

# **WIND ENERGY**

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**10-19-1:**                   **SHORT TITLE:** This Title shall be known as, and may be cited and referred to as the Lee County Wind Energy Ordinance (Ord. 02-1-00)

**10-19-2:**                   **REPEAL OF PREVIOUS ORDINANCES:** The Lee County Wind Energy Ordinance 10-15-15 and all amendments thereto are hereby repealed and replaced with this Ordinance 10-19-1 et seq; with the effective date of **March 20, 2012**.

**10-19-3:**                   **PURPOSE:** The purpose of this Title is to regulate and control the establishment, erection and operation of wind energy systems within the county, in order to promote wind energy, the land owners who choose to lease their lands or parts thereof to wind energy producers and as well, landowners who oppose the development of wind energy systems. The further purposes of this ordinance are to promote the public health, safety and welfare of the residents of this county and to minimize conflict between farming, wind energy systems and other land uses.

**10-19-4:**                   **DEFINITIONS:** The following words and terms, as used herein, shall have the following meanings:

A.       “Financial Assurance” means reasonable assurance from a credit worthy party, examples of which include a surety trust instrument, cash escrow, or irrevocable letter of credit.

B.       "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 Lee County Board approval of the WECS Project Special Use Petition.

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

D.       “Owner” means the entity or entities with an equity interest in a WECS Project, including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS Project (unless the property owner has an equity interest in a WECS Project); or (ii) any person holding a security interest in a WECS Project solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell a WECS Project(s) at the earliest practicable date.

E.       “Professional Engineer” means a qualified individual who is licensed as a professional engineer in the State of Illinois.

F.       “Primary Structure” means, for each property, the structure that one or more persons occupy the majority of time on property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structures excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.

G. "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.

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

I. "Substation" means the apparatus that connects the electrical collection system of a WECS Project and increases the voltage for connection with the utility's transmission lines.

J. "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)

K. "WECS Project" means the collection of WECS(s) and Substation(s) as specified in the Special Use Permit application including the land on which the WECS Project is placed.

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

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

N. "WECS Turbine Height" means the distance from the rotor blade at its highest point to the ground surface surrounding the WECS foundation.

**10-19-5: APPLICATIONS:**

A. All petitions for a Special Use shall be made on forms provided by the Lee County Zoning Office and be accompanied by the required fee.

B. The petitions for a Special Use 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 feet of any boundary of the WECS Project parcels.
3. The names, addresses, and parcel numbers 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 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 of all structures located on WECS Project parcels, participating parcels, and any non-participating parcel located within two thousand six hundred and forty (2,640) feet of any boundary of a WECS Project parcel and participating parcel.
  9. The location of all public roads, railroad right-of-ways, restricted landing areas (RLAs), and right-of-ways located within and adjacent to the WECS Project parcels, and within one thousand (1,000) feet of, or three times the total height of a proposed WECS whichever is greater.
  10. Municipal boundaries, 1.5 mile municipal extraterritorial jurisdiction radii, civil township boundaries, county boundaries, and school district boundaries.
  11. The location of all mapped wetlands according to the (USFWS) National Wetlands Inventory and Special Flood Hazard Areas, the Lee County Flood Insurance Rate Maps, within the WECS Project.
  12. Dimensional representation and maximum sizes of the structural components of the WECS Project construction including the base, footings, tower, and blades.
  13. Schematic of electrical systems associated with the proposed WECS Project including all existing and proposed electrical connections.
  14. WECS Project manufacturer's specifications and installation and operation instructions, or specific WECS Project design information.
  15. The size and scale of the site plan shall be as determined by the Lee County Highway Engineer. 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 Lee County Highway Engineer may require.
  16. An analysis of the project area representing the occurrence of shadow flicker and the occurrence of noise that would be created by the proposed WECS Project.
  17. Other information as required herein and/or reasonably required by the Lee County Zoning Administrator.
- C. The following digital geographic information shall be provided to the Lee County Information Technology (IT) Department in Environmental Systems Research Institute (ESRI) shape file format, projected to the Lee 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 feet of the WECS Project and participating parcels (polygon file).
4. Other digital information as reasonably required by the Lee County Zoning Administrator or the Lee County Engineer.

D. No action will be taken on a petition until the completed petition and all supporting documentation is received by the Lee County Zoning Office.

