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## I. DEFINITIONS

The following words and terms, as used herein, shall have the following meanings:

- A. "Ambient Sound" means the all-encompassing sound at a given location, usually a composite of sounds from many sources near and far. For the purpose of this ordinance, the "ambient sound level" shall mean the quiescent background level, that is, the quietest of ten 10-second average sound levels measured when there are no nearby or distinctly audible sound sources (e.g., dogs, cars in line-of-sight, or jets). Daytime ambient measurements should be made during mid-morning, weekday hours while nighttime measurements should be made after midnight.
- B. "Applicant" means the entity or person who has submitted to the County of Ogle an application for a Special Use Permit for a WECS Project.
- C. "Daytime hours" means the hours of the day from 7:00 am to 10:00 pm, local time.
- D. "Decibel (dB)" means the unit of sound level based on a reference where 0 dB represents the threshold of hearing at 1000 Hz for a healthy young adult.
- E. "Financial Assurance" means reasonable assurance from a credit worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit.
- F. "Generator nameplate capacity" means the maximum rated output of a generator under specific conditions designated by the manufacturer. Generator nameplate capacity is usually indicated in units of kilovolt-amperes (kVA) and in kilowatts (kW) on a nameplate physically attached to the generator.
- G. "Name plate" a metal tag attached to a machine or appliance that contains information such as brand name, serial number, voltage, power ratings under specified conditions, and other manufacturer supplied data.
- H. "Nameplate capacity" means the maximum output rating of a wind generator (WECS turbine). A WECS turbine that has a 1 MW nameplate capacity will produce 1 MW of power when operating at it's rated output.
- I. "Nighttime hours" means the time of the day after 10:00 pm until 7:00 am, local time.
- J. "Noise" means sound that adversely affects the psychological or physiological well-being of people.
- K. "Non-Participating Parcel" means a parcel of real estate that is neither a Project Parcel nor a Participating Parcel.
- L. "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.

- M. "Owner" means the entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) at the earliest practicable date.
- N. "Participating Parcel" means a parcel of real estate that is not a Project Parcel, but is subject to a written Setback Easement agreement between the parcel owner and the Owner of the WECS Project ~~allowing the construction of all or part of a WECS Project closer to a Participating Parcel property line or primary structure on the Participating Parcel than would be permitted under this Ordinance in the absence of such an agreement~~; or, a parcel of real estate that is not a Project Parcel, but which the owner thereof has agreed in writing to support the WECS Project.
- O. ~~"Primary Structure" means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.~~
- P. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- Q. "Project Boundary" means the boundaries of the WECS Project as shown on the site plan submitted to the County of Ogle as part of an application for a Special Use Permit.
- R. "Project Parcel(s)" means the parcel or parcels of real estate on which all or any part of a WECS Project will be constructed.
- S. "Setback Easement" shall mean a legal document from a neighboring parcel (property) 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).
- T. "Shadow Flicker" means the on-and-off flickering effect of a shadow caused when the sun passes behind the rotor of a wind turbine.
- U. "Sound" means a disturbance or oscillation that propagates outwardly as acoustic waves through the air.
- V. "Sound Frequency" means the number of oscillations per second expressed in hertz (Hz). How we perceive sound is partly dependant on frequency. High frequency sound has more oscillations per second, whereas low frequency sound has fewer.
- "Audible or tonal sound" means sound frequencies between 20-20,000 Hz. With WECS turbines, this may include mechanical sounds from rotating machinery experienced as "hum" or "pitch" occurring at distinct frequencies.

- “Broadband” means a wide range of frequencies above 100 Hz. With WECS turbines, the aerodynamics from the displacement of air from the turning blades of a wind turbine creates a "swishing" or "whooshing" sensation.
  - “Low-frequency” means sound with frequencies below 100 Hz, including audible sound and infrasound.
  - “Infrasound” means sound frequencies below 20 Hz, which if sufficiently intense, can be perceived by many individuals.
- W. “Sound Level” means the A-weighted sound pressure level in decibels (dB) (or the C-weighted level if specified) as measured using a sound level meter that meets the requirements of a Type 2 or better precision instrument according to ANSI S1.4. The “average” sound level is time-averaged over a suitable period (say 1-minute) using an integrating sound level meter that meets the requirements of ANSI S12.43.
- X. “Structural Engineer” means a qualified individual who is licensed as a structural engineer in the State of Illinois.
- Y. “Substation” means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility’s transmission lines.
- Z. “Wind Energy Conversion System” (“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 Substation(s).
- AA. “WECS Project” means the collection of WECSs and Substation(s) as specified in the Special Use Permit application.
- BB. “WECS Tower” means the support structure to which the nacelle and rotor are attached.
- CC. “WECS Turbine” means the support structure to which the nacelle and rotor are attached, and the nacelle and rotor.
- DD. “WECS Turbine Height” means the distance from the rotor blade at its highest point to the top surface of the WECS foundation average ground surface immediately adjacent to the foundation.

## **II. INFORMATION REQUIRED**

- A. All applications for Special Use Permit shall be made on forms provided by the Planning & Zoning Department and be accompanied by the required fee.
- B. The application for Special Use Permit shall include a site plan containing the following information and meeting the following requirements:
1. The boundaries of all WECS Project parcels and participating parcels.

2. The boundaries of all non-participating parcels located within ~~2,640~~ 3,960 feet of any boundary of the WECS Project parcels.
3. The names and addresses of the owners of all WECS Project parcels and participating parcels.
4. The names and addresses of the owners of all non-participating parcels that adjoin the WECS Project and participating parcels.
5. The names and addresses of the owners of all non-participating parcels that are located within ~~2,640~~ 3,960 feet of any boundary of the WECS Project and participating parcels.
6. Existing zoning of each WECS Project parcel and all required setbacks on each WECS Project parcel.
7. 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.
8. The location and description of all structures located on WECS Project parcels, participating parcels, and any non-participating parcel located within ~~2,640~~ 3,960 feet of any boundary of a WECS Project parcel and participating parcel.
9. 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 1000 feet of, or three times the total height of a proposed WECS, whichever is greater.
10. The location of all public roads and right-of-way located within and adjacent to the WECS Project parcels, and within 1,000 feet of, or three times the total height of a proposed WECS, whichever is greater.
11. Municipal boundaries, 1.5 mile municipal extraterritorial jurisdiction radii, civil township boundaries, county boundaries, and school district boundaries.
12. The location of all mapped wetlands (per USFWS National Wetlands Inventory) and Special Flood Hazard Areas (per the Ogle County Flood Insurance Rate Maps) within the WECS Project.
13. Dimensional representation and sizes of the structural components of the WECS construction including the base, footings, tower, and blades.
14. Schematic of electrical systems associated with the proposed WECS Project including all existing and proposed electrical connections.

