

Article 5

SUPPLEMENTAL DISTRICT REGULATIONS

5.01 Purpose: Unless otherwise stated, the regulations hereafter established shall apply within all districts established by this Ordinance. These general regulations supplement and qualify the district regulations appearing elsewhere in this Ordinance.

5.02 Height Exceptions:

- A. Structural Projections:
 - 1. Chimneys, cooling towers, elevator headhouses, monuments, stage towers or scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, radio, television or microwave towers, satellite dishes or necessary mechanical appurtenances usually required to be placed above the roof level are not subject to the height limitations contained in the district regulations, except that such structural projections shall not exceed the height regulations of the district in which the structure is situated by more than fifteen (15) percent, except as indicated below.
 - 2. Structural projections exceeding the above height limitations shall be considered as Special Uses and shall be processed in accordance with Article 9, Special Use Procedures, of this Ordinance; provided further that any such structural projections shall have setbacks which shall be increased one (1) foot on all sides for each additional foot that such structures exceed the specified height limit as established by the regulations of the district in which such buildings are situated.
- B. Height of Dwellings: Single-family residential structures may be increased in height by not more than ten (10) feet when the side and rear setbacks are increased over the setback requirements of the regulations to which they are subject by not less than ten (10) feet, but they shall not exceed three (3) stories in height.

5.03 Setback Exceptions:

- A. Front Setback: There shall be a front setback having a depth of not less than thirty (30) feet, unless forty (40) percent or more of the frontage on one side of the street between two intersecting streets is improved with buildings that have observed a front setback line with a variation in depth of not more than ten (10) feet, in which case no building shall project beyond the average front setback so established. Front setbacks shall be measured according to future street and highway widening as provided for in City, County, or State street and highway widening plans and shall comply with the setback lines herein provided for. Where lots have a double frontage, a required front setback shall be provided for on both streets, except that the buildable depth of such lot shall not be reduced to less than forty (40) feet, in which latter event the Zoning Administrator may waive this requirement as to the street which will least affect surrounding property values.
- B. Structural Projections: Every part of the area within the required setback or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, chimneys, buttresses, ornamental features, and eaves, provided however, that none of the above projections shall extend into a minimum setback more than thirty (30) inches; and provided further that canopies or open porches may project a maximum of ten (10) feet into the required front or rear setback, and existing open porches extending into the required setback shall not be enclosed. Slab type porches or paved terraces having a maximum height of not more than twelve (12) inches above ground elevation at any point may project into any setback, except that the projection into the front setback shall not exceed ten (10) feet. For the purposes of this provision, mechanical units are not considered to be structures.

- C. Fire Escapes/Balconies: An open fire escape may project into a required side setback not more than half the width of such setback, but not more than five (5) feet from the building. Fire escapes, solid floored balconies, and enclosed outside stairways may project not more than four (4) feet into a required rear setback.
- D. Sight Distance Triangle: On a corner lot in any district, development shall conform to the requirements of the sight distance triangle in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two (2) feet and eight (8) feet above the grades at the back of the curb of the intersecting streets, within the triangular area formed by the right-of-way lines and a line connecting them at points forty (40) feet from their point of intersection or at equivalent points on private streets, except that the site distance triangle may be increased when deemed necessary for traffic safety by the Zoning Administrator.
- E. Fences: A fence not more than six (6) feet in height is permitted, except when located in a manufacturing district where the maximum height of any fence shall be ten (10) feet; however, any fence proposed for placement in front of any point on the primary structure that is closest to a lot line along a street will be so situated only by permission of the Zoning Administrator.
- F. Through Lots: A through lot having one end abutting a limited access highway, with no access permitted to that lot from said highway, shall be deemed to front upon the street which gives access to that lot.

5.04. Area Regulations:

- A. Maximum Lot Coverage Calculation: In computing the amount of lot coverage, the amount of coverage shall include the total area of all primary and accessory buildings as measured along the outside wall at ground level or above as viewed from above and includes all projections other than open porches, fire escapes, canopies or the first three (3) feet of a roof overhang. Roads, driveways, parking lots and swimming pools shall not be included in maximum lot coverage requirements.
- B. Calculating Area of Zoning Lot: In the A-1, Agricultural District, if the land beneath a public right-of-way is owned by the adjacent property owner, the land beneath the right-of-way shall count in calculating total lot area and determining compliance with the required minimum lot area, up to one-half (1/2) of the right-of-way width.

5.05 Access Regulations:

- A. Access to Business and Manufacturing Uses: No land which was developed primarily for residential uses shall be used for a major access route to any land which is devoted to any business or manufacturing use; provided, however, that this Section shall not prohibit pedestrian walks and driveway connections between residential districts and neighborhood shops when incorporated as a part of a planned unit development.
- B. Street Access: All zoning lots shall front on a street.
- C. Reverse Frontage: When a subdivision lot occurs between two non-intersecting streets, one of which is a parkway, thoroughfare, or collector and the other is a minor residential street, the lot will front on the minor residential street with vehicular access prohibited from the parkway, thoroughfare, or collector.

5.06 Accessory Buildings and Structures: No accessory building or structure shall be constructed or used prior to the primary building or use. Accessory buildings shall be permitted on any portion of a lot that is behind the primary building per its orientation to the front lot line and must conform to all provisions of this Ordinance. Accessory structures such as decorative walls, landscaping structures, flag poles and customary yard accessories, ornaments and furniture shall be permitted in any yard, subject to the requirements of Section 5.03.D. of this Ordinance, and subparagraph B. below. Detached garages, recreational vehicle pads and typical residential accessory buildings, and small wind energy systems

subject to the regulations set forth in subparagraph E. below, may be placed on any other portion of the lot that is not closer to a street than the closest point of the primary building to the street at the Zoning Administrator's discretion.