**10-19-6: DESIGN AND INSTALLATION:**

A. Conformance with the approved Petition and all supporting documentation:

1. The Owner/Operator of the WECS Project shall construct the WECS Project in substantial accordance with submitted Special Use Petition and all supporting documents.
2. The Owner/Operator shall be bound by any and all proposals and representations made under oath at the public hearing before the Lee County Zoning Board of Appeals, which shall be considered supplementary conditions of the Special Use Petition granted by the Lee County Board, even if not directly specified herein.
3. The Owner/Operator of the WECS Project shall obtain all required permits from other governmental agencies (such as the Federal Aviation Administration) prior to commencing construction or as otherwise required by the applicable laws and regulations. Copies or evidence of such permits shall be submitted to Lee County on or before the issuance of the first Building Permit for any WECS Project.
4. The Owner/Operator of the WECS Project shall provide the following as part of the petition for Special Use to satisfy of the conditions of the Special Use:
  - a. The property lines of the proposed site of construction;
  - b. Proposed location of the WECS Project, including distances from property lines and any existing or occupied residence within two thousand, six hundred and forty (2,640) feet of the WECS Turbine, as verified by a registered Professional Land Surveyor;
  - c. Location 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 Project design information;
  - i. Certification by a registered professional Engineer that the tower's 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 Project including necessary approvals from the Lee 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 Project including executed copies of which shall be submitted prior to issuance of the Building Permit;
  - m. Other information as reasonably required by the Lee County Zoning Administrator.
5. Each Building Permit for a WECS turbine shall be accompanied by a "Drainage Permit" issued by the County Engineer in accordance with the requirements of the *Lee County Comprehensive Stormwater Management Ordinance*.
6. Construction activity associated with WECS Project shall not commence before 6:00 A.M. nor continue past 9:00 P.M. on any day of the week.
7. Prior to issuance of a Building Permit, the Owner/Operator of the WECS Project shall submit a Right To Connect Permit to the Lee County Zoning Office verifying that any power purchase contracts, power transmission contracts and other legal rights are in place.
8. Construction of the WECS Project within Lee County shall commence within twenty four (24) months of the date of the Special Use Petition approval by the Lee County Board. The Lee County Zoning Board of Appeals may grant an extension of the foregoing time period upon the Owner/Operator of the WECS Project demonstrating reasonable justification for such a request. After construction is complete, the Owner/Operator of the WECS Project shall provide certified "as-build" drawings to the Lee County Zoning Administrator and the Lee County Assessor showing the locations of the WECS Turbines, roads, transmission lines, and other improvements related to the WECS Project 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 Petition to the land utilized for the improvements.

B. Design Safety Certification

1. As part of the Building Permit, all components of the WECS Project shall conform to applicable industry standards, including those of the American National Standards Institute (ANSA) and the American Wind Energy Association (AWEA). Each Petition shall be accompanied by certificates of design demonstrating that the equipment manufacturers have obtained approval 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 Petition, a professional Engineer shall certify, as part of the Building Permit Application, the foundation and tower design of the WECS Project is within accepted professional standards, given soil and climate conditions.

3. New Equipment: All WECS Projects shall utilize new equipment which is commercially available. No used, experimental or prototype equipment still in testing shall be utilized.

C. Controls and Brakes: All WECS Projects 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 regulations shall not be considered a sufficient braking system for over-speed protection.

D. Electrical Components:

1. All electrical components of the WECS Project shall conform to applicable state, and national codes, and relevant national and international standards (e.g. American National Standards Institute (ANSI) and the International Electrical Commission (IEC)).

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/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".

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

F. Compliance with the Federal Aviation Administration (FAA) and the Illinois Department of Transportation (IDOT). The Petition for the WECS Project shall be in compliance with all applicable FAA and IDOT requirements.

- G. 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 1: Department of Transportation, Subchapter b: Aeronautics, Part 14 Aviation Safety*. The Petition shall be in compliance with this standard, as well as compliance with any and all applicable Federal Aviation Administration (FAA) and the Illinois Department of Transportation (IDOT) requirements relative to the siting of a proposed WECS Project. Illustration G-1, Restricted Landing Areas Minimum Dimensional Standards of the Illinois Administrative Code Title 92 will be enforced at 110%.
- H. Warnings: a reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- I. Climb Prevention: all WECS Towers, by design, must not be climbable from the exterior of the structure.
- J. 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 1,400 feet or 3.5 times the WECS Turbine height, whichever is greater, from any Primary Structure, school, church or public building located on a nonparticipating parcel. The distance for the above setback shall be measured from the point of the residence foundation closest to the WECS Turbine to the base of the WECS Tower at ground level. The WECS Owner/Operator may negotiate a setback easement with the parcel owner to reduce this setback requirement.
  3. All WECS Turbines shall be set back at least 1,400 feet or 3.5 times the WECS Turbine height, whichever is greater, from the boundary of any Lot, which, as of the date of the approval of the Special Use Petition, is in a Platted Subdivision.
  4. All WECS Turbines shall be set back a distance of at least 1.10 times the WECS Turbine height from public roads, third party transmission lines, and communication towers.
  5. All WECS Turbines shall be set back a distance of at least 1.1 times the WECS Turbine height from the property lines of a nonparticipating parcel. The WECS Owner/Operator may negotiate a setback easement with an adjacent project parcel owner and/or nonparticipating parcel owner 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 Owner/Operator does not need to obtain a variance from the Lee County Zoning Board of Appeals upon the granting of a setback easement by a parcel owner of any of the above setback requirements. Any negotiated setback easement(s) shall run with the

land and be recorded with the Lee County Recorder as part of the chain of title of the subject parcel.

K. Other Setbacks:

1. Natural Resource Areas & Bird and Bat Migration Paths:

a. All WECS petitions at the time of the Special Use Petition shall demonstrate that consultation has been initiated with the Illinois Department of Natural Resources (IDNR) and United States Fish and Wildlife Services (USFWS) per 10-19-6, paragraph Q of this Ordinance. Prior to issuance of the Special Use Petition, the Lee County Zoning Board of Appeals shall consider any setback recommended by these agencies, to the extent they wish to be consulted, with respect to natural resource areas such as Illinois Natural Areas Inventory Site (INAI), Natural Land Institute (NLI) site, Nature Conservancy (TNC) site, or public forest, public forest preserve, or public park or Bird and Bat Migration Paths.

b. Also considered will be any feedback and suggestions from any managing department of a Public Forest, Public Forest Preserve or Public Park. Evidence supporting adherence to this requirement, which may include a letter from the IDNR or the USFWS, shall be provided as part of the application for Special Use Petition for the consultation to date, and prior to the issuance of the Special Use Petition.