15. 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.
  16. The size and scale of the site plan shall be as determined by the Planning & Zoning Administrator. The scale map shall include a north arrow, the date, the scale, and reference to a section corner. The site plan shall include such additional information as the Planning & Zoning Administrator or County Engineer may require.
  17. Environmental Sound Impact Study pursuant to Section IV, Operation, Paragraph L, Sound Levels herein.
  18. Other information as required herein and/or reasonably required by the Planning & Zoning Administrator.
- C. The following digital geographic information shall be provided to the Planning & Zoning Administrator in ESRI shapefile format, projected to the Ogle County GIS Partnership coordinate system (NAD 1983 State Plane IL West Zone):
1. WECS (point file).
  2. WECS Project parcels and participating parcels (polygon file).
  3. Non-participating parcels within ~~2,640'~~ 3,960 feet of the WECS Project and participating parcels (polygon file).
  4. Other digital information as reasonably required by the Planning & Zoning Administrator or County Engineer.
- D. The application for Special Use Permit shall include mailing labels printed with the name and correct mailing address for all property owners that are required to receive legal notification of the Special Use Permit application and public hearing pursuant to State law and this Ordinance.
- E. An application will not be considered as officially filed and will not be processed by the Planning & Zoning Department until the completed application and all supporting documentation is received by the Planning & Zoning Department.

### **III. DESIGN AND INSTALLATION**

#### **A. Conformance With Approved Application and Plans**

1. The Petitioner, Owner and/or Operator of the WECS Project shall construct the WECS Project in substantial accordance with submitted Special Use Permit application and all accompanying documents.
2. The Petitioner, Owner and/or Operator shall be bound by any and all proposals and representations made under oath at the public hearing before the Zoning Board of Appeals, which shall be considered supplementary conditions of the Special Use Permit granted by the Ogle County Board, even if not directly

specified herein.

3. The owner and/or 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 County on or before the issuance of the first Zoning Certificate for any WECS.
4. The owner and/or operator of the WECS Project shall provide the following as part of its application for Zoning Certificate(s) for the WECS Project for approval by the Ogle County Planning & Zoning Department to confirm satisfaction of the conditions of this Special Use approval:
  - a. The property lines of the proposed site of construction;
  - b. Proposed location of the WECS, including distances from property lines and any existing or occupied residence within ~~1,800~~ 3,960 feet of the WECS turbine, as verified by a registered Professional Land Surveyor;
  - c. Location and description of all structures located on the property where the WECS is proposed;
  - d. Location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed WECS turbine;
  - e. Location of all underground utility lines on the WECS turbine site;
  - f. Dimensional representation of the structural components of the WECS tower construction including the base and footings;
  - g. Schematic of electrical systems associated with the WECS turbine including all existing and proposed electrical connections;
  - h. Manufacturer's specifications and installation and operation instructions or specific WECS design information;
  - i. Certification by a registered ~~Professional~~ Structural Engineer that the tower design is sufficient to withstand wind load requirements for structure as defined by the International Code Council (ICC);
  - j. Location of all access roads required for the WECS turbine including necessary approvals from the Illinois Department of Transportation for state highways, County Engineer for county highways and Township Highway Commissioner for township roads;
  - k. A topographic map of the proposed site of construction;
  - l. Proposed location of all easements necessary for the operation of the WECS (executed copies of which shall be submitted prior to issuance of Occupancy Certificate);
  - m. Other information as reasonably required by the County Zoning Administrator.
5. Each application for a Zoning Certificate for a WECS turbine shall be accompanied by a "Drainage Permit" issued by the County Engineer addressing stormwater management, drainage, soils, drain tiles, wetlands, waterways, ditches, etc. in accordance with the requirements of the *Ogle County Comprehensive Stormwater Management Ordinance*.

6. Construction activity associated with WECS turbines shall not commence before 6:00 A.M. sunrise nor continue past 9:00 P.M. sunset on any day of the week.
7. Prior to issuance of an Occupancy Certificate, the owner and/or operator of the WECS Project shall submit a certificate to the County Planning & Zoning Department verifying that any power purchase contracts, power transmission contracts and other legal rights are in place.
8. Construction of the WECS Project within Ogle County shall commence within 12 months of the date of the Special Use Ordinance approval by the County Board. The Ogle County Board, upon recommendation of the Planning & Zoning Committee of the Ogle County Board may grant an extension of the foregoing time period upon the owner and/or operator of the WECS Project demonstrating reasonable justification for such a request. After construction is complete, the owner and/or operator of the WECS Project shall provide certified "as-built" drawings to the County Zoning Administrator showing the locations of the WECS turbines, roads, transmission lines, and all other improvements related to the WECS Project (collectively, the "Improvements") and a legal description of the land utilized for the Improvements. This Special Use Permit shall thereafter automatically be modified to limit the legal description of the area of the Special Use to the land utilized for the Improvements.

**B. 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"). 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.
2. Following the granting of a Special Use Permit, a Professional Engineer and/or Structural Engineer shall certify, as part of the Zoning Certificate application, that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

**C. New Equipment**

All WECS shall be new equipment commercially available. No used, experimental or prototype equipment still in testing shall be utilized.

**D. Maximum WECS Turbine Height and General Placement**

WECS Turbine Height shall not exceed 425 feet anywhere in Ogle County for any WECS Project. WECS Turbines should be set in an irregular (not in a straight line where more than 3 consecutive towers are in a direct line) pattern to mitigate

compounding effect of noise and low frequency vibrations.

**E. Controls and Brakes**

All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over-speed 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 over-speed protection.

**F. Electrical Components**

1. All electrical components of the WECS shall conform to applicable state, and national codes, and relevant national and international standards (e.g. ANSI and International Electrical Commission).
2. All electrical wires and lines used to collect power from individual WECS turbines, as well as communications lines, shall be trenched-in, installed and located underground at a depth consistent with local utility and telecommunication underground lines standards.
3. The Owner and/or Operator of the WECS Project shall provide information on underground utilities 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."

**G. Color**

WECS Turbines shall be painted white or gray or another non-reflective, unobtrusive color.