- A. Attached Accessory Buildings: Any accessory building or structure which is structurally attached to the primary building on a zoning lot shall be considered part of the primary building and shall comply with all provisions of this Ordinance pertaining thereto.
- B. Accessory Buildings and Structures, Height:
 - 1. Within residential zoning districts, on properties of less than two (2) acres in area, no detached accessory building or structure shall exceed twenty-one (21) feet in height.
 - 2. Within residential zoning districts, on properties of two (2) acres or greater, no detached accessory building or structure shall exceed thirty (30) feet in building height.
 - 3. Within agricultural zoning districts, there is no height limitation on accessory buildings and structures, unless said buildings and structures are governed by a Special Use Permit.
 - 4. Within all other zoning districts, the height of an accessory building or structure shall be subject to the height regulations of that district.
 - 5. The height of accessory buildings and structures on properties covered by a Special Use Permit, including planned unit developments, shall be set by the ordinance approving the Special Use Permit.
- C. Flagpoles: The maximum height of a flagpole shall not exceed the maximum height allowed for primary structures in the zoning district in which it is erected.
- D. Other:
 - 1. Yard and Area Requirements: Unless excepted by state or federal law, no detached accessory building shall be erected between the primary building and a street, provided, however, that accessory buildings may be constructed on through lots between the rear of the primary building and the adjacent street but not closer to a street than the minimum required front yard setback of the zoning district in which the lot is located. Detached accessory buildings shall not occupy more than thirty (30) percent of the yard in which they are located. The minimum setback for a detached building or structure, other than fences, shall not be less than five (5) feet to any lot line, provided however, that accessory buildings in the A-1 District are subject to the bulk and setback regulations of that district.
 - 2. Erection and Use: No accessory building shall be constructed upon a lot until the construction of the primary building has been commenced. No accessory building shall be used for dwelling purposes, but such accessory building may be temporarily used for storage purposes.
 - 3. Mailboxes: Mailboxes shall be permitted in public rights-of-way, provided that mail box supports shall be of the "break-away" type equivalent to a 4" x 4" wooden post, such equivalency subject to approval by the road authority with jurisdiction over the right-of-way.
- E. Small Wind Energy Systems: Small wind energy systems shall be permitted in all zoning districts except RC-2, on lots of one (1) acre or more in area, and no more than one such system shall be permitted per zoning lot. No small wind energy system shall exceed 100 feet in height as measured from the ground at the base of the tower to the tip of a turbine blade at its highest point, provided, however, a lower height may be required by FAA regulations. Small wind towers shall be set back from all property lines a minimum distance equal to the height of the tower plus 10%, and no guy wire anchor for a wind tower shall be closer than 10 feet to any property line. Small wind energy system equipment shall conform to applicable industry standards, including the American Wind Energy Association standards for wind turbine design and related standards adopted by the American Standards Institute (ANSI). Applicants for building permits for small wind energy systems shall submit certificates from equipment manufacturers that the equipment is manufactured in compliance with industry standards.

- F. Non-Commercial Shooting and Private Shooting Ranges: Private shooting ranges and the non-commercial discharging of firearms shall be permitted as an accessory use in all agricultural and residential zoning districts, except as limited by applicable State and Federal regulations. The construction of a private shooting range shall be subject to the regulations for accessory uses.

5.07 Temporary Uses:

- A. Temporary Use Permit: The Zoning Administrator is authorized to issue a permit for a temporary use provided it meets the requirements of this Section. The permit shall be issued for a specified period of time and shall contain health, safety and traffic restrictions and may require such assurances or guarantees of compliance with conditions as is reasonable and appropriate under the circumstances.
- B. Temporary Uses Permitted:
 - 1. Christmas Tree Sales: Christmas tree sales for a period not to exceed sixty (60) days. Display of Christmas trees need not comply with the applicable setback requirements, provided that no display will encroach within the required setback for any district by more than fifty (50%) percent and no display or equipment shall be located within the sight distance triangle of a street intersection as defined in this Ordinance.
 - 2. Contractor's Offices: Temporary buildings or trailers may be used as construction offices, field offices or for storage of materials to be used in connection with the development of a lot, or remodeling, reconstruction, or replacement of an existing structure(s), provided, however, that such buildings and trailers shall not be placed on a property prior to approval of the development project by County Board action and issuance of a building permit, and further provided that said temporary structures are removed from said lot within thirty (30) days after completion of the project development. Temporary buildings or trailers must also be removed from said lot within thirty (30) days after voluntary suspension of work on the project or development or after revocation of building permits, or on order by the Zoning Administrator upon a finding by him that said temporary structure is deemed hazardous to the public health and welfare. A bond in the amount of one thousand (\$1,000) dollars for their removal shall be posted with the County.
 - 3. Real Estate Offices: Temporary real estate offices or sales offices may be established in a display dwelling unit.
 - 4. Amusement Activities: The Zoning Administrator is authorized to issue a permit for the operation or conducting of an amusement activity on a temporary basis within any zoning district. The Zoning Administrator may request a report be submitted with respect to any public health aspect of the proposal and with respect to any traffic or public safety aspect of the proposal if appropriate. For the purpose of this paragraph, "amusement activity" includes a circus, carnival, fair, fireworks display, turkey shoot, art display, trade or animal show, concert, dance, rally, parade, athletic competition, corn maze, and any similar activity not involving the erection of any permanent structure or facility. The permit shall be issued for a specific period of time not exceeding ten (10) days, whether those days are consecutive or spread over a period of weeks in one and two-day increments. The permit shall contain such conditions as are necessary for protection of public health, safety, and traffic, and the Zoning Administrator may require such assurance or guarantee of compliance with conditions as is reasonable and appropriate under the circumstances. This permit is in addition to any building permit, air pollution device, construction or operating permit, or other permit or license required by law for any proposed activity or facility. No more than two (2) temporary amusement activity permits shall be issued in any calendar year with regard to any particular property;

provided, however, that this limitation with respect to the number of temporary amusement activity permits shall not apply to public property, nor to property not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, or for agricultural and horticultural societies. Turkey shoots held on Saturdays and Sundays during the months of October, November and December shall be exempt from maximum period of time and maximum number of permits issued in a given calendar year as set forth in provisions above.

5. Temporary Conceal Carry Range: A facility in the A-1 District used as a temporary shooting range for the qualifying shooting portion of a concealed carry class. No more than twelve (12) Temporary Conceal Carry Range Permits shall be issued in any calendar year with regard to any particular property. For purposes of this definition, property is defined as a zoning lot(s) of record.

5.08 Home Occupations:

- A. A home occupation that is granted special use approval shall comply with the following:
 1. The home occupation shall be conducted entirely within the dwelling, unless a “cottage office” is permitted by the ordinance granting the Special Use Permit, by a member or members of the family residing in the dwelling, and such home occupation shall be clearly incidental and secondary to the use of the dwelling as a residence.
 2. No signs, display or activity that will indicate from the exterior of the dwelling that it is being used for any use other than a dwelling shall be permitted.
 3. No stock in trade or commodity shall be sold upon the premises.
 4. No stock in trade shall be kept or displayed on the premises unless such stock is clearly secondary and necessary to the performance of the services provided by the home occupation and at no time shall exterior storage of materials be permitted.
 5. No person shall be employed other than a member of the family residing on the premises.
 6. The number of off-street parking spaces for that use is provided as required by the Off-Street Parking, Loading, and Landscape Requirements of this Ordinance.
 7. No mechanical equipment is used which may generate obnoxious fumes, excessive noise or other such related nuisances. No offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical disturbance shall be produced which is perceivable at or beyond the lot lines.
 8. All receipt and delivery of merchandise, goods, or equipment shall be made by either carrier service or passenger automobile owned by the resident and no such receipt, delivery or any other transacting of business within the residence, except emergency service, shall be made between the hours of 10:00 p.m. and 7:00 a.m. on Monday through Saturday or any time on Sunday.
- B. For purposes of this Ordinance, a home business that involves no employees other than members of the family residing on the premises, consists only of phone calls, record-keeping and other clerical activities, does not involve any services or goods provided, stored on the property and delivered to and from the property, does not include visits to the property by customers or clients, does not include any exterior signage, and where 25% or less of the floor area of the residence is devoted to the business, shall be considered a permitted use and shall not require a home occupation Special Use Permit. The Zoning Administrator may require the operator of such a home business to obtain a zoning permit setting forth the details of the specific home business and acknowledging these restrictions.