2. The WECS Owner/Operator may not negotiate a Setback Easement Agreement for any of the above "Other Setbacks" requirements.

L. Compliance with Additional Regulations: nothing in this Special Use Petition is intended to preempt other applicable state and federal laws and regulations, nor shall it.

M. Use of Public Roads: prior to the granting of a Special Use Petition, the Owner/Operator of the WECS Project shall enter into a Road Use and Repair Agreement approved by the Lee County Board and the Township Highway Commissioner as applicable. The signed and executed Road Use and Repair Agreement must provide for the following minimum provisions, requirements and conditions:

1. Subsequent to receiving a Special Use Petition but prior to the issuance of a building permit, the Owner/Operator shall provide a Traffic Impact Analysis for approval by the Lee County Engineer and applicable Highway Commissioner. All costs for a third party engineer to develop the analysis shall be the sole responsibility of the applicant and shall contain the following information at a minimum:

a. Identification by name and surface type of all Lee County or Township roads and portions thereof the Owner/Operator intends to use during construction of the project.

b. A schedule of bridges and across road culverts affected by the project and any required replacements or modifications thereto planned by the Owner/Operator to facilitate construction of the project.

- c. A description of anticipated road work to be performed in advance of the project to prepare certain roads for the construction of turbines.
  - d. Cost estimate and plan for post-construction repairs of affected roads and roadway appurtenances.
2. Subsequent to receiving a Special Use Petition but prior to the issuance of a Building Permit, the Owner/Operator shall provide a security instrument in form and amount that is acceptable to the Lee County Engineer and/or applicable Highway Commissioner. The security instrument shall be based on the estimate of cost for post-construction repair work developed in the Traffic Impact Analysis.
3. All pre-construction road and bridge improvements as determined in the Traffic Impact Analysis shall be approved by the Lee County Engineer and/or applicable Highway Commissioner. All costs associated with the pre-construction improvements shall be the sole responsibility of the Owner/Operator.
4. The Owner/Operator shall obtain a Utility Installation Permit from the Lee County Engineer or applicable Highway Commissioner and comply in all respects with the rules and regulations contained therein. All roadway crossings shall be bored and identified with permanent identification markers. Iridescent marker tape shall be placed above any utilities that are trenched within the Right of Way.
5. Subsequent to receiving a Special Use Petition but prior to the issuance of a Building Permit, the Owner/Operator shall provide liability insurance in form and amount acceptable to the County Engineer and/or applicable Highway Commissioner.
6. Subsequent to receiving a Special Use Petition but prior to the issuance of a Building Permit, the Owner/Operator shall become a member of Joint Utility Locating Information for Excavating (“Julie”).
7. The Owner/Operator shall obtain a driveway access permit from the Lee County Engineer and applicable Highway Commissioner for all access points onto the highways.
8. The Owner/Operator shall be financially responsible for the design and construction of any intersection alterations necessary to accommodate wind turbine component deliveries.
9. The Owner/Operator shall make all reasonable efforts to minimize the impact of the project on local traffic including restricting construction traffic exclusively to those routes designated in the Traffic Impact Analysis.
10. All temporary construction signing shall comply with the Illinois Department of Transportation’s most current standards and with the Manual on Uniform Traffic Control Devices.

11. The Owner/Operator shall pay a one time permit fee for all over size/weight vehicles, driveway access and utility work in the amount of four thousand, five hundred U.S. dollars (\$4,500.00) per turbine located within Lee County, but in no case less than twenty thousand U.S. dollars (\$20,000.00). All fees shall be deposited in the Lee County Highway Fund before a Building Permit will be issued. Road Districts may also have fees as deemed appropriate by the respective Highway Commissioner.

12. If roads degrade throughout the project, the Owner/Operator, with the approval of the Lee County Engineer and applicable Highway Commissioner, shall cause necessary remedies to be implemented to ensure safe passage of the motoring public.

13. The Owner/Operator shall reimburse Lee County or applicable Road District, for all reasonable inspection, observation and coordination costs, including, but not limited to engineering and legal fees. The reimbursements shall include all phases of the project from Road Agreement negotiations through post road repair work.

14. The Owner/Operator shall not engage in construction activities on Lee County or Road District roads during the spring weight limit posting season.

15. The Owner/Operator shall be solely responsible for all damages to the roadways resulting from wind farm and associated construction. Roadways shall be restored to a condition that is equal to or better than preconstruction conditions. Repairs shall conform to the IDOT Standard Specifications for Road and Bridge Construction and the Bureau of Local Roads and Streets Manual and any updates thereto.

16. During the construction phase of the project, the Owner/Operator shall ensure that roadways are safe and passable for the motoring public and shall respond promptly to the concerns of the Lee County Engineer and/or applicable Highway Commissioner.

17. Upon completion of turbine construction, the Owner/Operator shall fund and cause to produce a road survey to record conditions at this time. The survey shall also take into account the amount useful life removed from the pavements (degradation damage), irrespective of visually notable damage. The Lee County Highway Department or applicable Road District shall be entitled to compensation for the degradation damage using generally accepted pavement design formulas in the State of Illinois.

18. The road agreement shall be limited to the construction of the project only. If the Owner/Operator desires to use Lee County and/or Road District roads for future maintenance work on the project, for demolition or decommissioning of the project as a whole or of individual turbines or for the development of another project, another roads agreement with Lee County and/or applicable Road District shall be required.