**H. Aviation Safety**

No WECS Turbine shall be located so as to create an airport hazard or obstruction to any existing airport, restricted landing area or heliport pursuant to *Illinois Administrative Code Title 92: Transportation, Chapter I: Department of Transportation, Subchapter b: Aeronautics, Part 14 Aviation Safety*. The applicant shall demonstrate compliance with this standard, as well as compliance with any and all applicable Federal Aviation Administration (FAA) requirements relative to the siting of a proposed WECS Project.

**I. Warnings**

A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.

**J. Climb Prevention**

All WECS Towers must be unclimbable from the exterior by design or ~~protected by anti-~~

climbing devices such as:

- ~~1. Fences with locking portals at least six feet high; or~~
- ~~2. Anti-climbing devices 12 feet vertically from the base of the WECS Tower.~~

**K. Setbacks**

1. All WECS Turbines shall be setback a distance of at least 1.5 miles (7,920 feet) from any incorporated municipality's boundaries unless that municipality chooses to exercise its siting authority pursuant to Illinois law.
2. All WECS Turbines shall be set back at least ~~1,000\*~~ feet one-half mile (2,640 feet) from any Primary Structure residence located on a non-participating parcel. The distance for the above setback shall be measured from the point of the Primary Structure residence foundation closest to the WECS Turbine to the center base of the WECS Tower foundation at ground level. ~~The owner of the Primary Structure may waive this setback requirement; but in no case shall a WECS Tower be located closer to a Primary Structure than 1.10 times the WECS Tower Height.~~ The WECS Project Applicant may negotiate a setback easement to reduce this setback requirement.
3. All WECS Turbines shall be set back a distance of at least ~~1.10~~ times the WECS Tower Height from public roads, third party transmission lines, and communication towers.
4. All WECS Turbines shall be set back a distance of at least ~~1.10 times the WECS Tower Height~~ 1,300 feet from adjacent the property lines of the parcel upon which the WECS Turbine is to be placed. ~~The affected adjacent property owner may waive this setback requirement.~~ The WECS Project Applicant may negotiate a setback easement with an adjacent project parcel owner and/or non-participating parcel owner to reduce this setback requirement.
5. All WECS Turbines shall be set back a distance of at least 1,300 feet from the parcel (property) line of adjacent commercial and industrial uses, schools, public buildings and churches located outside the boundaries of any incorporated municipality. The WECS Project Applicant may negotiate a setback easement to reduce this setback requirement.
6. No setback shall be required for a WECS Turbine to a residence located on a Project Parcel.
7. The WECS Project Applicant does not need to obtain a variance from the County of Ogle upon ~~waiver by either the County or the~~ granting of a setback easement by a parcel property owner of any of the above setback requirements. Any ~~waiver of any of the above setback requirements~~ negotiated setback easement(s) shall run with the land and be recorded with the Ogle County Recorder as part of the chain of title in the deed of the ~~subject property~~ parcel

granting said setback easement(s).

**L. Other Setbacks**

1. Natural Resource Areas: All WECS at the time of application for Special Use Permit shall maintain a setback of not less than one-half mile (2,640 feet) from the property line of any Illinois Natural Areas Inventory Site (INAI), Natural Land Institute (NLI) site, Nature Conservancy (TNC) site, or public forest, public forest preserve, or public park.
2. Bird and Bat Migration Paths: All WECS at the time of application shall be located out of bird and bat migration pathways/corridors to which WECS construction would pose a substantial risk as identified by the required Wildlife/Avian Survey and Mitigation Plan (Section III, Paragraph P. herein). Adherence to this requirement shall be addressed in said Wildlife/Avian Survey and Mitigation Plan. Evidence supporting adherence to this requirement, which may include a letter from the Illinois Department of Natural Resources or the U.S. Department of Interior, Division of Fish and Wildlife Service, shall be provided as part of the application for Special Use Permit.
3. ~~The Applicant does not need to obtain a variance from the County of Ogle upon waiver by either the County or property owner of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property. The WECS Project Applicant may not negotiate a Setback Easement Agreement for any of the above "Other Setbacks" requirements.~~

**M. Compliance with Additional Regulations**

Nothing in this Special Use Permit is intended to preempt other applicable state and federal laws and regulations.

**N. Use of Public Roads**

1. The Owner or Operator of the WECS Project shall provide dust control measures as may be commercially and reasonably required by the County during construction, and shall repair any roads or other infrastructure damaged by the WECS Project construction or maintenance. Any road or bridge damage or repairs resulting from the construction or maintenance of the WECS Project, as determined by the County Engineer or Township Highway Commissioner, the installation, maintenance or removal of same, must be completed to the satisfaction of the County Engineer or Township Highway Commissioner. Further, a Letter of Credit in an amount to be fixed by the County Engineer or Township Highway Commissioner may be required by the County Engineer or Township Highway Commissioner to insure the County or Township that future repairs are completed to the commercially reasonable satisfaction of the applicable unit of government.

2. Road Use and Risk Assessment Plan and Road Impact Requirements.
  - a. An application for a Special Use for a WECS shall include a road use and risk assessment plan containing the following information and meeting the following requirements:
    - (1) A description and map of all public roads to be used in connection with the construction of the WECS Project, including a description of how and when such roads will be used in connection with the construction of the WECS Project.
    - (2) A description of the type and length of vehicles and type, weight and length of loads to be conveyed on all public roads, including the estimated number of loads (include oversized loads and legal loads).
    - (3) A complete assessment of the proposed use of public roads in connection with the construction of the WECS Project, including the adequacy of turning radii; 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 or any Township Road District may incur in connection with the use of public roads, including but not limited to costs relating to traffic control, public safety, or damage to roads or property.
    - (4) The road use and risk assessment plan shall also include provisions for pre-construction inspection(s), proposed construction activity, pre-construction improvements and/or modifications, post-construction modifications and/or repairs, and post-construction WECS project activity including maintenance, repairs, and de-commissioning.
    - (5) Any proposed measures necessary to improve load carrying capacity of roads to accommodate project traffic.
    - (6) A traffic control and safety plan relating to the use of public roads in connection with the construction of the WECS Project.
    - (7) Any additional information the County Engineer may request relating to the use of public roads in connection with the construction and/or operation of the WECS Project.
  - b. The County Engineer, in cooperation with any affected Township Highway Commissioner(s), will evaluate the road use and risk assessment plan with assistance from such consultants it deems appropriate. The County and/or Township(s) may document the condition of all roads to be used in connection with the construction of

the WECS Project in such manner as it deems appropriate. The County may require changes to the road use and risk assessment plan it deems appropriate to protect public safety, to protect public roads, and to address anticipated costs to the County and any Township associated with applicant's use of public roads.

