS project shall comply with all applicable Federal Aviation Administration (FAA) requirements, which shall be explained in the 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 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.

40-4-76 **WARNINGS.** A visible warning sign stating, "High Voltage" must be placed at the base of all WECS projects, pad-mounted transformers, and substations and other elements that may be impacted by "High Voltage". The sign must have, at a minimum, **six (6) inch** letters. Signs shall also be placed at all points of site ingress and egress. 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** vertically from the ground.

40-4-77 **CLIMB PREVENTION.** All WECS towers must be unclimbable by design or protected by anti-climbing devices such as fences with locking portals at least **six (6) feet** high or anti-climbing devices **fifteen (15) feet** vertically from the base of the WECS tower.

40-4-78 **LIGHTING.** The WECS shall not be lighted except as required by the Federal Aviation Administration or other State or Federal laws. Unless prohibited by the FAA, required warning lighting on turbines will be aviation-activated lighting, rather than "always-on" lighting.

40-4-79 **HEIGHT.** WECS tower height must comply with all applicable FAA regulations and not exceed **six hundred fifty (650) feet** above ground level.

40-4-80 **USE OF PUBLIC ROAD; STANDARD CONDITIONS FOR USE OF PUBLIC ROADS AND BRIDGES.**

(A) Any applicant/owner/contractor proposing to use any county highway, road, or municipal street for the purpose of transporting WECS towers or substation parts and/or equipment for construction, operation, maintenance or decommissioning of the WECS towers or substation(s), shall identify all such public highways, roads, streets and pay the costs of any necessary permits, consultations, engineering, and the costs to repair any damage or make any modifications/upgrades to the highways, roads, or streets caused by the WECS construction, operation, maintenance, or decommissioning as follows. Prior to a special use permit being granted the applicant/owner/contractor, the County Engineer, and any other road authority shall enter into a Roadway Upgrade and Maintenance approved by the County Engineer, State's Attorney, Road Commissioner, Municipality and State where relevant, and the signed and executed Roadway Upgrade and Maintenance Agreement must provide for the following minimum conditions:

- (1) The applicant/owner/contractor shall agree to conduct, at their cost, a pre-construction baseline survey to determine the existing conditions of the affected County highways, roads, streets, bridges, culverts, etc. to assist in the assessment of potential future damage from WECS construction, operation, maintenance, and decommissioning. The County reserves the right to hire its own consultant/engineers/experts to validate this assessment if necessary, at the cost of the applicant/owner/contractor.
- (2) A description and map of all public roads to be used in connection with the construction, operation, maintenance, and decommissioning of the WECS and associated equipment, with site photos and documentation including a description of how and when such roads will be used in connection with these activities.