- N. Repair of Drainage Facilities: the Owner/Operator shall repair any and all field tiles damaged by the WECS Project construction and maintenance activities within ten (10) working days of the date of receipt of notification by the Owner/Operator, or as otherwise agreed by the Owner/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/Operator.
- O. Engineering Best Management Practices to Control Stormwater, Siltation and Erosion: the Owner/Operator shall utilize established and accepted engineering Best Management Practices to manage stormwater, siltation and erosion during construction.
- P. Blasting: no blasting shall occur in connection with the construction of the WECS Project unless the Owner/Operator has provided prior notification to the property owner, any abutting property owners, property owners within one thousand, five hundred (1,500) feet of the blasting site, officials of the Township in which the blasting is to occur, and the Lee County Zoning Administrator. All blasting shall be done in accordance with all applicable State and Federal laws and regulations.
- Q. Wildlife/Avian Survey and Mitigation Plan:
1. The Owner/Operator of the WECS Project Special Use Petition shall commission and submit to the Lee County's Zoning Office at the time of the Building 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, the Owner/Operator shall consult with the Illinois Department of Natural Resources (IDNR) regarding the WECS Project's potential impact on local wildlife. The Owner/Operator'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.
  2. More specifically, the Owner/Operator 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 Lee County Zoning Office in writing.
  3. If the IDNR determines that the submitted mitigation plan is insufficient to effectively address the risk to local wildlife and habitat or the Lee County Zoning Administrator requires clarification on any study, plan, or comment referred to herein, or no IDNR comments are provided to the Lee County Zoning Office, then Lee 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 Owner/Operator. All costs associated with the wildlife expert selected and hired by Lee County shall be paid for by the Owner/Operator. Should it be found by Lee County's wildlife expert that the mitigation plan is deficient, such deficiency shall be addressed by the Owner/Operator's wildlife expert to the satisfaction of Lee County's wildlife expert. Moreover, should Lee County's wildlife expert find that the mitigation plan (or the lack of a mitigation plan) by the Owner/Operator's wildlife expert is deficient or not acceptable, then the Owner/Operator

shall mitigate the wildlife concern(s) in accordance with the recommendations of Lee 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.

**10-19-7: OPERATION:**

**A. General Operational and Maintenance Requirements:**

1. The operation of the WECS Project shall be conducted without risk of fire, offensive noise, vibration, dust, smoke, odor, glare, lighting, explosion or the like 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/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/ Operator of the WECS Project shall submit, on an annual basis, a summary of the operation and maintenance reports to Lee County Zoning Office. In addition to the above annual summary, the Owner/Operator must furnish such operation and maintenance reports as Lee County reasonably requests.

2. Any physical modification to the WECS Project that alters the mechanical load, mechanical load path, or major electrical components shall require recertification of the Special Use Petition. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the Owner/Operator shall confer with a relevant third-party certifying entity to determine whether the physical modification requires re-certification.

**C. Interference:**

1. The Owner/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, or the Owner/Operator receives a written complaint related to the above-mentioned interference; the Owner/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/Operator receives a written complaint from a property owner within a one (1) mile radius around the project boundary, related to interference with local broadcast residential television, the Owner/Operator shall respond within ten (10) working days after being notified, 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 Owner/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/Operator shall cooperate with the local fire department to develop the fire protection district's emergency response plan. The WECS Project Owner/Operator shall work and cooperate with any and all local rescue authorities to provide training, at Owner/Operator's expense, to personnel who can assist with a rescue from a WECS Project.
  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 Project 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 Project shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.
- F. Shadow Flicker:
1. Prior to approval of a WECS Project, the Owner/Operator must present to the Lee County Zoning Board of Appeals, a Model Study presenting the average number of hours shadow flicker may appear on a Primary Structure of a non-participating property owner. Shadow flicker shall not exceed ten (10) hours per year on any Primary Structure using the Model Study information.
  2. Shadow flicker affecting any property owner that is not a participant in the WECS Project, the Owner/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.
  3. If the Owner/Operator receives a verified complaint about shadow flicker exceeding ten (10) hours per year, visible from within any home occupied by someone who is not participating in the wind farm, then the Owner/Operator shall program any and all WECS Project causing the shadow flicker to shut down during the period of time that shadow flicker is anticipated to occur.
- G. Lighting: the WECS Project shall use minimal lighting. No tower lighting other than normal security lighting shall be permitted except as the best available technology allowed by the FAA.
- H. Stray Voltage: the Owner/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 Project. This prohibition shall include, but not limited to, the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners, or waving, fluttering or revolving devices on the WECS Project, but not including any meteorological devices.
- J. Protection of Surface Water and Groundwater Resources: the Owner/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/Operator of the WECS Project shall catalogue and annually report to the Illinois Department of Natural Resources 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. Lee County reserves the right to hire a third-party to conduct a study, at the expense of the Owner/Operator.
- L. Noise Level
  - 1. The Owner/Operator shall have a third party, qualified professional approved by the Lee County Engineer or Lee County Zoning Administrator, (after submission of resume and relevant work experience) conduct an appropriate analysis of the noise impact to nearby properties. The sound pressure level generated by a WECS Project shall comply with all Illinois Pollution Control Board (IPCB) noise regulations as outlined in Title 35: Environmental Protection, Subtitle H: Noise, Chapter I: Pollution Control Board, Parts 900, 901, and 910, which outline limitations and measurement procedures, and specifically address the prohibition of noise pollution in the State of Illinois. A modeling analysis of the proposed site shall be included in the application predicting the sound pressure in accordance with the best available practices. An additional appropriate night time ambient sound pressure study must be done before construction commences. After the WECS Project is completed and operational, a third party shall complete a sound pressure analysis of the existing conditions and specifically compiling information, if any, requested by the Lee County Board. Prior to the first anniversary of the commercial operations date, a third party approved by the Lee County Engineer and Lee County Zoning Administrator shall complete a sound pressure analysis to address any complaints, if any, received by the Lee County Zoning Administrator within the first year of operation.. These analyses shall be completed and returned to the Lee County Zoning Office within sixty (60) days. The Owner/Operator must immediately cease any violation of the IPCB regulations unless said violation is excused and waived in writing by the affected landowners and occupants. All analyses and studies are subject to the approval of the Lee County Engineer or the Lee County Zoning Administrator.
  - 2. Complaint Resolution: The Owner/Operator of the WECS Project shall respond to complainant property owner(s) and Lee County Administrator within five (5) business days after notified in writing of a sound/noise complaint by any property owner(s) within the project boundary and a one mile (1) radius beyond any WECS Project location. If the written complaint is not resolved to the satisfaction of the complainant within twenty (20)