- c. The County may require the applicant to enter into an agreement relating to the use of public roads. The County may require the applicant to provide a deposit or letter of credit 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 public roads, and the reimbursement of the County and/or any affected Township for any costs the road use and risk assessment indicates the County and/or any Township may incur in connection with applicant's use of the public roads.

**O. Repair of Drainage Facilities**

The Owner or Operator shall repair any and all field tiles damaged by the WECS project construction and maintenance activities within two (2) weeks of the date of receipt of notification by the Owner or Operator, and shall repair damage to other drainage facilities, including but not necessarily limited to waterways and drainage ditches, as soon as reasonably possible, but in any event within six (6) months of the date of receipt of notification by the Owner or Operator.

**P. Engineering Best Management Practices to Control Stormwater, Siltation and Erosion**

The Owner and/or Operator shall utilize established and accepted engineering Best Management Practices to manage stormwater, siltation and erosion during construction or as indicated within the applicant's approved grading permit application.

**Q. Blasting**

No blasting shall occur in connection with the construction of the WECS Project unless the Owner and/or Operator has provided prior notification to the property owner, any abutting property owners, property owners within 1,500' of the blasting site, officials of the Township in which the blasting is to occur, and the Ogle County Planning & Zoning Department. All blasting shall be done in accordance with all applicable State and Federal laws and regulations.

**R. Wildlife/Avian Survey and Mitigation Plan**

The Applicant of the WECS Project Special Use shall commission and submit to the County Planning & Zoning Department at time of Special Use Permit application a wildlife assessment (impact study), conducted by a qualified wildlife expert having not less than ten (10) years of experience conducting wildlife assessments, indicating

possible risks to local wildlife, habitat and migratory birds. Additionally, Applicant shall consult with the Illinois Department of Natural Resources (IDNR) regarding the WECS Project's potential impact on local wildlife. Applicant's wildlife expert shall also develop a mitigation plan, if applicable, that addresses and/or mitigates risks to wildlife, migratory birds and affiliated habitat raised by the IDNR.

More specifically, Applicant shall submit the wildlife assessment/impact study and mitigation plan (if applicable) to the IDNR for review and consultation. Should the IDNR choose to comment on said herein, all comments shall be forwarded to the Planning & Zoning Department in writing.

If the IDNR determines that the submitted mitigation plan is insufficient to effectively address the risk to local wildlife and habitat or the County requires clarification on any study, plan, or comment herein referred to in this Section or no IDNR comments are provided to the County Planning & Zoning Department, then the County may select and hire a qualified wildlife expert having not less than ten (10) years experience conducting wildlife assessments (impact studies) and mitigation plans to review the wildlife assessment (impact study) and mitigation plan submitted by the Applicant. All costs associated with the wildlife expert selected and hired by the County shall be paid for by the Applicant. Should it be found by the County's wildlife expert that the mitigation plan is deficient, such deficiency shall be addressed by the Applicant's wildlife expert to the satisfaction of the County's wildlife expert. Moreover, should the County's wildlife expert find that the mitigation plan (or the lack of a mitigation plan) by the Applicant's wildlife expert is deficient or not acceptable, then the Applicant shall mitigate the wildlife concern(s) in accordance with the recommendations of the County's wildlife expert. The mitigation plan (including any recommendation[s] listed therein) shall be subject to the same enforcement powers of any other performance standard contained herein.

**S. Eminent Domain**

The use of eminent domain shall not be exercised in the design and installation of a WECS Project.

**IV. OPERATION**

**A. General Operational and Maintenance Requirements**

1. The operation of the WECS project shall be conducted without offensive noise, vibration, dust, smoke, odor, glare, lighting or the risk of fire, explosion or other accident and shall not be detrimental to the public health, safety and/or general welfare of the immediate neighborhood or community at large.
2. The Owner and/or Operator of the WECS project shall repair, maintain and replace the WECS and/or WECS components consistent with sound utility practice as needed to keep the WECS Project in good repair and operational condition.

**B. Maintenance**

1. The Owner or Operator of the WECS project shall submit, on an annual basis, a summary of the operation and maintenance reports to the County of Ogle. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County reasonably requests.
2. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Section II(A)(1) of this Special Use Permit Ordinance. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the Owner or Operator shall confer with a relevant third-party certifying entity identified in Section II(A)(1) of this Special Use Permit Ordinance to determine whether the physical modification requires re-certification.

**C. Interference**

1. The Applicant, Owner and/or Operator shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the project summary and site plan. To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS project the Applicant shall take reasonable measures to mitigate such anticipated interference. If, after construction of the WECS, the Owner or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall take reasonable steps to respond to the complaint, and shall use commercially reasonable efforts to mitigate any problems on a case-by-case basis.
2. If, after construction of the WECS project, the Owner or Operator receives a written complaint related to interference with ~~local broadcast residential television~~ any television, cellular telephone, internet, or broadcast radio frequency, the Owner or Operator shall take reasonable steps to respond to the complaint, and shall use commercially reasonable efforts to mitigate any problems on a case-by-case basis.

**D. Coordination with Local Fire Protection District(s)**

1. The Applicant, Owner or Operator shall submit to the local fire protection district(s) a copy of the site plan.
2. Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire protection district's emergency response plan. The WECS Owner/Operator shall cooperate with any and all local rescue authorities to provide training (at Owner's and/or Operator's expense) to personnel who can assist with a rescue from a WECS.
3. Nothing in this section shall alleviate the need to comply with all other

applicable fire, life safety and/or emergency response laws and regulations.

**E. 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 applicable local, state and federal laws.

**F. Shadow Flicker**

1. Should shadow flicker affect any adjoining property owner that is not a participant in the WECS project for more than thirty (30) hours per calendar year, the Owner or Operator of the WECS project shall use commercially reasonable efforts to remedy the problem on a case-by-case basis by undertaking measures such as trees and/or vegetation plantings, or awning installation, or causing any and all WECS causing shadow flicker to shut down during the period of time that such shadow flicker is anticipated to occur.
2. If the Owner or Operator receives a verified complaint about shadow flicker visible from within any home owned by someone who is not participating in the WECS Project, then the Owner or Operator shall program any and all WECS causing the shadow flicker to shut down during the period of time that such shadow flicker is anticipated to occur.
3. Shadow flicker shall not be allowed to occur on any road or street intersection.