- (3) The applicant/owner/contractor shall provide a schedule of oversized/overweight loads including, at a minimum, size, weight, number of movements and estimated dates. Said schedule shall be a part of the agreement. Any deviations from the schedule shall be approved by the County Engineer prior to the oversized/overweight movement. Any bridges in question of load rating shall be analyzed at the expense of the applicant/owner/contractor.
- (4) A complete assessment of the proposed use of roads in the County in connection with the construction, operation, maintenance, and decommissioning of the WECS and associated equipment, including the adequacy of turning radii; elevations; the ability of the roads to sustain loads without damage; the need to remove (permanently or temporarily) signs, trees, utilities, or anything else; any reasonably foreseeable damage to roads or other property; any reasonably foreseeable costs the County may incur in connection with the use of roads, including but not limited to costs relating to traffic control, public safety, or damage to roads or property will be the sole financial responsibility of the applicant/owner/contractor.
- (5) The applicant/owner/contractor shall submit plans for approval for any temporary or permanent changes in elevation, widening, changing of corner radiuses, or anything else foreseeable. If any of these changes are deemed temporary and will no longer be necessary after the initial construction, they will be returned to their original lines and grades in a timely manner. All financial responsibility for temporary or permanent modifications and their return to original lines and grades will fall on the applicant/owner/contractor.
- (6) A traffic control and safety plan relating to the use of roads in the County in connection with the construction, operation, maintenance, and decommissioning of the WECS and associated equipment. This plan will include but not be limited to upgrading/modifying intersections, signage, proper traffic control, schedule of road closures, all to minimize the impacts on local traffic, emergency response vehicles, rural mail delivery, school bus traffic, and local agricultural traffic. A schedule of anticipated road closures shall be a part of the agreement and any deviations shall require prior approval from the County Engineer. At least **forty-eight (48) hours'** notice shall be provided to the public of each closure.
- (7) The applicant/owner/contractor shall be responsible for proper direction of runoff and drainage. Due to the karst geology in the County water returns quickly to the water table so any damage or modification to culverts, piping, drain tiles, waterways, ditches, etc. can have adverse effects to public health and safety. Standing water can cause health issues, damage to property, crops, and nuisance. Misdirected, contaminated or silted water can cause issues for residents using wells for drinking water. The County Engineer shall be notified of any damage to the above-mentioned means of moving water and shall be fixed within **seven (7) calendar days** of being damaged. Damaged areas shall be staked with a special marker so that it remains a priority to be repaired. Any damage to the above-mentioned infrastructure, contamination of wells, or property damage caused by this damage will be the sole financial responsibility of the applicant/owner/contractor.
- (8) The applicant/owner/contractor shall provide environmentally safe means of dust control during all construction, operation, maintenance, and decommissioning of WECS and associated equipment. The means of mitigating dust issues shall be approved by the County engineer and any consultants or experts deemed necessary to make this decision. Dust mitigation and any fees for consultants/engineers/experts are the sole financial responsibility of the applicant/owner/contractor.

- (9) The applicant/owner/contractor shall be financially responsible for any trees, shrubbery, landscaping, private drives, utilities, or anything else reasonably foreseeable during the construction, operation, maintenance, or decommissioning of WECS and associated equipment. Trees, shrubs, and other vegetation on private property will be assessed for value using the Guide for Plant Appraisal, Latest Edition, authored by the Council of Tree and Landscape Appraisers (CTLA) and the owner will be paid for their taking. The applicant/owner/contractor shall provide a schedule of trees (greater than **six (6) inches** diameter, measured up **three (3) feet** from ground line) anticipated to require removal during construction. Any trees found needing to be removed that are not on the schedule will require review and approval by the County Engineer prior to removal. Upon completion of construction activities trees that were taken down along County roads will be replanted on a one for one basis with a "like kind" replacement at the applicant/owner/contractor's expense, but only native trees and/or shrubs will be installed as replacements. All modified areas will be returned to similar original appearance to the best of the ability of the applicant/owner/contractor.
- (10) Any additional information the County may request relating to the use of roads in connection with the WECS and associated equipment will be provided by the applicant/owner/contractor.
- (11) The County shall evaluate the Roadway Upgrade and Maintenance agreement with assistance from such consultants/engineers/experts it deems appropriate at the cost of the applicant/owner/contractor. The County shall document the condition of all roads to be used in connection with the construction of the WECS in such manner as it deems appropriate. The County may require changes to the Roadway Upgrade and Maintenance Agreement it deems appropriate to protect public safety, to protect County roads, and to address anticipated costs to the County associated with applicant's use of roads in the County.

(B) The County shall require the applicant to provide an escrow fund, letter of credit or surety bond in an amount the County determines appropriate to secure any obligations under the agreement, including but not limited to any obligation relating to alterations or improvements to roads needed in connection with applicant's use of roads in the County, and the reimbursement of the County for any costs the Roadway Upgrade and Maintenance Agreement indicates the County may incur in connection with applicant's use of the roads in the County.