business days of the complaint being filed through reasonable efforts to mitigate the complaint, then Section 10-19-14, VIOLATIONS AND PENALTIES; COMPLAINTS AND MODIFICATION, SUSPENSION OR REVOCATION OF WECS PERMIT shall be enforced.

**10-19-8: LIABILITY INSURANCE:**

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/Operator's occupation and use of property under the lease, in an amount not less than five million U.S. dollars (\$5,000,000.00) of combined single limit liability coverage per occurrence, accident or incident, with a ten million U.S. dollars (\$10,000,000.00) per aggregate, with a deductible of no more than twenty-five thousand U.S. dollars (\$25,000.00). Lee County shall be named as an additional insured on said policy.

B. Statutorily mandated Worker's Compensation Coverage shall be required of the Owner/Operator and its subcontractors all of whom shall obtain and maintain worker's compensation and employers' liability insurance.

C. The Owner/Operator and its subcontractors shall provide certificates of insurance to the Zoning Board of Appeals. In the event there is a lapse in coverage exceeding thirty (30) days, the Zoning Board of Appeals shall require immediate restoration thereof. Failure to comply with this section shall result in the imposition of remedies as provided hereinafter herein at Section 10-19-13.

**10-19-9: DECOMMISSIONING PLAN:**

A. The Owner/Operator shall ensure that the WECS Project facilities are properly decommissioned within twelve (12) months of the end of the project life or facility abandonment. The Owner/Operator's decommissioning obligations shall include removal of all physical material comprising the project improvements to a depth of forty eight (48) inches beneath the soil surface, and restoration of the area occupied by the project improvements to as near as practicable to the same condition that existed immediately before construction of such improvements.

B. The WECS Project Owner/Operator shall provide an annual certification report (WECS Annual Operating Report) to include the number of days each WECS Project unit was available for operation and actually in operation. When any WECS Project unit has been inoperable for more than ninety (90) consecutive days, the Owner/Operator shall report to the Lee County Zoning Administrator the following information:

1. The date the unit became inoperable.
2. The expected date for the Turbine(s) to return to service.

C. Failure to file a WECS Annual Operating Report within four hundred and twenty five (425) total days of the date of initial commercial operation or the last filed WECS Annual Operating Report shall be cause for the Lee County Zoning Administrator to request the Lee County Zoning Board of Appeals to convene a public hearing to determine whether abandonment of the WECS

Project facilities has occurred. The WECS Project Owner/Operator shall be provided opportunity to present evidence demonstrating that the WECS Project facilities are operable and not abandoned.

D. Any WECS Project unit which has been inoperable for three hundred and sixty five (365) consecutive days or four hundred and twenty five (425) total days in two (2) consecutive calendar years shall be presumed inoperable and abandoned. A determination or finding of presumed inoperability/abandonment by the Lee County Zoning Administrator is grounds for the Lee County Zoning Board of Appeals to conduct a public hearing to consider revocation of the Special Use Petition covering the WECS Project unit in question. The Lee County Zoning Administrator shall notify the Owner/Operator and the WECS Project site landowner of his intention to seek revocation of the Special Use at least thirty (30) days prior to issuance of a notice of public hearing by the Lee County Zoning Board of Appeals of such recommendation. The WECS Project Owner/Operator shall be provided opportunity to present evidence demonstrating that the WECS Project facilities are operable and not abandoned.

E. Revocation:

1. Any Lee County Zoning Board of Appeals recommendation to revoke the Special Use for the inoperable/abandoned WECS Project facilities shall be forwarded to the full Lee County Board for consideration of the recommended revocation of the Special Use Petition. Revocation of Special Use for one or more WECS Project units does not revoke the Special Use approval for other WECS Project facilities approved by a common, original Special Use Petition.

2. In the case of revocation of the Special Use Petition for the WECS Project facilities by the Lee County Board, the Lee County Zoning Administrator shall notify the WECS Project Owner/Operator and the landowner that an updated Decommissioning Plan must be submitted to the Lee County Zoning Office within sixty (60) days of the certified revocation date.

3. All decommissioning and restoration work conducted pursuant to revocation of the Special Use Petition by the Lee County Board shall be completed in a timely manner not to exceed two hundred and forty (240) days after the date of the revocation order by the Lee County Board. Up to one hundred and eighty (180) days of additional time to accomplish decommissioning and restoration may be granted by the Lee County Zoning Administrator if the Lee County Zoning Administrator determines that additional time is in the best interests of Lee County, landowners and area highway authorities.