**G. Lighting**

The WECS project shall use minimal lighting. No tower lighting other than normal security lighting shall be permitted except as may be required by the FAA.

The Applicant, Owner, and/or Operator shall prepare a proposal to the FAA requesting a reduction in the wind turbine obstruction lighting requirements. Prior to the start of construction of the WECS project, the Applicant, Owner and/or Operator and the Ogle County Planning & Zoning Administrator shall jointly submit the proposal to the FAA. The current FAA requirements provide for a L864/L865 obstruction light to be located on top of the Nacelle at each turbine location. The proposal prepared by the Applicant, Owner and/or Operator shall request a reduction of lights required for the WECS project (for example, perimeter lighting only), a shielding apparatus to reduce the visibility of the obstruction lights from the ground, and/or a reduction of the intensity of the obstruction lights to that of a L810.

**H. Stray Voltage**

The Owner and/or Operator of the WECS Project shall minimize to the maximum practical extent possible the impact of any stray voltage caused by the operation of the WECS Project.

**I. Advertising Material and Signage**

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.

**J. Protection of Surface Water and Groundwater Resources**

The Owner and/or Operator of the WECS Project shall operate the WECS Project so as not to cause surface water or groundwater contamination.

**K. Report of Bird Kills**

The owner and/or operator of the WECS Project shall catalogue and annually report to the County Planning & Zoning Department all birds and bats that are discovered to have been injured or killed by the WECS Turbines. The annual report of bat and bird injuries and deaths shall include species, number, and dates when the injured or killed bird or bat was discovered.

**L. Sound Levels**

1. Sound Level Limits:

- a. The sound level limits identified below shall apply, as measured within 100' of the residence or structure occupied a majority of the time on nonparticipating properties and using the procedures outlined herein that account for ambient sound contributions.

Receiving Property	Hours of Operation	Sound Level Limits
Residential	10:00 pm - 7:00 am	45 dB(A)
Residential	7:00 am - 10:00 pm	55 dB(A)
Other Non-Residential	24 hours	60 dB(A)
Industrial	24 hours	65 dB(A)

- b. Where residential dwellings are existing at the time of application, no WECS(s) shall operate with an average sound level more than 5 dB(A) above the non-operational ambient level. Measurement shall be taken on the nonparticipating property within 100 feet from the dwelling.

- c. To limit the level of low-frequency sound, the average C-weighted sound level during WECS(s) operation shall not exceed the A-weighted ambient sound level by more than 20 dB on any residentially zoned or used property. Measurement shall be taken on the nonparticipating property within 100 feet from the dwelling.
2. Environmental Sound Impact Study: The Applicant shall provide an environmental sound impact study that gives:
- a. Certified manufacturer's specifications of the sound emissions from the proposed WECS turbine model(s) that specifically state the overall sound level as well as the 1/3-octave band levels measured in accordance with IEC 61400-11.
  - b. The expected maximum 1-minute averaged A- and C-weighted sound level at the nearest surrounding, nonparticipating, residentially zoned or used properties with all turbines operating.
  - c. The daytime and nighttime quiescent ambient sound levels at representative, non-participating residential properties adjacent to the proposed development as measured by an environmental acoustics expert (board certified by the Institute of Noise Control Engineering).
3. Sound Measurement Requirements: Sound level meters used for measurement must be a Type 2 or better grade per ANSI S1.4 and must have an integrating feature that meets ANSI S1.43. Procedures must meet the applicable portions of ANSI S12.9. Measurements must be made when ground level winds do not exceed 10 mph.
4. Complaint Resolution:
- a. The owner/operator of the WECS Project shall respond to complainant property owner(s) and the County of Ogle within five (5) business days after notified of a sound/noise complaint by any property owner(s) within the project boundary and a one-mile radius beyond the project boundary.
  - b. The County of Ogle may require field tests or sound propagation modeling, conducted or supervised by an acoustics specialist certified by the Institute of Noise Control Engineering as may be necessary, to determine whether a violation of said sound regulations is occurring or has occurred. The acoustics specialist shall be selected by the County of Ogle.
  - c. Field testing and/or sound propagation modeling shall commence within ten (10) working days of the request by the County of Ogle to the WECS Project owner/operator. If field testing and/or sound propagation modeling cannot be initiated within ten (10) days, the WECS(s) in question shall be shut down until the testing can be started.

- d. A copy of the field testing and/or sound propagation modeling results shall be sent to the complainant property owner(s) and the Ogle County Planning or Zoning Department within thirty (30) days of test completion.
- e. If a complaint is made, the presumption shall be that it is reasonable.
  - (1) After the investigation, if Ogle County reasonably concludes that operational violations are shown to be caused by the WECS(s), the reasonable costs and fees incurred by Ogle County in retaining an acoustics specialist shall be reimbursed by the owner of the WECS.
  - (2) After the investigation, if Ogle County reasonably concludes that operational violations are not shown to be caused by the WECS(s), the reasonable costs and fees incurred by Ogle County in retaining an acoustics specialist shall be reimbursed by the complainant property owner.
  - (3) Funds for this assessment shall be paid or put into an escrow account prior to the study performed by the acoustics specialist by both the complainant property owner(s) and the WECS owner/operator. Said funds will be returned to the complainant property owner(s) if Ogle County reasonably concludes that operational violations are shown to be caused by the WECS(s); said funds will be returned to the WECS owner/operator if Ogle County reasonably concludes that operational violations are not shown to be caused by the WECS(s).
- f. After the investigation, if Ogle County reasonably concludes that operational violations are shown to be caused by the WECS(s), the WECS operator/owner shall use reasonable efforts to mitigate such problems on a case-by-case basis including such measures as not operating during the nighttime or other noise sensitive period if such operation was the cause of the complaints.

5. WECS Sound Measurement Worksheet Instructions:

- a. The **WECS Sound Measurement Worksheet** is intended to determine the average sound level (i.e. **Source Sound Level**) from operating WECS turbines by correcting for the ambient sound levels. This measurement will determine whether the sound exceeds the limits stipulated herein.

**Sound Level Meters (SLM)** must meet the Type 2 grade or better per the latest revision of ANSI S1.4 *American National Standard Specification for Sound Level Meters* and must have an integrating feature that meets ANSI S1.43 *American National Standard Specifications for Integrating Averaging Sound Level Meters*.