5.09 Land and Buildings:

- A. Use of Zoning Lots: Unless otherwise permitted by the ordinance governing a special use permit, only one principle use shall take place on each zoning lot.
- B. Number of Buildings Permitted Per Lot:
 - 1. Every primary structure hereafter erected or structurally altered shall be located on a separate zoning lot. At the discretion of the Zoning Administrator, a survey may be required to prove dimensions and area of said zoning lot before a building permit may be issued. In no case shall there be more than one structure on one zoning lot except for the following:
 - a. accessory buildings or uses, as defined herein,
 - b. any structure authorized as part of a special procedure requiring submission to the Board of any type of site development plan for review and approval,
 - c. Planned Developments, approved according to the provisions of Section 4.07.
 - 2. Notwithstanding the above, the owner of an existing farm dwelling or single-family detached residence may construct a new residence on the same zoning lot while continuing to occupy the existing building, provided the property owner signs a contract with the County of DeKalb in which the owner agrees to demolish the old residential structure within thirty (30) calendar days following the final inspection of or issuance of an Occupancy Permit for the new house. Such thirty day period may be extended up to an additional 120 days at the discretion of the Zoning Administrator. The contract shall also include an irrevocable license to the County, its employees, agents and independent contractors, to enter onto the premises and demolish the old residential building if the owner fails to comply with the contract. The new residence shall meet all applicable bulk regulations of the zoning district in which it is located. Further, the owner shall deposit with the Planning, Zoning and Building Department a bond or letter of credit in an amount and form determined by the Zoning Administrator to be sufficient to cover the cost of demolishing the old residential building. The amount of such bond or letter of credit shall not be less than \$10,000. In the event that the old residence is not demolished by the owner by the end of the thirty (30) day period, the County shall have the right to draw on the bond or letter of credit and enter onto the subject property to cause the demolition of the old residential building. In the event that the bond or letter of credit is insufficient to cover the demolition costs, the owner shall be liable for any remaining costs.
- C. Farm Animals: Farm animals shall be permitted on any residential or agricultural zoning lot that is two (2) or more acres in area, but shall be prohibited on lots of less than two (2) acres in area from which \$1,000 or less of agricultural products were sold in any calendar year.

5.10 Division of Zoning Lots:

- A. Any lot, unless otherwise excepted herein, shall not hereafter be divided unless all resulting lots from such division conform with all applicable setback, lot size and other bulk regulations of the zoning district in which the tract is located and, therefore, by definition, constitute individual zoning lots themselves. Where such division occurs on or after the effective date of this Ordinance, the following shall apply:
 - 1. Person or persons responsible for such action shall be subject to Article 11 of this Ordinance.
 - 2. Any nonconforming lot will be considered such as the result of action by the property owner or other controlling interests and development thereon will be restricted in accordance with this Ordinance; and
 - 3. No permit for the construction of a new residential (including farm dwelling), commercial, manufacturing or other nonagricultural building shall be issued for any lot,

whether conforming or nonconforming as described above, created as a result of such division.

- B. The Zoning Enforcement Officer may cause to be recorded with the DeKalb County Recorder of Deeds, at such time when a building permit for the construction of a farm residence is issued for an A-1 Agricultural zoning lot, a document indicating that the geographic boundaries of such zoning lot have been defined by said permit and that any division of such zoning lot shall conform with this Ordinance.

5.11 Existing Lot Rezoned or Otherwise Affected by This Ordinance -- Any lot legally recorded and existing on the effective date of this Ordinance, which by this Ordinance and Official County Zoning Map is rezoned or otherwise affected, shall be subsequently considered a legal non-conforming lot, subject to all the regulations regarding nonconformities set forth in Article 8 of this Ordinance.

5.12 Sustainable Energy Systems

A. Solar Energy Systems (SES)

- 1. Purpose:** The purpose of this Section is to provide regulations for the construction, installation, and operation Solar Energy Systems (SES) in unincorporated DeKalb County, while ensuring the health, safety, and welfare of the residents of DeKalb County by promoting the safe, effective, and efficient use of solar energy to reduce on-site consumption of fossil fuels or utility-supplied electrical energy. Also, to avoid adverse impact to important areas such as agricultural land, endangered species habitats, conservation land, and other sensitive lands. DeKalb County encourages the development of commercial or utility scale SES where such systems present few land use conflicts with current and future development patterns. This ordinance shall not be deemed to nullify any provision of local, state, or federal law. The contents of this Section shall apply to all solar energy installations in unincorporated DeKalb County.
- 2. Definitions:** The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to this Section except when the context clearly indicates a different meaning:

Active Solar Energy System: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Building-integrated Solar Energy Systems: An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

Grid-intertie Solar Energy System: A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

Ground Mount: A solar energy system mounted on a rack or pole that rests on or is attached to the ground.

Off-grid Solar Energy System: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

Passive Solar Energy System: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Photovoltaic System: An active solar energy system that converts solar energy directly into electricity.

Renewable Energy Easement, Solar Energy Easement: An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

Roof Mount: A solar energy system that is mounted on a rack that is fastened onto a building roof.

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

Solar Collector: An assembly, structure, and the associated equipment and housing, designed for gathering, concentrating, or absorbing direct and indirect solar energy for which the primary purpose is to convert or transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

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

Solar Energy System (SES): All components required to become a complete assembly or structure that will convert solar energy into electricity for use.

Solar Energy System Addition: A private solar energy system which is structurally attached to a building or structure on the zoning lot on which said system is located. Said system shall be considered part of the building and shall comply with all provisions of this ordinance pertaining thereto.

Solar Energy System, Private: A collection of one (1) or more solar collectors designed for use by the occupant(s) of the zoning lot on which said system is located; excess power generation is limited to net metering or similar technology with regulations set by the local power utility, community, county, and state. Private solar energy system equipment shall conform to applicable industry standards, and applicants for building permits for private solar energy systems shall submit certificates from equipment manufacturers that the equipment is manufactured in compliance with industry standards.