(C) The applicant/owner/contractor shall agree to conduct, at their cost, a post-construction survey to determine and/or present worth costs of life consumed by the construction traffic of the affected County highways, roads, streets, bridges, culverts, etc. to assist in the repair or potential future repair from WECS construction. The County reserves the right to hire its own consultant/engineers/experts to validate this assessment if necessary, at the cost of the applicant/owner/contractor. These surveys/assessments shall also be revisited during operation, maintenance, and decommissioning as necessary to determine damage caused by WECS and associated equipment.

(D) Upon completion of construction of WECS and compliance with all terms of the Roadway Upgrade and Maintenance Agreement and this Division, the applicant/owner/contractor shall provide a projected schedule of operation and maintenance traffic that will utilize public and private roads to the County Engineer. At which time the County Engineer will determine if an updated/revised agreement will be required. If a new agreement is not necessary, any and each oversized/overweight load will require a permit approved by the County Engineer.

(E) Upon determination that decommissioning is eminent, the applicant/owner/contractor shall follow all provisions, as stated above under "Standard Conditions for Use of Public Roads and Bridges" and enter into a Roadway Upgrade and Maintenance Agreement with the County Engineer or other Road Authority.

40-4-81 INTERFERENCE.

(A) No WECS shall be installed in any location where its proximity to 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.

(B) 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 construction of the WECS or WECS project, the owner or operator receives a written complaint related to the above-mentioned interference, the owner or operator shall take corrective measures to cure the problem.

40-4-82 **SHADOW FLICKER.** 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. Wind Turbines will be sited to ensure that no shadowing or flicker occurs on neighboring property. The applicant must ensure that the wind turbine will not produce shadowing or flicker on neighboring property or public roadways. Blade glint, defined as the intermittent reflection of the sun off the surface of the blades of a turbine, is prohibited. The applicant shall submit a paint sample that demonstrates the color, texture and gloss of the proposed surface coating. The applicant shall also submit a certification by the manufacturer stating that the proposed surface coating will not create a reflective surface conducive to blade glint. Any safety problems identified by the County Engineer caused by shadow flicker on roads shall be mitigated.

40-4-83 **STUDY REVIEWS - USE OF THIRD-PARTY CONSULTANT.** The County may desire to retain experts in the areas of engineering, planning, environmental, and legal in order to properly and efficiently 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.

40-4-84 **EMERGENCY PROVIDERS.**

(A) The applicant shall submit to all county Fire Protection Districts, and any other Fire Departments who may provide mutual aid assistance, the Sheriff's Department, County EMT's, MABAS, and other relevant police authorities a complete copy of the application for the WECS or WECS project, a copy of the site plan and an analysis of the anticipated fire and police protection needs.

(B) The applicant shall cooperate with the county Fire Protection Districts, the Sheriff's Department, EMT's, 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, police and EMT capabilities in terms of equipment and manpower to respond to potential emergency conditions. The applicant, owner, or operator shall work with local rescue authorities to provide training (at the applicant, owner, or operator's expense) to personnel who can assist with a rescue from a wind turbine or tower. If necessitated by lack of personnel or equipment, the applicant shall be required prior to final special use approval to develop and maintain a financial plan to ensure the provisions of emergency services and demonstrate that such plan will be implemented precedent to the start of construction, maintained throughout the life of the WECS or WECS project, including decommissioning. The level of training is to be determined by the emergency service providers. All discussions and coordination with emergency service providers shall take place prior to special use approval.

(C) The applicant, owner or operator shall participate with local emergency providers in an annual review of personnel, training and equipment requirements, and shall provide additional equipment upgrades or training requirements pertaining to the WECS or WECS project.

(D) The applicant, owner, or operator shall be responsible for providing and maintaining infrastructure improvements, i.e., water supply, water storage cisterns, access roads to expedite fire suppression.

(E) The applicant shall address how the National Fire Protection Association (NFPA) Code 850, Chapter 10 and other applicable chapters, applies to the project. The applicant should also note if there are any other national codes, standards, or best management practices that address fire safety in wind turbines.