The **procedures** outlined here are based in essence on applicable portions of ANSI S12.9 *American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound* and Part 910 of Title 35: Environmental Protection, Subtitle H: Noise, Chapter 1: Illinois Pollution Control Board.

**Frequency measurement:**

- The A-weighted scale is most often utilized for the measurement of tonal or audible sound levels. These are sounds that range from 20 to 20,000 Hz. and that the human ear can typically hear.
- The C-weighted scale is utilized especially for measurement of low frequency sound, i.e. more bass tones or infrasound, which may or may not be audible to the human ear. Low frequency sounds can travel farther and may be enhanced in different locations such as in buildings.

**Instrumentation Set-up:**

- Ensure the battery is in good condition.
- Ensure that the Sound Level Meter is calibrated according to manufacturer's instructions.
- Measurements may be taken at any location on a nonparticipating property, provided the location is not within:
  - ▶ 5 feet of small surfaces (e.g., trees, posts, etc),
  - ▶ 25 feet of a large reflective surface (e.g., shed, building, etc), or
  - ▶ 50 feet of a large reflective surface if the sound is tonal in nature.
- A tripod for the microphone or SLM is required if the sound is high-pitched. If the sound is low frequency in nature, a hand-held meter is acceptable as long as the arm is extended.
- The microphone on the SLM must be aimed toward the noise source and oriented at an angle recommended by the manufacturer (usually 45-70 degrees off the ground).

b. **Worksheet Instructions.**

**Source and Receiver Location:**

- Identify the types of property from which the sound is coming (Source) and on which the sound is being measured (Receiver).

**Nature of Sound:**

- Identify what is the Source of the sound being measured.

**Weather Conditions:**

- Measurements should not be made when ground level winds exceed 10 mph.
- Use an anemometer and compass to measure **wind speed** and

- direction** and identify them on the Worksheet.
- Use a thermometer to determine **temperature** and a hygrometer to measure **relative humidity** to identify any adverse conditions. All instruments must be used in accordance with the manufacturer's recommended procedures.

**Equipment:**

- Identify the type of sound level meter being used and whether measurements will be using the A-weighted scale to measure tonal or audible sound (20 to 20,000 Hz) or the C-weighted scale to measure low frequency sound (Below 200 Hz).

**Calibration Check:**

- Follow manufacturer's instructions to ensure that the Sound Level Meter is properly calibrated. Place the calibrator on the SLM microphone and adjust the meter as necessary so that it displays the rated output of the calibrator (usually 94.0 dB). This must be repeated before and after each series of measurements to ensure SLM stability.

**Measured Sound Levels:**

(1) Total Sound Level: Collect a 1-2 minute sample of the sound with the wind energy facilities operating. Wait at least one minute collect a second sample. If the samples are within 2 dB, there is repeatability and the two levels can be averaged for a total sound level. If there is more than a 2 dB difference, repeated samples should be taken to determine which levels are most in common and can be averaged. This is repeated for the C scale if low frequency sound is a concern.

(2) Ambient Sound Level: Ambient Sound represents the background sound level observed when the source is not operating. Collect a 10-15 second sample of the Ambient Sound during a period when there are no nearby distinct or prominent sounds, such as dogs barking, a plane flying over, or a car passing by. Wait over one minute to collect a second sample. If the samples are within 2 dB, there is repeatability and the two levels can be averaged. This is repeated for the C scale if low frequency sound is a concern.

(3) Correction: This figure calculates how to correct the Total Sound Level measurement for Ambient Sound.

- a. Enter the difference between the Total and Ambient Sound Levels [Line 1 – Line 2];
- b. If the Ambient sound is not at least 2 dB lower than the Total Level on 3a, a determination of violation cannot be made. If the difference is 2 dB enter a "4"; for a difference of 3, enter a "3"; for a difference of 4-5, enter

a "2"; for a difference of 6-9, enter a "1"; and for a difference of 10 or more, enter a "0."

(4) Source Sound Level: The average sound level from the operating Wind Energy System (Source) is the Total Sound Level minus the Correction factor [Line 4 = Line 1 – Line 3b].

(5) Increase above Ambient Sound: An A-weighted sound level from a sound source that is more than 5 dB above the ambient level represents a significant increase in noise and is an objective indicator of annoyance. This is the difference between Line 4 and Line 2 and is used to assess compliance with the noise ordinance on residential properties. This measurement is intended for use on neighboring properties and should only be taken within 100 feet of a residential dwelling.

(6) Low Frequency Measurement (if indicated): Low frequency sound can impact neighbors over a longer distance than more tonal sounds and is possibly perceived indoors. A C-weighted sound level with the turbine(s) operating that is more than 20 dB above the A-weighted ambient sound level is an objective indicator of annoyance due to a significant increase in low frequency noise. If the difference between the C-weighted level of Line 4 and the A-weighted level of Line 2 is less than 20 then Wind Energy System is considered to be in compliance with the sound requirements.

## WECS Sound Measurement Worksheet

Source Property _____	<input type="checkbox"/> Residential <input type="checkbox"/> Nonresidential <input type="checkbox"/> Industrial
Receiving Property _____	<input type="checkbox"/> Residential <input type="checkbox"/> Nonresidential <input type="checkbox"/> Industrial
Nature of Sound _____	
Location of Instruments _____	Date: _____
Wind Speed and Direction _____	Time: _____
Equipment _____	Examiner: _____

**Calibration Check:**

	Before	Cal. Level	After
Sound level with calibrator in place:	_____ dB	94.0 dB	_____ dB

**Measured Sound Levels:**

	Sample 1	Sample 2	Average
1. Total Sound Level ( <i>source on</i> ): <i>(C-weighted measurements for low frequencies)</i>	dB(A)	dB(A)	dB(A)
	dB(C)	dB(C)	dB(C)
2. Ambient Sound Level (quiescent level with source off):	dB(A)	dB(A)	dB(A)
	dB(C)	dB(C)	dB(C)

3. **Correction** for the ambient background sound

3a. Enter the difference between Line 1 and Line 2:

	dB(C)	dB(A)
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3b. If Line 3a = 0 or 1 dB, the source level cannot be determined.