Solar Farm: A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

Solar Garden: A commercial solar-electric (photovoltaic) array, of no more than 20 acres in size, that provides retail electric power (or a financial proxy for retail power) to multiple households or businesses residing in or located off-site from the location of the solar energy system. A county solar garden may be either an accessory use, when a part of an existing or a proposed subdivision or a special use if it is a stand-alone garden.

Solar Heat Exchanger: A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

Solar Hot Air System: An active solar energy system (also referred to as Solar Air Heat or Solar Furnace) that includes a solar collector to provide direct supplemental space heating by heating and recirculating conditioned building air.

Solar Hot Water System: A system (also referred to as Solar Thermal) that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Solar Mounting Devices: Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

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

3. Types

- a. **Private SES:** A single ground mount, roof mount or building integrated private solar energy system for residential/business use is permitted as an Accessory Use in ALL Zoning Districts where there is a principal structure, and shall be subject to the regulations for accessory uses.
- b. **Solar Gardens:** Solar Gardens are allowed in ALL Zoning Districts, and shall require a Special Use Permit whether the accessory or principal use of the property. Except as otherwise noted in this Section, solar gardens must comply with all required standards for structures in the district in which the system is located.
 - 1). The requirement for a Special Use Permit may be waived, provided the solar garden's owner/lessee obtains, and records with the DeKalb County Recorder, signed and notarized affidavits, agreeing that the need for a Special Use Permit be waived, from all property

owners adjoining the zoning lot on which the solar garden is to be located (as determined by DeKalb County Community Development Department).

- 2). Rooftop Solar Gardens are permitted in all zoning districts where buildings are permitted.
 - 3). Ground-mount solar gardens must be less than twenty (20) acres in total size. Ground-mount solar developments covering more than twenty (20) acres shall be considered solar farms.
 - 4). An interconnection agreement must be completed with the electric utility in whose service territory the system is located.
- c. **Solar Farms:** Solar Farms are ground-mounted SES that are the primary use on the lot(s) on which it is located, designed for providing energy to off-site uses or export to the wholesale market. Solar farms are allowed as Special Use in the A-1 Zoning District, and shall require a Special Use Permit. Except as otherwise noted in this Section, solar farms must comply with all required standards for structures in the district in which the system is located.
- 1). **Ground Cover and Buffer Areas.** Top soils shall not be removed during development, unless part of a remediation effort. Soils shall be planted to and maintained in perennial vegetation to prevent erosion, manage run off and build soil. A plan must be approved by the Soil Water Conservation District and paid for by the developer. DeKalb County has a Noxious Weed Ordinance which is to be followed. Due to potential county liability under the Illinois Endangered Species Protection Act (520 ILCS 10/11(b) it is required that any crops planted be in compliance with all federal and state laws protecting endangered species. This will also include pollinators such as bees. A report showing demonstration of plan compliance shall be submitted annually, and paid for by the developer.
 - 2). **Foundations.** A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.
 - 3). **Power and Communication Lines.** Power and communication lines running between banks of solar panels and to on-site electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by DeKalb County in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Director of Community Development. In addition, the Illinois Department of Agriculture (IDOA) has established standards and policies in the Agricultural Impact Mitigation Agreements (AIMA) regarding the construction or burial of electric transmission lines which should be agreed to and adhered to between the landowner and the developer.
4. **Content of an SES Special Use Permit Application:** In addition to those requirements listed under Article 9: Special Use Permit Procedures, a Special Use Permit application shall also require the following:
- a. The application shall include three (3) printed copies and one electronic copy of the entire application (including: the application forms and any attachments or other submittals included therein).
 - b. **Site Plan.** A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, farm tile, electric equipment, fencing, and screening materials and all other characteristics requested by DeKalb County. The site plan should also show all zoning districts, and overlay districts.
 - c. **Endangered Species and Wetlands.** An SES developer shall be required to initiate a natural resource review consultation with the Illinois Department of Natural Resources (IDNR) through the department's online, EcoCat program. Areas reviewed through this process will be

endangered species and wetlands. The cost of the EcoCat consultation will be borne by the developer.

5. Design and Installation Requirements:

a. Setback Requirements

- 1). Set back requirements for all SES shall meet the structure minimum set back requirements when the SES is oriented at any & all positions.
- 2). No SES shall be allowed in the front yard of any residentially used or zoned property.
- 3). Roof mounted SES shall not extend beyond the exterior perimeter of the building on which the system is mounted.
- 4). The solar array and all components of the solar collector system in a Solar Farm shall be kept at least one hundred (100) feet from a property line or right-of-way. However, this requirement may be waived, provided the solar farm's owner/lessee obtains, and records with the DeKalb County Recorder, signed and notarized affidavits, agreeing that the required minimum setback be waived, from all property owners and affected road authorities adjoining the zoning lot on which the solar farm is to be located (as determined by DeKalb County Community Development Department). However, in no instance shall any part of a solar farm, be located within fifty (50) feet of any of the aforementioned items.

b. Height Requirements

- 1). Building or roof mounted SES shall not exceed the maximum allowed height in any Zoning District, as stated in Section 5.02 of this Article.
- 2). Ground or pole mounted SES shall not exceed the maximum height, when oriented at maximum tilt, for the zoning district in which it is located.

c. Stormwater and NPDES. Solar gardens and solar farms are subject to DeKalb County's Stormwater Management regulations, erosion and sediment control provisions and NPDES permit requirements.

d. Aviation Protection. For SES located within 500 feet of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

e. Standards and Codes: All solar gardens and solar farms shall be in compliance with all applicable local, state and federal regulatory codes, including, but not limited to: the State of Illinois Plumbing Code; The State of Illinois Electric Code; The State of Illinois Energy Code; the State of Illinois Uniform Building Code, as amended; the National Electric Code, as amended; and, all DeKalb County Health Department requirements.

f. In all undeveloped areas, the Solar Energy developer will be required to complete a consultation with both the Illinois Historic Preservation Agency (IHPA) and the Illinois Department of Natural Resources (IDNR) through the Department's online EcoCat Program. The cost of this consultation shall be at the developer's expense. The final certificate from EcoCat shall be provided to the DeKalb County Zoning Dept. before a permit or Special Use Permit will be issued.

g. Fencing. No fencing is required however if installed on the property the fencing shall have a maximum height of eight (8) feet. The fence shall contain appropriate warning signage that is posted such that is clearly visible on the site.

h. Lighting. Any lighting for SES shall be installed for security and safety purposes only. Except for lightening that is required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the facility.