40-4-85 MATERIAL HANDLING, STORAGE AND DISPOSAL.

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

(B) 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 applicable local, state, and federal procedures.

40-4-86 BIRDS, BATS AND WILDLIFE.

(A) A qualified professional, such as an ornithologist or wildlife biologist, shall conduct a preconstruction site risk assessment study to estimate the impacts of the construction and operation of the proposed WECS on birds, bats and wildlife. The preconstruction site risk assessment shall be submitted with the application and shall include the following minimum information, with all reviews, reports specified in below sections (1)-(5) included with the initial application and posted to the "WECS Website":

- (1) A literature review of existing information on species and potential habitats and results of agency database queries for records of rare, threatened, and endangered species and important habitats, such as Illinois Natural Areas Inventory sites and registered/dedicated nature preserves, land and water reserves, and wetland reserves within **two (2) miles** of the proposed WECS.
- (2) A general mapping of the significant vegetation and land cover types, wildlife habitat and quality, and physical characteristics of the proposed WECS.
- (3) A field examination that verifies results of the literature review and agency queries and documents general site habitat conditions.
- (4) A review of existing literature of avian and bat mortality field results within North America and in similar physiographic settings as the proposed WECS.
- (5) WECS in Monroe County will be operated in accordance with current best strategies to avoid and minimize bat and avian mortality. The Bat and Wind Energy Cooperative (BWEC) Operational Minimization strategy has demonstrated that bat fatalities can be reduced by up to **ninety-five percent (95%)** with an estimated loss of wind generation of only **one to three percent (1-3%)** of the annual power production.
 - (a) WECS operations will be immobilized during periods of time when wind speeds are below **five (5) meters** per second between sunset and sunrise during the entire year whenever air temperatures rise above **Fifty Degrees Fahrenheit (50°F)** to conserve bats (inclusive of all species, whether or not they are listed by Illinois as endangered or threatened).
 - (b) WECS turbine rotors will be immobilized (feathered), regardless of wind speeds, for **two (2) hours** after sunset and **two (2) hours** prior to sunrise from **15 April to 21 May** and from **1 September to 15 October** (peak times of spring and fall avian migration) to reduce bird mortality.
 - (c) Strategies or technologies to replace Operational Minimization may be approved by the Monroe County Planning Commission and Zoning Board of Appeals only if the Developer/Operator provides full documentation and approval from IDNR and recommendations on greater mortality reductions from independent organizations including the BWEC, Bat Conservation International, and the American Bird Conservancy.

(B) **Mortality Monitoring.**

- (1) A qualified professional, such as an ornithologist or wildlife biologist, shall also conduct a post-construction mortality monitoring study to quantify the mortality impacts, if any, from the WECS on birds and bats. The post-construction mortality study shall consist of the following information at a minimum:
 - (a) Annual site-specific mortality monitoring from the beginning of the spring migration for birds or bats, and extending through the end of the fall migration for birds or bats and including both spring and fall migration, and from fall through spring for winter season gatherings of bird species or for other state/federally listed wildlife species will be conducted. Mortality monitoring is to statistically quantify avian and bat mortality, by species, due to turbine operations, and will use methods approved by the IDNR. Annual reports will be submitted to the IDNR, to the County, and made available on the "WECS Website."

40-4-87
(A)

FARMLAND DAMAGES.

Standard Conditions to Mitigate Damage to Farmland.