F. Permits:

1. Prior to issuance of Building Permits for any WECS Project facilities, the Owner/Operator shall submit a WECS Project Decommissioning Plan to the Lee County Zoning Administrator. Said plan, prepared by an independent Illinois Certified Professional Engineer, shall be acceptable to the Lee County Engineer and the Lee County Zoning Administrator, such acceptance not to be unreasonably withheld, and shall include the following information:

a. Description of the circumstances that will trigger decommissioning.

- b. Description of the methodology and cost to remove all above ground WECS Project facilities covered by the approved Special Use Petition.
- c. Description of methodology and cost to remove all below ground WECS Project facilities covered by the approved Special Use Petition to a depth of four feet below grade.
- d. Methodology and cost to restore all areas used for construction, operation and access to a condition supporting land use similar to the land use prior the WECS Project construction.
- e. A schedule of work and a list of permits necessary to accomplish the work.
- f. Methodology to identify and manage any hazardous or special materials.
- g. The net salvage value of all WECS Project equipment and materials removed.
- h. Certification that all decommissioning and restoration work will be preformed in accordance with any standards and conditions of the applicable WECS Project Road Agreement.
- i. Confirmation by affidavit that the obligation to decommission the WECS Project is included in the lease agreement for every parcel included in the Petition.
- j. The amount of the financial security as outlined in sections 2, 3 and 4, infra.

2. The Owner/Operator shall provide proof that the necessary amount or form of financial security has been received by Lee County that names Lee County as beneficiary. The amount of security shall be equal to the positive difference, if any, between the total cost of all decommissioning and restoration work and the net salvage value of all removed WECS Project equipment or materials and increased over the operation of the WECS Project per Section 7 below, plus 10% contingency. To determine that amount, the WECS Project Owner/Operator will provide a list of at least two (2) construction/demolition companies capable of completing a decommissioning of the proposed WECS Project to the Lee County Zoning Administrator and the Lee County Engineer. The WECS Project Owner/Operator may choose a company from the provided list or another company of their choice. All costs to secure the bids will be borne by the WECS Project Owner/Operator. The Lee County Engineer and the Lee County Zoning Administrator will review the two bids and decide if one is acceptable, if not a third company can be asked to bid. The Lee County Engineer and the Lee County Zoning Administrator will then decide to accept one of the bids to determine the amount of financial security to be received.

3. The Decommissioning Plan shall be binding upon the WECS Project Owner/Operator at the time of submission and any subsequent Owner/Operator of the WECS Project facilities.

4. The amount of the financial security shall cover the projected cost to secure completion of decommissioning and site restoration net of salvage value of any equipment

or materials (e.g. “Estimated Decommissioning Cost”), in form and amount satisfactory to Lee County.

- a. The amount of the financial security shall be equal to the Estimated Decommissioning Cost in accordance with the approved Special Use Petition.
- b. Financial security shall be collected over the first fifteen (15) years of operation. An Annual Financial Security Amount shall be defined as the Estimated Decommissioning Cost divided by fifteen (15).
- c. The initial Annual Financial Security Amount shall be in place prior to issuance of the Building Permits. At the end of each year of operation, an additional Annual Financial Security Amount shall be added to that being held by Lee County.
- d. Prior to the completion of every fifth (5<sup>th</sup>) year of operation, and every fifth (5<sup>th</sup>) year for the life of the project, the Owner/Operator shall provide an updated Decommissioning Plan to the Lee County Zoning Administrator with an updated Estimated Decommissioning Cost.
- e. If this revised sum is greater than the prior Estimated Decommissioning Cost projected sum of all decommissioning and restoration work less salvage value of any equipment or materials, then the Owner/Operator shall provide any difference in the prior Annual Financial Security Amounts within sixty (60) days, and the following Annual Financial Security Amounts due shall be in accordance with this new sum and the remaining projected operational duration.
- f. If at any point, during the life of the project, the Annual Financial Security Amounts paid to date exceed the new Estimated Decommissioning Cost, then Lee County shall reimburse or reduce the total Annual Financial Security Amounts within sixty (60) days, and the following Annual Financial Security Amounts due shall be in accordance with this new sum.

**EXAMPLE:**

Should the initial Estimated Decommissioning Cost equal one million five hundred thousand U. S. dollars (\$1,500,000.00), then the following Annual Financial Security Amounts would need to be in Lee County’s possession:

<b>Project Date</b>	<b>Est. Total Decommissioning Cost</b>	<b>Annual Financial Security Amount</b>	<b>Total Financial Security being held by County</b>
Prior to Building Permits	\$1,500,000	\$100,000 (15 years left on project operation)	\$100,000
End of Years 1-4	\$1,500,000	\$100,000 each year	\$500,000

			(end of Year 4).
End of Year 5	\$1,000,000	\$50,000 (\$1,000,000 Total less \$500,000 already in County possession = \$500,000 left to provide over 10 years left on project operation)	\$550,000
End of Year 6-9	\$1,000,000	\$50,000 each year	\$750,000
End of Year 10	\$1,500,000	\$150,000 (\$1,500,000 Total less \$750,000 already in County possession = \$750,000 left to provide over 5 years left on project operation)	\$900,000
End of Year 11-14	\$1,500,000	\$150,000 each year	\$1,500,000
End of Year 15	\$1,250,000	(\$250,000) refund from County to owner due to prior overestimate of total cost).	\$1,250,000

5. Any interest accruing to the financial security will be included in the calculation of Total Financial Security being held by Lee County for the purposes of decommissioning, and may therefore be used to offset contributions made by the WECS owner towards the Estimated Decommissioning Cost. Once the project has been fully decommissioned in accordance with the requirements of this section, any remaining security shall be reduced or returned to the WECS Owner/Operator.