- i. Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties.
- j. **Approved SES Components.** Electric SES components must have a UL listing, or approved equivalent, and must be designed with anti-reflective properties. Solar hot water systems must have an SRCC rating.
- k. **Utility Notification:** All grid-intertie SES shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.
- l. **Design Standards:** Active SES shall be designed to conform to the DeKalb County Comprehensive Plan and to blend into the architecture of the building or may be required to be screened from routine view from public right-of-ways other than alleys. Screening may be required to the extent it does not affect the operation of the system. The color of the solar collector is not required to be consistent with other roofing materials
 - 1). *Building Integrated Photovoltaic Systems.* Building integrated photovoltaic SES shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.
 - 2). *SES with Mounting Devices.* SES using roof mounting devices or ground-mount SES shall not be restricted if the system is not visible from the closest edge of any public right-of-way or immediately adjacent to a residential structure.
 - 3). *Reflectors.* All SES using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.
- m. **Coverage:** Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access for fire-fighting purposes to the south-facing or flat roof upon which the panels are mounted. Ground-mount private solar energy systems shall be exempt from impervious surface calculations if the soil under the collector is not compacted and maintained in vegetation. Foundations, gravel, or compacted soils are considered impervious.
- n. **Plan Approval Required:** All solar energy systems shall require administrative plan approval by the DeKalb County Building official via the review of the application for a building permit
 - 1). **Plan Applications.** Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.
 - a). **Pitched Roof Mounted Solar Energy Systems.** For all roof-mounted systems other than a flat roof the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
 - b). **Flat Roof Mounted Solar Energy Systems.** For flat roof applications a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.
 - 2). **Plan Approvals.** Applications that meet the design requirements of this ordinance, and do not require an administrative variance, shall be granted administrative approval by the Director of Community Development and shall not require Planning and Zoning Committee review. Plan approval does not indicate compliance with Building Code or Electric Code.

6. Operation and Maintenance

- a. Upon request from the DeKalb County Community Development Department, an owner of a commercial SES must provide documentation, within thirty (30) days, that the SES is still in use. If it is not, the owner of the System will have 180 days, after notification from the Zoning Department, to remove the SES from the property.
- b. Upon request from the DeKalb County Community Development Department, the owner or operator of a Solar Farm or a Solar Garden must submit, within 14 days, a current operation and maintenance report to the Department.
- c. All active SES shall meet approval of county building code officials, consistent with the State of Illinois Building Code and solar thermal systems shall comply with HVAC-related requirements of the Energy Code. Any county adopted building codes will apply and take precedence where applicable

7. Decommissioning or Abandonment of The SES

- a. A decommissioning plan shall be required to be submitted when applying for all Solar Farms and Solar Gardens, to ensure that facilities are properly removed after their useful life.
- b. Decommissioning of solar panels must occur in the event they are not in use for 90 consecutive days.
- c. The owner or operator will have 6 months to complete the decommissioning plan after operation of a Solar Farm or Solar Garden stops being operational.
- d. The decommissioning plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site.
- e. The DeKalb County Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure the proper decommissioning. The posting of a bond may be required prior to the issuance of a building permit for the facility.
- f. In the event that the State of Illinois enacts a law with regards to the decommissioning of a Solar Farm, the strictest requirements shall prevail.

8. Liability Insurance and Indemnification

- a. For Solar Farms and Solar Gardens, commencing with the issuance of building permits, the Applicant, Owner, or Operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$3 million per occurrence and \$5 million in the aggregate. Such insurance may be provided pursuant to a plan of self- insurance, by a party with a net worth of \$20 million or more. The County shall be named as an individual insured on the policy to the extent the county is entitled to indemnification.
- b. For Private / Individual SES(s), commencing with the issuance of building permits, the Applicant or Owner shall maintain a current liability policy covering bodily injuries and any damage that may occur, on their home owner's policy or other applicable policy as approved by the Director of Community Development.
- c. Any SES(s), Applicant, Owner, or Operator, whether individual or commercial, shall defend, indemnify, and hold harmless the County and its officials, employees, and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of actions, damages, injuries, costs, expenses, and liabilities whatsoever, including reasonable attorney's fees, except to the extent arising in whole or part out of negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of Applicant, Owner, or Operators selection, construction, operation, and removal of the SES(S) and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not

be construed as limited or qualifying the county's other indemnification rights available under the law.

B. Wind Energy Conversion Systems

1. Purpose

- a. It is the purpose of this section to:
 - 1) Assure the protection of health, safety, welfare, and property values for all DeKalb County residents and landowners.
 - 2) Assure that any development and production of wind-generated electricity in DeKalb County is safe and effective.
 - 3) Facilitate economic opportunities for local residents.
 - 4) Promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.
- 2. Applicability:** This ordinance governs the siting of wind energy conversion systems (WECS) and substations that generate electricity to be sold to wholesale or retail markets.
- 3. Prohibition:** No WECS or substation governed by this ordinance shall be constructed, erected, installed, or located within DeKalb County unless prior siting approval (approved Special Use, Site Development, and Building Permit issuance) has been obtained for each individual WECS and substation pursuant to this ordinance.
- 4. Special Use Requirements:** In addition to the standards and criteria established herein, no Special Use Permit shall be granted for the use(s) listed below unless evidence is presented to establish that the standards and criteria set forth herein have been met.
- 5. Definitions:** The following words and terms when used in the interpretation and administration of this section shall have the meaning set forth herein except where otherwise specifically indicated:

Applicant: Shall mean the entity or person who submits to the County an application for the siting of any WECS or substation.

Financial Assurance: Shall mean reasonable assurance from a credit-worthy party; examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit.

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

Non-participating Property: Any property within the WECS project other than participating property.

Owner: Shall mean the entity or entities with an equity interest in the WECS, including their respective successors and assignees. Owner does not mean (1) the property owner from whom the land is leased for locating the WECS, unless the property owner has an equity interest in the WECS, or (2) any person holding a security interest in the WECS 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 at the earliest practicable date.

Participating Landowner: A landowner whose property (or portion thereof) is currently leased or proposed to be leased for the production, siting, or development of an WECS and all landowners who have waived their rights to the setbacks provided in this section.

Participating Property: A property where a WECS is located or proposed to be located pursuant to an agreement with the owner/operator.

Professional Engineer: Shall mean a qualified individual who is licensed as a professional structural engineer in the State of Illinois.

Primary Structure: Shall mean, for each property, the structure that one or more persons occupy the majority of the 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 such structures as hunting sheds, storage sheds, pool houses, unattached garages, and barns.

Substation: shall mean the apparatus that connects the electrical collection system of the WECS and increases the voltage for connection with the utility's transmission lines.

Waiver: The waiver document shall be notarized, recorded, run with the parcel(s) of record and terminate at the termination of the wind energy project as part of the decommissioning plan. For purposes of a Municipal Waiver a signed and recorded resolution will suffice to meet the waiver requirements.

Wind Energy Conversion Systems (WECS): Shall mean 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.