- (1) All underground wiring or cabling for the WECS 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 the wire or cable and any agricultural drainage tile.
- (2) **Protection of Agricultural Drainage Tile.**
 - (a) The applicant/owner/contractor shall endeavor to locate all existing agricultural drainage tile prior to establishing any construction staging areas, construction of any necessary WECS access lanes, or driveways, construction of any WECS towers, any common switching stations, substations, and installation of underground wiring or cabling. The applicant/owner/contractor shall contact affected landowners, tenants, and zoning for their knowledge of tile line locations prior to the proposed construction.
 - (b) All identified drainage tile lines shall be staked or flagged prior to construction to alert construction crews of the possible need for tile line repairs after work is performed in the area.
 - (c) Any agricultural drainage tile located underneath construction staging areas, access lanes, driveways, any common switching stations, and substations shall be replaced or repaired if damaged by following Monroe County Zoning Code Article VIII Stormwater Regulations, any rules of the Soil and Water Conservation District, and any other applicable county zoning or codes.
 - (d) Any agricultural drainage tile that must be relocated shall be relocated by following Monroe County Zoning Code Article VIII Stormwater Regulations, any rules of the Soil and Water Conservation District, and any other applicable county zoning or codes.
 - (e) Conformance of any relocation of drainage tile shall have written approval of the Monroe County Zoning Inspector which shall be received prior to any backfilling of the relocated drain tile. As-built drawings shall be provided to the Monroe County Zoning Inspector of any relocated drainage tile if deemed necessary by the County.
 - (f) All tile lines that are damaged, cut, or removed shall be staked or flagged in such manner that they will remain visible until the permanent repairs are completed.
 - (g) All exposed tile lines shall be screened or otherwise protected to prevent the entry into the tile of foreign materials, loose soil, small mammals, etc.

- (h) Permanent repairs shall be made within **fourteen (14) days** of the tile damage if weather and soil conditions are suitable or a temporary tile repair shall be made. Immediate temporary repair shall also be required if water is flowing through any damaged tile line. Temporary repairs are not needed if the tile lines are dry and water is not flowing in the tile provided the permanent repairs can be made within **fourteen (14) days** of the damage.
 - (i) All damaged drain tile shall be repaired to operate as well after construction as before the construction began of like quality or better materials than original construction.
 - (j) Following completion of the WECS construction the applicant/owner/contractor shall be responsible for correcting all tile line repairs that fail, provided that the failed repair was made by the applicant/owner/contractor.
- (3) All soil conservation practices (such as terraces, berms, grassed waterways, etc.) or any drainage/runoff directing devices (such as culverts, piping, etc.) that are damaged by WECS construction shall also be restored by the applicant/owner/contractor to the pre-WECS construction condition.
- (4) Topsoil replacement: for any type of excavation or open trenching required pursuant to WECS construction, the topsoil shall be stripped and replaced as follows:
- (a) The top **twelve (12) inches** of topsoil shall first be stripped from the area to be excavated or open trenched and from an adjacent area to be used for subsoil storage. The removed topsoil shall be stored in such a manner that it will not become intermixed with subsoil materials and shall be covered/tarped in a manner as to protect it from any sort of erosion or loss.
 - (b) All subsoil material that is removed from an excavation shall be placed in a storage area separate from topsoil storage. When open trenching is done after topsoil removal the subsoil can be windrowed along the trench.
 - (c) In backfilling an excavation, the stockpiled subsoil material shall be placed back into the excavated area in a proper manner as to leave a minimum of the top **twelve (12) inches** to then be filled with topsoil leaving the area at the proper elevation (with an allowance for settling).
 - (d) In backfilling a trench, the windrowed subsoil material shall be placed back into the trench in a proper manner and then a minimum of the top **twelve (12) inches** of excavation will then be filled with topsoil leaving the area at the proper elevation (with an allowance for settling).
 - (e) The topsoil must be replaced such that after settling occurs, the topsoil's original depth and contour (with an allowance for settling) will be restored.
- (5) **Mitigation of Soil Compaction and Rutting.** The applicant/owner/contractor shall mitigate soil compaction and rutting for all areas of farmland that were traversed with vehicles and/or construction equipment. If compaction and rutting affect drainage, runoff, erosion, or any other reasonably foreseeable issue with a non-participating property the applicant/owner/contractor shall be financially responsible for mitigating those issues.
- (6) **Land Leveling.**
- (a) The applicant/owner/contractor shall be responsible for leveling of disturbed land returning it as close as possible to pre-WECS construction. The applicant/owner/contractor shall level all disturbed land as follows:

- (b) Following the completion of any excavation or open trenching, the applicant/owner/contractor shall restore all land to its original preconstruction elevation and contour.
- (c) Should uneven settling occur, or surface drainage problems develop because of the trenching within the first year after completion, the applicant shall again restore the land to its original pre-construction elevation and contour.