6. If the WECS Project Owner/Operator desires to decommission any WECS Project facilities said Owner/Operator shall notify the Lee County Zoning Administrator prior to commencing any decommissioning work. The WECS Project Owner/Operator shall submit an updated Decommissioning Plan to the Lee County Zoning Administrator. The Lee County Zoning Administrator shall determine within fifteen (15) business days whether the submitted plan complies with all applicable requirements.

**10-19-10: ABANDONMENT:**

The WECS Project owner or the landowner of a WECS Project or multiple WECS Projects shall notify the Lee County Zoning Office when the WECS Project or any individual WECS Project unit is no longer in operations pursuant to 10-19-9. The date that the WECS Project or individual WECS Project unit becomes inoperable is to be established by and between the Owner/Operator and the Zoning Board of Appeals. Within twelve (12) months of cessation of operations, unless the Zoning Board of Appeals grants an extension of time for good cause shown, the approved "Decommissioning and Site Restoration Plan" pursuant to 10-19-9 shall be implemented.

**10-19-11: HOME SELLER PROTECTION PROGRAM:**

A. The Owner/Operator of the WECS Project shall, for a ten (10) year period from the date of the WECS Project Building Permit, 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;

1. Are not located within the WECS Project area identified in the Special Use Petition;

2. Have an outside wall of the primary residential structure which is located within one (1) mile, or five thousand two hundred and eighty (5,280) feet of a WECS Turbine erected by the Owner/Operator; and

3. Are located in Lee County.

B. 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 Petition is approved by the Lee County Board and shall not apply to those who have purchased existing homes or constructed new homes after the Lee County Board has approved the said WECS Project Special Use Petition.

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

1. Before the WECS Project Building Permit is granted, 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 the Lee County Assessment records, located within one (1) mile, (5,280) feet of a WECS Project 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 Lee County Zoning Administrator.

2. 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 (3) 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 ten (10) days after receipt of offer to elect to purchase the home on terms identical to those offered by the third party.

Within seven (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.

3. At such time as the home owner decides to place an eligible home on the market for sale, the home shall be listed with a realtor or auctioneer to be agreed upon by the home owner and the 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 as determined by the following paragraphs, 4 through 8.

4. 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.

5. Each appraiser shall determine,
    - a. the fair market value of the home assuming no WECS Project was constructed.
    - b. the current fair market value. If the fair market value of the home, assuming no WECS Project is greater than the current fair market value, the difference shall be the diminution in value caused by the proximity to the WECS Project.
  6. If one of the diminutions 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 and the fair market values without the WECS Project shall be averaged to establish the fair market value without the WECS Project.
  7. If one of the diminutions 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 5 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.
  8. If a third party independent appraiser is used, the WECS Project Owner/Operator and home owner shall agree that the median diminution in value of the three appraisers shall constitute the diminution value, and the median fair market value without the WECS Project shall constitute the fair market value without the WECS Project.
- D. 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 sale price and the fair market value without the WECS Project or the diminution in value.
- E. For a ten (10) year period from the date of the WECS Project Special Use Permit, eligible home owners, as established above, that have unsuccessfully marketed the real property for a minimum of three hundred (300) 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. Marketing at a minimum shall include but not be limited to the listing with a licensed realtor and registered with the Multiple Listings Service (MLS).
  2. 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.
  3. Each appraiser shall determine the fair market value of the home assuming no WECS Project was proposed and/or constructed.

4. 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.

5. 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 (3) appraisals shall constitute the fair market value. If home has been unsuccessfully marketed for three hundred (300) days purchase of the home by the WECS Project Owner/Operator or Agent shall be completed within thirty (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.

**10-19-12: INDEMNITY:**

The Owner/Operator of the WECS Project shall defend, indemnify and hold harmless Lee County and their officials from and against any and all claims, demands, losses, law suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever including but not limited to reasonable attorney's fees arising out of the acts or omissions of the Owner/Operator concerning the operation of the WECS Project without limitation, whether said liability is premised upon either contract or tort actions or other related claimed legal theory.

**10-19-13: REMEDIES:**

A. The Owner's or Operator's failure to materially comply with any of the foregoing provisions shall constitute a default under the Special Use Petition Ordinance.

B. Prior to implementation of the existing Lee County's procedures for the resolution of such default(s), the Lee County Zoning Administrator shall first provide written notice to the Owner/Operator, setting forth the alleged default(s). Such written notice shall provide the Owner/Operator a reasonable time period, not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).

C. If the Lee County Zoning Board of Appeals determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the Lee County Board shall determine whether the Owner/Operator is in default and if so, it shall subject the Owner/Operator to the penalties set forth in Section 10-19-14 of this chapter pursuant to the procedures provided herein.

D. The Owner/Operator of the WECS Project shall, at the Owner/Operator expense and in coordination with Lee County, develop a system for logging and investigating all complaints from

citizens related to the WECS Project. All written complaints require a documented written response within ten (10) working days of receipt of such complaints.