WECS Project: Shall mean the collection of WECS(s) and substations specified in the siting approval application pursuant to this ordinance.

WECS Tower: Shall mean the support structure to which the nacelle and rotor are attached.

WECS Tower Height: Shall mean the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

6. Special Use Application Requirements: In addition to the Special Use Permit requirements per Section 9 of this Zoning Ordinance, a WECS applicant shall meet with County representatives in a pre-application meeting and submit to DeKalb County descriptions, site plans, studies, reports, certifications, and approvals demonstrating compliance with the Ordinance.

- a. A pre-application meeting shall be held with representatives from the Community Development Departments, the County Highway Department, the impacted township(s), the DeKalb County Soil and Water Conservation District and all other applicable departments and agencies as determined by the Community Development Department.
- b. In addition to a Special Use Permit application per Section 9 of this Zoning Ordinance, a WECS applicant shall submit to the DeKalb County Community Development Department a "WECS project Summary," including, to the extent available:
 - 1) A general description of the project, including its approximate name plate generating capacity, the potential equipment manufacturer(s), type(s) of WECS, number of WECS and name plate generating capacity of each WECS, the maximum height of the WECS tower(s) and the maximum diameter of the WECS rotors.
 - 2) A description of the general location of the project.
 - 3) A description of the applicant, owner, and operator, including their respective business structures (business form).
 - 4) A general business plan outlining all major WECS related events that will take place over the useful life of the WECS project.
 - 5) The names, addresses, and phone numbers of the applicants, owners, operators, and all property owners included in the application.
 - 6) A site plan for the installation of the WECS showing the planned location of each WECS tower, guy lines, and anchor bases (if any), primary structure(s), property lines including identification of adjoining properties, setback lines, public access roads and turnout locations, substations, electrical cabling from the WECS tower to the substations, ancillary equipment, third party transmission lines, and layout of all structures within the geographical boundaries of the setback established in this Ordinance.
 - 7) All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this ordinance (including but not limited to: natural resource areas; bird and bat migration paths; shadow flicker; noise levels; and vibration levels).
 - 8) A visual simulation including scale elevations of the proposed WECS and perspective drawings or photographic representations showing the WECS spatially accurate to the landscape and surrounding land uses.

- 9) The applicant shall notify the Community Development Department of any changes to this information that occur while the Special Use Permit application is pending.
- c. For Special Use Permit applications involving multiple WECS towers, only one application is required. Although processed as one Special Use, each tower within a WECS Special Use shall be charged the established Special Use fee.

7. Design and Installation

a. Design Safety Certification:

- 1) WECS shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third-party.
 - 2) Following the granting of siting approval and a Special Use Permit under this Ordinance, a professional structural engineer shall certify, as part of the Building Permit application that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
- b. **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 failsafe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.
- c. **Electrical Components:** All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards e.g., ANSI and International Electrical Commission.
- d. **Color:** Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color. No advertisement or signs shall be allowed.
- e. **Compliance with the Federal Aviation Administration (FAA):** The applicant for the WECS shall comply with all applicable FAA requirements. Evidence of compliance shall be submitted with the siting request.
- f. **Warnings**
- 1) A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
 - 2) Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of fifteen (15) feet from the ground.
- g. **Climb Prevention:** All WECS towers must be un-climbable by design or protected by anti-climbing devices including, but not limited to:
- 1) Fences with locking portals at least six (6) feet in height, but no greater than seven (7) feet in height; or
 - 2) Anti-climbing devices twelve (12) feet vertically from the base of the WECS tower.
- h. **Setbacks:** All WECS towers shall provide the following minimum Setbacks:
- 1) All WECS towers shall be setback a distance of not less than six (6) times the height of the WECS tower from all property lines. A participating landowner may waive this setback requirement, but in no case shall a WECS be located closer to a primary structure than one and one-tenth (1.1) times the height of the WECS tower.
 - 2) All WECS towers shall be setback a distance of not less than two (2) times the height of the WECS tower from all roadways, third-party transmission lines, and communication towers.

- 3) All WECS towers shall be setback a distance of not less than three (3) miles from a municipality. A municipality may waive this setback requirement through the issuance of a formal statement from the municipality approving such a waiver. The applicant shall then submit a copy of the statement as part of their application. Additionally, a site plan specifically identifying: the location of the three (3) mile base setback; the locations of all WECS towers proposed to be within the this (3) mile area; and, the distance each proposed WECS tower within this three (3) mile area will be from the municipal boundaries.
- 4) All WECS towers shall be setback a distance of not less than one and one-half (1.5) miles from a forest preserve.
- 5) The applicant does not need to obtain a variance from the County upon waiver by either the County or property owner of any of the above setback requirements. Any waiver of any of the above setbacks shall run with the land and be recorded as part of the chain of title in the deed of the subject property.
 - i. **Height Restriction:** No WECS tower shall be greater than five hundred (500) feet in height.
 - j. **FAA Obstruction Marking and Lighting Requirements:** All WECS towers shall be fitted with Aircraft Detection Lighting Systems (ADLS), or a comparable technology, suitable for meeting the FAA obstruction marking and lighting requirements.
 - k. **Compliance with Additional Regulations:** Nothing in this ordinance is intended to preempt other applicable state or federal laws and regulations.
 - l. **Use of Public Roads:**
 - 1) Road Agreement: A road agreement that includes all effected jurisdictions (municipal, township, county, state, etc.) must be agreed upon by all parties and recorded with the DeKalb County Recorder's Office. A signed agreement must be recorded prior to the issuance of the first Building Permit. The agreement shall include, but not be limited to:
 - a) An applicant, owner, or operator proposing to use any DeKalb County roads for the purpose of transporting WECS or substation parts and/or equipment for construction, operation, or maintenance of the WECS or substations, shall:
 - i. Identify all such public roads; and
 - ii. Obtain applicable weight and size permits from the relevant government agencies prior to construction.
 - b) To the extent an applicant, owner, or operator must obtain a weight or size permit from the County, the applicant, owner, or operator shall:
 - i. Bring all roads used up to at least an 80,000 lbs. load limit by the end of construction; and
 - ii. Secure financial assurance, in a reasonable amount agreed to by the relevant parties, for the purpose of repairing any damage to public roads caused by constructing, operating, or maintaining the WECS.

8. Operation

a. Maintenance:

- 1) The owner or operator of the WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the Community Development Director. 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 recertification under Section 7 of this ordinance. Like-kind replacements shall not require recertification. Prior to making any physical modification (other than like-kind replacements) the owner or operator shall confer

with a third-party certifying entity identified in Section 7 to determine whether the physical modification requires recertification.