40-4-88 **WETLAND MITIGATION.** Any mitigation of wetlands shall be done within Monroe County.

40-4-89 **INVASIVE PLANTS.** Any clearing of woods for the purpose of a WECS project shall require the control of invasive plants in the cleared area for the length of the project.

40-4-90 **STORMWATER AND DRAINAGE.** All WECS sites must comply with the Monroe County "Stormwater Drainage and Detention, Soil Erosion and Sediment Control for Commercial and Industrial Developments" Ordinance. All WECS sites must comply with United States Environmental Protection Agency and Illinois Environmental Protection Agency groundwater drainage standards.

40-4-91 **ENERGY DELIVERABILITY.** As part of the application process, the owner or operator shall certify to the County Zoning Department that it has secured all necessary rights to deliver energy to a high-voltage electric transmission grid.

40-4-92 **INSTALLATION CERTIFICATION.** A professional engineer shall certify that the construction and installation of the WECS project meets or exceeds the manufacturer's construction and installation standards.

40-4-93 **MAINTENANCE.** Each applicant or successor in interest shall have the applicant's facility inspected annually by qualified wind power professionals, approved by the Zoning Department, and shall submit a certificate from said professionals reciting the annual maintenance done on the facility and stating that the facility is in good working condition and not a hazard to the public. Failure to submit an annual certificate shall be grounds for revocation of the Special Use Permit by the Zoning Department.

40-4-94 **COMPLIANCE WITH REGULATIONS.** Nothing in this Article is intended to preempt other applicable federal, state or local laws and regulations.

40-4-95 **DECOMMISSIONING AND SITE RECLAMATION PLAN.**

(A) A decommissioning and site reclamation plan must be submitted with the special use 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, owner and operator shall notify the County Zoning Administrator 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.
- (13) 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.

40-4-96 FINANCIAL ASSURANCE FOR DECOMMISSIONING AND SITE RECLAMATION.

(A) At 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 owner, operator, applicant 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 WECS or WECS project 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 WECS or WECS project owner is unwilling to or incapable of decommissioning the WECS or 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 WECS or WECS project, 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 WECS or WECS project at an assumed rate of inflation of **three percent (3%)** per year.

- (c) 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.
- (d) 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 project special use 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.

40-4-97 **CESSATION OF OPERATION.** If any WECS provided for in this Article has not been in operation and producing electricity for at least **two hundred seventy (270) days**, it shall be removed. The Monroe County Zoning Department shall notify the owner to remove the system. Within **thirty (30) days**, the owner 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 Monroe County States Attorney for enforcement.

40-4-98 **PENALTIES.**

(A) The applicant's, owner's, or operator's failure to materially comply with any of the above provision shall constitute a default under this Article.

(B) Prior to implementation of the existing County procedures for the resolution of such default, the appropriate County body shall first provide written notice to the owner, and operator, setting forth the alleged default. Such written notice shall provide the owner and operator a reasonable time period, not to exceed **thirty (30) calendar days**, for good faith negotiations to resolve the alleged default.

(C) If the County determines in its discretion that the parties cannot resolve the alleged default within the good faith negotiation period, the existing County ordinance provision addressing the resolution of such default shall govern, including but not limited to, the right to obtain an injunction of, for or against any violation from a court of competent jurisdiction.

40-4-99 - 40-4-110 **RESERVED.**