**10-19-14: VIOLATIONS AND PENALTIES; COMPLAINTS AND MODIFICATION, SUSPENSION OR REVOCATION OF WECS PETITION:**

A. Violations of this Ordinance: It shall be unlawful to construct, materially alter or operate any WECS Project or part thereof in violation of any provision of this Ordinance, a WECS Permit, or a WECS Permit Agreement. Any person, firm or corporation who violates, disobeys, omits, neglects, resists enforcement of, or fails to comply with any provision of this chapter, a WECS Permit or a WECS Permit Agreement, upon determination by the Lee County Board of a violation of any material provision thereof, shall be subject to forfeitures of not less than two hundred and fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000.00) for each offense per day and shall pay all costs and expenses of enforcement, including attorney and other fees incurred by Lee County. Each tower, nacelle, or any component of the WECS Project may be the subject of a separate violation and further each day that a violation is permitted to exist or continue shall constitute a separate offense.

B. Complaints and Modification, Revocation or Suspension: The Lee County Board shall retain continuing jurisdiction to modify, suspend or revoke all WECS Project Special Use Permits in accordance with this section. Such authority shall be in addition to Lee County's authority to prosecute violations and take other enforcement action.

1. In this section, "violation" means a violation of this Ordinance, or a violation of a WECS Project Special Use Petition issued under this Ordinance, or a violation of a WECS Project Special Use Permit entered into under this Ordinance.

2. The Lee County Zoning Administrator shall enforce the provisions of this section through an inspection of the WECS Project facility every year. The Lee County Zoning Administrator is hereby granted the power and authority to enter upon the premises of the WECS Project at any time by coordinating a reasonable time with the Owner/Operator of the facility.

3. Any resident of Lee County or a Lee County official may file a written complaint with the Lee County Zoning Administrator alleging that a WECS Project Special Use Petition holder has committed or is committing a violation. Such complaints shall be forwarded to the Lee County Zoning Board of Appeals.

4. The Lee County Zoning Board of Appeals shall preliminarily review the complaint. In connection with its preliminary review, the Lee County Zoning Board of Appeals may require the Lee County Zoning Administrator, engineer, attorney or other person or persons to conduct such investigations and make such reports as the Lee County Zoning Board of Appeals may direct. The Lee County Zoning Board of Appeals may request information from the holder of a WECS Project Special Use Petition, the complainant, and any other person or entity to assist with its preliminary review.

5. Following its preliminary review, the Lee County Zoning Board of Appeals may:

- a. Dismiss the complaint; or
- b. Refer the complaint to the Lee County States Attorney for action; or
- c. Conduct a hearing to determine whether the alleged violation(s) have occurred, and what remedial action should be taken. Prior to such hearing, notice of the hearing shall be given to the holder of the WECS Project Special Use Petition holder and the complainant, and in accordance with the Illinois Open Meeting Act. The holder of the WECS Project Special Use Petition and the complainant, and any other person, may appear at the hearing and may offer testimony and other relevant evidence, and may be represented by any attorney. If the Lee County Zoning Board of Appeals concludes that violations have occurred, the Lee County Zoning Board of Appeals may:
  - i. Impose conditions on the WECS Project Petition to the extent reasonably necessary to discontinue the violation(s) or avoid any recurrence thereof; or
  - ii. Suspend the WECS Project Special Use Petition until such time as the WECS Project Special Use Petition holder presents a plan, satisfactory to the Lee County Zoning Board of Appeals, that will discontinue the violation(s) or prevent any recurrence thereof, and on such further conditions as the Lee County Zoning Board of Appeals deems appropriate to discontinue and prevent further violations; or
  - iii. Revoke the WECS Project Special Use Petition and direct decommissioning of the WECS Project, if the Lee County Zoning Board of Appeals concludes that no reasonable modification can be made to the WECS Project to discontinue or prevent violations; or
  - iv. Refer the matter to the Lee County States Attorney for action, subject to the Lee County Board approval; or
  - v. Take no action, if the Lee County Zoning Board of Appeals concludes that no further action is needed to discontinue or prevent violations, and that prosecution is unwarranted.
  - vi. Following any such hearing, the Lee County Zoning Board of Appeal's written decision shall be furnished to the WECS Project Special Use Petition holder and to the complainant. An appeal from a decision of the Lee County Zoning Board of Appeals may be taken to the Lee County Board as provided in this section.

C. Appeals:

1. An appeal from the decision of the Lee County Zoning Board of Appeals may be taken to the Lee County Board by the WECS Project Special Use Petition holder or a

complainant. Such appeal must be in writing and must specify the grounds thereof, and must be filed with the Lee County Zoning Administrator within ten (10) days after the final action of the Lee County Zoning Board of Appeals.

2. The Lee County Zoning Board of Appeals shall refer any appeal to the Lee County Board with or without recommendation. The Lee County Board shall fix a reasonable time for the hearing of the appeal, and shall give public notice thereof as well as due notice to the WECS Project Special Use Petition holder and the complainant.

3. The action of the Lee County Zoning Board of Appeals shall be sustained unless the Lee County Board, by a favorable vote of the majority of all members of the Lee County Board, reverses or modifies the Lee County Zoning Board of Appeals' determination. An appeal from a decision of the Lee County Board shall be by judicial review, pursuant to the Administrative Review Act, 735 ILCS 5/3 – 101, et seq., which shall be commenced within thirty (30) days after the decision of the Lee County Board.

**10-19-15: SEVERABILITY:** The sections and paragraphs of this ordinance are severable and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared to be invalid, unconstitutional, or unenforceable by the valid judgment of the Circuit Court of Illinois, such invalidity, unconstitutionality, or unenforceability shall not affect any of the remaining parts of this section of this Code.