= 2dB → enter 4dB; = 3dB → enter 3dB	dB(C)	dB(A)
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= 4-5 dB → enter 2dB; = 6-9 dB → enter 1dB

= 10 dB or more → enter 0 dB

4. Source Sound Level (*line 1 minus line 3b*):

	dB(C)	dB(A)
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5. Increase Above Ambient (*A-wtd level in line 4 minus A-wtd level in line 2*):

		dB(A)
--	--	-------

6. Low Frequency,  $C_{source} - A_{ambient}$  (*C-wtd level of line 4 minus A-wtd level of line 2*):

		dB
--	--	----

Sound Limits (dB) on Receiving Properties:			
	Industrial	Nonresidential	Residential Day/Night
Source Sound Level (A-wtd) - Line 4	65	60	55/45
Increase Above Ambient (A-wtd) - Line 5			5
Low Frequency ( $C_{source} - A_{ambient}$ ) - Line 6		20	20

**M. Emergency Shutdown Plan**

The WECS Owner/Operator shall be required to immediately cease operations for the duration of any Emergency. Emergency shall mean a proven condition or situation caused by the WECS Project or by 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 of 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 Illinois 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 to the WECS owner/operator. Within 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.

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.

**V. LIABILITY INSURANCE**

~~The Owner or Operator of the WECS project shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$2 million per occurrence and \$2 million in the aggregate, with the County of Ogle named as an "additional insured" under said policy.~~

WECS Project Owner and/or Operator shall maintain the following insurance coverage commencing upon construction of the WECS Project:

- A. The Owner/Operator shall, at its expense, maintain a broad form comprehensive coverage policy of public liability insurance insuring Owner/Operator, Project Parcel owners and Participating Parcel owners against loss or liability caused by Owner's and/or Operator's occupation and use of the property under the lease, in an amount not less than five million U.S. dollars (\$5,000,000) of combined single limit liability coverage per occurrence, accident or incident, with a ten million (U.S.) dollar (\$10,000,000) per aggregate, which has a commercially reasonable deductible. Ogle County shall be named as an additional insured on said policy.
- B. Worker's compensation coverage in an amount required by Illinois law. Owner/Operator shall require subcontractors and others not protected under its insurance to obtain and maintain worker's compensation and employers' liability insurance.
- C. Certificates of insurance evidencing compliance with these requirements shall be provided upon request of the County. The insurer will provide notice to the County in the event there is a lapse in coverage exceeding thirty (30) days. All policies other than worker's compensation shall be written on an occurrence and not on a claim-made basis.

**VI. DECOMMISSIONING PLAN**

The Owner of the WECS Project shall ensure that the WECS Project facilities are properly decommissioned upon the end of the project life or project abandonment. An application for a

Special Use Permit for a WECS shall include a “Decommissioning and Site Restoration Plan” containing the information and meeting the requirements in this section. The Plan shall be updated and resubmitted every five (5) years.

- A. The “Decommissioning and Site Restoration Plan” shall provide for the removal and lawful disposal of all physical material pertaining to the WECS Project improvements (including, but not necessarily limited to, all WECS Turbines and other structures, hazardous materials, electrical facilities, all foundations to a depth of 48” beneath the soil surface, and all access roads that the owner of the Project Parcels want removed), and restoration of the area occupied by the WECS Project’s facilities and improvements to as near as practicable to the same condition that existed immediately before construction of such improvements, and repair or replacement of any damage to public roads and bridges that may occur as a result of traffic associated with decommissioning.
- B. The “Decommissioning and Site Restoration Plan” shall provide for the decommissioning of the site upon the expiration or revocation of the WECS Project Special Use Permit, or upon the abandonment of the WECS Project, or any individual WECS unit. The WECS Project or any individual WECS unit shall be deemed abandoned if its operation is ceased for 12 consecutive months unless an extension of the one-year period is granted by action of the Ogle County Board upon recommendation of the Planning & Zoning Committee of the Ogle County Board for good cause shown.
- C. The plan shall include provisions for financial security to secure completion of decommissioning and site restoration, in form satisfactory to Ogle County Board. A cash escrow account held and managed by a third party administrator (such as a Title Company or Bank Trust Department) funded by the WECS Licensee with ten (10) annual cash payments and pursuant to an cash escrow agreement acceptable to the Ogle County Board, shall be acceptable security. The amount of the financial security shall be equal to the estimated cost of completing the decommissioning, site restoration and road repairs in accordance with the approved plan, as approved by the County. The “Decommissioning and Site Restoration Plan” shall also include the following:
  - 1. The anticipated life of the WECS Project;
  - 2. The estimated decommissioning costs in current U.S. dollars;
  - 3. How said estimate was determined;
  - 4. The method of ensuring that the funds will be available for decommissioning and restoration;
  - 5. The manner in which the WECS Project will be decommissioned and the site restored;
  - 6. A CPI or a percentage adjustment.
  - 7. Written authorization from the WECS Project Owner and all owners of all Project Parcels for the County to access the Project Parcels and implement the decommissioning and site restoration plan, in the event the WECS Project owner fails to implement the plan. The written authorization shall be in a form approved by the County.

- D. The required financial security, pursuant to an agreement acceptable to the County, shall be provided to the County prior to issuance of a Zoning Certificate for any portion of the WECS Project.
- E. The County may hire an independent engineer to review the submitted “Decommissioning and Site Restoration Plan”. The cost of the independent engineering firm shall be reimbursed to the County by the WECS Applicant.

## VII. ABANDONMENT

The WECS Project owner or the landowner of a WECS or multiple WECS shall notify the Ogle County Planning & Zoning Department when the WECS Project or any individual WECS unit is no longer in operations pursuant to Section VI above. Within twelve (12) months of cessation of operations, unless the Planning & Zoning Committee of the Ogle County Board grants an extension of time for good cause shown, the approved “Decommissioning and Site Restoration Plan” pursuant to Section VI above shall be implemented.

## VIII. HOME SELLER PROTECTION PROGRAM

The Owner and/or Operator of the WECS Project shall, for a five-year period from the date that the WECS Project is placed into service, maintain a Home Seller Protection Program (“Program”) covering loss in value directly attributable, upon the sale of such home, to the WECS Project for those houses which (a) are not located within the WECS Project area identified in the Petition for Special Use Permit, (b) have an outside wall of the primary residential structure which is located within 1 mile (5,280') of a WECS turbine erected by the Petitioner/Owner/Operator and (c) are located in Ogle County. This Program shall only apply to those persons owning eligible homes (“home owner”), as set forth above, on and/or prior to the date the WECS Project Special Use Permit is approved by the Ogle County Board and shall not apply to those who have purchased existing homes or constructed new homes after the Ogle County Board has approved the said WECS Project Special Use Permit.