- b. **Interference:**
 - 1) Prior to the construction of any wind turbines, the owner or operator shall conduct a study to establish the baseline status of all RF/EMF transmissions in the area of the turbines, with copies of the study to be supplied to the County.
 - 2) The applicant shall provide the applicable microwave transmission providers and local emergency service providers (e.g.: 911 operators) copies of the project summary and site plan, as set forth in Section 6 of this ordinance. The applicant shall provide evidence that any potential interference has been resolved to the satisfaction of the providers.
 - 3) If, after construction of the WECS, the County receives a written complaint related to the abovementioned interference, the County shall have the right to draw upon the Enforcement Fund to investigate and mitigate the complaint.
 - c. **Flicker:** Zero flicker/shadow flicker shall occur beyond the property line of any participating property.
 - d. **Coordination with Local Fire Departments:**
 - 1) The applicant, owner, or operator shall submit to the local fire department(s) a copy of the project site plan.
 - 2) Upon request by the fire department(s), the owner or operator shall cooperate with the fire department(s) to develop the fire department's emergency response plan.
 - 3) Nothing in this section shall alleviate the need to comply with all other applicable fire 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 federal, state, and local laws.
- 9. Sound Limits:**
- a. **Audible Sound Limits**
 - 1) No WECS shall be located so as to cause an exceedance of the pre-construction/operation background sound levels by more than 5 dBA. The background sound levels shall be the L_{90A} sound descriptor measured during a pre-construction noise study during the quietest time of the evening or night. All data recording shall be a series of contiguous ten (10) minute measurements. Measurements shall cover a minimum of 30 minutes. The ten (10) minute period with the lowest L_{90A} levels shall be used for this test. L_{90A} results are valid only when L_{10A} results are no more than 15 dBA above L_{90A} for the same time period. Noise sensitive sites are to be selected based on predicted worst-case sound emissions (in L_{EQA} and L_{EQC}) which are to be provided by developer.
 - 2) Test sites are to be located along the property line(s) of the receiving non-participating property(s).
 - 3) A 5dB penalty is applied for tones or when the sound emissions fluctuate in amplitude or frequency over time in reasonable synchronicity with the blade revolution.
 - b. **Low Frequency Sound Limit**
 - 1) The sound levels from the wind turbine at the receiving property shall not exceed the lower of either:

- a) $L_{EQA} - L_{90A}$ greater than 20 dB outside or inside any occupied structure, or
 - b) A maximum not-to-exceed sound level of 50 dBC.
- 2) These limits shall be assessed using the same nighttime and wind/weather conditions required in Section 9.a.1.
 - 3) Turbine operating sound immissions (dBA and dBC) shall represent worst case sound immissions for the stable nighttime conditions with low winds at ground level and winds sufficient for full operating capacity at the hub.
- c. **Requirements:**
- 1) All instruments must meet ANSI or IEC Type 1 Precision sound level meter performance specifications.
 - 2) Procedures must meet ANSI S12.9, Part 3, ANSI S12.100 and other applicable ANSI standards.
 - 3) Measurements must be made when ground level winds are 2m/s (4.5 mph) or less. Leaf rustle, insect, bird, and other sounds not properly considered as part of the steady background sound shall be excluded. Wind shear in the evening and night often result in low ground level wind speed and nominal operating speeds at wind turbine hub heights.
 - 4) IEC 61400 procedures are not suitable for enforcement of these requirements. ANSI standards shall be followed for testing and modeling procedures.

10. Enforcement:

a. **Enforcement Fund**

- 1) The applicant shall provide proof that the necessary amount and form of financial security has been received by the County in the form of an escrow account that names DeKalb County as the Beneficiary.
- 2) The applicant shall also provide identification of and procedures for DeKalb County to access the financial security.
- 3) This security shall maintain an amount of at least \$10,000.
- 4) The County shall have access to the Enforcement Fund secured by the escrow account in a bank of the County's choosing if:
 - a) The DeKalb County Sheriff's Office accrues costs due to the acquisition of equipment and/or training necessary to verify that a WECS Tower is operating within the standards of this ordinance, or
 - b) DeKalb County, or any of its offices and officials, accrues costs in the investigation, prosecution, and/or enforcement of a violation of these standards.
- 5) Whenever this security is accessed by County, or its offices and officials, the owner/operator must recapitalize this security within three (3) months of the date it was accessed. Failure to recapitalize the security shall be considered a cessation of the operation.
- 6) The applicant and/or WECS owner shall grant perfected security in the escrow account by use of a control agreement establishing the County as an owner of record pursuant to the Secured Transit Article of the Uniform Commercial Code, 810 ILSS 9/101 et seq.
- 7) The escrow agent shall release the Enforcement Funds when the WECS owner or operator has demonstrated and DeKalb County concurs that decommissioning has been satisfactorily completed, or upon written approval of the County to implement the decommissioning plan.
- 8) Any interest accrued on the escrow account that is over and above \$10,000 shall go to the WECS owner.
- 9) The County shall be listed as a debtor but shall not be responsible for any claims against the WECS owner and/or operator.

- 10) Upon establishment of the Enforcement Fund, the DeKalb County Sheriff's Office shall acquire the necessary equipment and training to be able to verify whether a WECS tower is in violation of these operational standards. The costs accrued by the Sheriff's Office in acquiring this equipment and training shall be recovered from the Enforcement Fund.
 - a) No building permit shall be issued for a WECS tower approved by a Special Use until such time as the Sheriff's Office has established that they deputies trained and equipped to verify that the WECS towers are operating within the standards of this ordinance.
 - b) The Sheriff's Office may also draw upon the Enforcement Fund to recover the costs to replace damaged or outdated equipment, and for the continued training of officers.
- b. **Procedures:**
 - 1) Complaints alleging that a WECS tower is operating in violation of the standards of this ordinance shall be forwarded to the DeKalb County Sheriff's Office.
 - 2) The Sheriff's Office shall have access to the site of any WECS to investigate any reported violation(s) of the operational standards of this Section.
 - 3) Upon report of an alleged violation, the DeKalb County Sheriff's Office shall investigate the complaint. If upon investigation, the Deputies find that the tower to be in apparent violation, a report containing the findings of the investigation shall be forwarded to the Community Development Department for the scheduling of a Code Violation Hearing.
 - a) The use of third-party consultants may be called upon in the determination of whether a particular tower is in violation. Any costs accrued through the use of said third-party consultant shall be recovered from the Enforcement Fund.
 - b) The Deputies will log the hours spent, fuel used, etc., which will then be used to determine the costs to investigate the complaint. Any costs accrued by the Sheriff's Office in the investigation, prosecution, and enforcement of the operational standards of this Section shall be recovered from the Enforcement Fund.
 - 4) Code Hearing:
 - a) Upon receipt of the report from the DeKalb County Sheriff's Office, the Community Development Department shall schedule a Code Violation Hearing regarding the apparent violation(s).
 - b) Notice of the Code Violation Hearing shall be sent to the property owner, and the owners and operators of the WECS.
 - c) If the Code Violation Hearing Officer finds the WECS tower to be in violation of the operational standards of this ordinance:
 - i. The owner/operator of the WECS shall have fifteen (15) days to bring the WECS tower into compliance to the satisfaction of the County.
 - ii. A fine per violation per incident shall be assessed upon the property owner by the Code Violation Hearing Officer.
 - iii. The property owner shall also be liable for the Hearing Officer Fee.
 - d) If the tower has not been brought into compliance within fifteen (15) days of being found in violation, then the tower must be shut down until such time as the tower can be brought into compliance. A shut down tower is still subject to the requirements of the Decommissioning portion of this ordinance.
 - e) If the WECS tower continues to operate after the fifteen (15) day time period without having been brought into compliance, the sixteenth (16th) day shall constitute the beginning of an additional separate violation, and shall constitute a default under this ordinance.