The definitions of the following terms shall be utilized in the interpretation of this Program:

*“Home Owner” means the legal entity, individual or individuals holding title to any property containing a dwelling or legal entity, individual beneficiary or beneficiaries of a trust which holds title to any property containing a dwelling on the in-service date of the Ogle County Board approval of the WECS Project Special Use Permit.*

*“Sale” means the transfer of the ownership by a home owner where the home owner is willing to sell and the purchaser is willing to purchase the real property in an arms length transaction at a certain price.*

For those home owners electing to participate in this Program, the procedure shall be as follows:

- A. Before the WECS Project is placed into service, a copy of this Home Seller Protection Program, an election form to participate in the Program and a copy of the Grant of Right of First Refusal shall be sent by Owner/Operator by certified mail, return receipt requested, to each home owner, as determined by Ogle County Assessment records, located within one mile of a WECS erected by Owner/Operator. The home owner must sign an election form to participate in the Program and provide said copy of written

election to the WECS Project Owner/Operator and the Ogle County Zoning Administrator.

- B. The home owner must grant a “Right of First Refusal” to the WECS Project Owner/Operator on a form provided by the WECS Project Owner/Operator. Failure of an eligible home owner under this Program to provide the WECS Project Owner/Operator with “right of first refusal” shall constitute a forfeiture of all rights and entitlements provided under this Program. Said “Right of First Refusal” shall provide that the home owner shall disclose the terms, within three days of receipt of offer, of any accepted offer home owner receives from a third party to purchase home. WECS Project Owner/Operator will have 10 days after receipt of offer to elect to purchase the home on terms identical to those offered by the third party. Within 7 days of notification of the election to purchase, the parties will enter into a formal contract of sale. If the WECS Project Owner/Operator fails to give notice then the home owner may dispose of the home as they see fit. If the home owner fails to provide notice of the third party offer, the opportunity to participate in the home seller protection program shall be forfeited.
- C. Home shall be listed with a realtor or auctioneer to be agreed upon by the home owner and WECS Project Owner/Operator. If listed with a realtor, said realtor shall list the home at 110% of the fair market value of the home without the WECS Project.
- D. The WECS Project Owner/Operator and home owner shall each select an independent Illinois licensed appraiser to conduct an appraisal of the subject real estate. Each party shall be responsible for the cost of hiring said appraiser to conduct the real estate appraisal.
- E. Each appraiser shall determine the diminution in value, if any, to the home caused by the proximity to the WECS Project by determining the fair market value of the home assuming no WECS Project was constructed and the current fair market value.
- F. If one of the diminution in values submitted is no more than ten percent (10%) higher than the other, the diminution in values shall be averaged to establish the average diminution value. If one of the diminution in values submitted is more than ten percent (10%) higher than the other, then the two (2) independent appraisers will select a third independent Illinois licensed appraiser who shall prepare and present to WECS Project Owner/Operator and home owner his written appraisal report (see paragraph E above) setting forth his opinion as to the diminution value for the home. The cost of the third appraisal, if required, shall be paid for equally by the WECS Project Owner/Operator and home owner.
- G. If a third party independent appraiser is used, the WECS Project Owner/Operator and home owner shall agree that the median appraisal of the three appraiser shall constitute the diminution value.
- H. Upon sale of a home for an amount less than the fair market value without the WECS project, the WECS Project Owner/Operator shall pay the lesser of the difference between the fair market value without the WECS project or the diminution in value.
- I. For a five-year period from the date that the WECS Project is placed into service, eligible home owners, as established above, that have unsuccessfully marketed real property for a minimum of one hundred and fifty (150) days with no documented offer of

purchase may elect to sell said home to the WECS Project Owner/Operator. The WECS Project Owner/Operator or agent shall purchase said home (real property) for the fair market value as established in the procedure set forth as follows:

1. The WECS Project Owner/Operator and home owner shall each select an independent Illinois licensed appraiser to conduct an appraisal of the subject home. Each party shall be responsible for the cost of hiring said appraiser to conduct the home appraisal.
2. Each appraiser shall determine the fair market value of the home assuming no WECS Project was proposed and/or constructed.
3. If one of the appraisals submitted is no more than ten percent (10%) higher than the other, the appraisal values shall be averaged to establish the average appraisal value. If one of the appraisals submitted is more than ten percent (10%) higher than the other, then the two (2) independent appraisers will select a third independent Illinois licensed appraiser who shall prepare and present to WECS Project Owner/Operator and home owner his written appraisal report setting forth his opinion as to the fair market value for the home, assuming no WECS Project was proposed and/or constructed. The cost of the third appraisal, if required, shall be paid for equally by the WECS Project Owner/Operator and home owner.
4. If a third party independent appraiser is used, the WECS Project Owner/Operator and home owner shall agree that the median appraisal of the three appraisals shall constitute the fair market value.

If home has been unsuccessfully marketed for 150 days, purchase of the home by the WECS Project Owner/Operator or Agent shall be completed within 30 days of the determination of the average appraisal value or three appraisal median unless extended by mutual consent of both the home owner and the WECS Project Owner/Operator.

#### **IX. PAYMENT OF TAXES OR PAYMENT(S) IN LIEU OF TAXES (PILOT)**

The owner of the WECS Project shall annually provide property taxes as required by applicable State law, provided, however, that in the event that property tax law applicable to wind energy devices change such that the total property tax amount in any given year would be less than that which would have been required under the tax laws effective as of the date of this Ordinance, then the owner of the WECS Project will provide additional funds to bring the total property tax up to the amount that would have been required if the property tax formula in place at the date of this Ordinance were in place; unless any future change in property tax laws applicable to wind energy generation devices result in a formula that would generate more tax revenue than would be generated under the property tax laws in place as of the date of this Ordinance, in which case the owner of the WECS Project shall pay property tax in accordance with the tax laws then in force.

#### **X. INDEMNITY CLAUSE**

The Owner and/or Operator of the WECS Project shall defend, indemnify and hold harmless the County of Ogle and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever including

attorney's fees arising out of the acts or omissions of the Owner and/or Operator concerning the operation of the WECS Project without limitation, whether said liability is premised on contract or on tort.

**XI. REMEDIES**

- A. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under the Special Use Permit Ordinance.
- B. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).
- C. If the County determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, shall subject the owners Owner and Operator to the penalties set forth in Division 9 of the *Ogle County Amendatory Zoning Ordinance*.
- D. The Owner and/or Operator of the WECS Project shall, at the Owner and/or Operator expense and in coordination with the County of Ogle, develop a system for logging and investigating all complaints from citizens related to the operation of the WECS Project.