- f) If a WECS tower has been shut down as a result of a finding of violation, and is subsequently restarted without first having been brought into compliance, this shall constitute the beginning of an additional separate violation, and shall constitute a default under this ordinance.
- 11. Birds:** A qualified professional, such as an ornithologist or wildlife biologist shall conduct an avian habitat study, as part of the Special Use Permit application approval process to determine if the installation of WECSs will have a substantial adverse impact on birds. The applicant must take reasonable action to mitigate such adverse impacts on habitat and migration.
- a. All WECS towers must be setback at least one and one-half (1.5) miles from any identified eagles nest.
- b. All WECS projects must be equipped with an Identiflight Aerial Detection System, or an equivalent system thereto.
- 12. Public Participation:** Nothing in the ordinance is meant to augment or diminish existing opportunities for public participation such as public hearings and open meetings.
- 13. Liability Insurance:** The owner or operator of the WECS shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$1,000,000 per occurrence and \$1,000,000 in the aggregate.
- 14. Decommissioning and Site Reclamation Plan Requirement:** At the time of the Special Use application, the County and the applicant, owner, and/or operator must formulate a decommissioning and site reclamation plan to ensure that the WECS project is properly decommissioned. The decommissioning and site reclamation plan shall be binding upon all successors of title to the land. A signed decommissioning and site reclamation plan must be submitted to the Community Development Director prior to the granting of the Special Use Permit.

The applicant or subsequent project operator shall ensure that the WECS facilities are properly decommissioned within 12 months of the end of the project life or the facility abandonment. The applicant or subsequent project operator's obligations shall include removal of all equipment and physical materials (concrete, rebar, etc., but excluding fill), negotiable by the landowner with a minimum equal to the amount set in the signed AIMA agreement, and the restoration of the area as near as practicable to the same condition prior to construction.

- a. **A decommissioning and site reclamation plan shall be prepared by an independent Illinois Certified Professional Engineer and shall include:**
- 1) Provisions describing the triggering events for decommissioning the WECS project;
 - 2) A description of the methodology and cost to remove all above ground and below ground WECS facilities of the approved Special Use Permit;
 - 3) Provisions for the removal of all above ground and below ground WECS facilities of the approved Special Use Permit;
 - 4) Methodology and cost to restore all areas used for construction, operation, and access to a condition equivalent to the land prior to the WECS construction;
 - 5) A work schedule and a permit list necessary to accomplish the required work;
 - 6) Methodology to identify and manage any hazardous or special materials;
 - 7) Proof that the necessary amount and form of financial security has been received by the County in the form of an escrow account that names DeKalb County as the Beneficiary. The amount of security shall be equal to the positive difference between the total cost of all decommissioning and restoration work and the net salvage value of all removed WECS equipment or materials, plus a twenty-percent contingency. To determine that amount, the WECS owner and the DeKalb County Board shall:

- a) Obtain bid specifications provided by a professional structural engineer;
 - b) Request estimates from construction/demolition companies capable of completing the decommissioning of the WECS project; the DeKalb County Engineer, and an independent engineer of the County's choosing, the Director of Community Development will review all estimates and make a recommendation to the DeKalb County Board for an acceptable estimate. DeKalb County reserves the right to pursue other estimates;
 - c) Certification of the selected estimate by a professional structural engineer. All costs to secure the estimates will be funded by the WECS owner.
- 8) A provision that the terms of the decommissioning plan shall be binding upon the WECS owner or operator and any of their successors, assigns, or heirs;
 - 9) Confirmation by affidavit that the obligation to decommission the WECS facilities is included in the lease agreement for every parcel included in the Special Use application. A list of all landowners should be kept current and affidavits shall be secured from future WECS owners and landowners stating their financial understanding;
 - 10) A provision that allows the County to have legal right to transfer applicable WECS material to salvage firms;
 - 11) Identification of and procedures for DeKalb County to access the financial assurances; and
 - 12) A provision that DeKalb County shall have access to the site, pursuant to reasonable notice to affect or complete decommissioning. A portion of the escrow account will be required to be held for one year past the decommissioning to settle any potential disputes.
- b. **Provisions triggering the decommissioning of any portion of the WECS project due to abandonment:**
 - 1) Inactive construction for twelve (12) consecutive months or if there is a delay in obtaining electrical certification for twelve (12) consecutive months, unless a signed document is provided by the utility company claiming responsibility for the delay.
 - 2) If no electricity is generated by an individual turbine or the entire project for twelve (12) consecutive months after electricity is initially generated, unless proof is provided that new parts have been ordered and will be received within six (6) months. The DeKalb County Community Development Director or his/her designee shall have access to records in order to determine the electric generation of every turbine.
 - 3) The company dissolves or chooses to walk away from the project.
 - 4) The principal company dissolves or chooses to walk into disrepair, is in threat of collapsing or any other health and safety issue.
 - c. **Provisions for the removal of structures, debris, and cabling; both above and below the soil surface:**
 - 1) Items required to be removed include, but are not limited to: turbines; transformers; foundation pads; electrical collection systems and transporters; underground cables; fencing; access roads and culverts. A landowner must sign an agreement if they wish for the access roads or culverts to remain.
 - d. **Provisions for the restoration of soil and vegetation:**
 - 1) All affected areas shall be inspected, thoroughly cleaned, and all construction related debris shall be removed.
 - 2) Items required to be restored include but are not limited to: windbreaks; waterways; site grading; drainage tile systems; and, topsoil to former productive levels.
 - a) In work areas involving decommission from expansion of turbine crane pads, widening access roads, or any other work areas, the topsoil must be first removed, identified, and stored separate from other excavated material for later replacement as applicable.

- b) The below-surface excavation area shall be filled with clean sub-grade material of similar quality to that in the immediate surrounding area.
 - c) All sub-grade material will be compacted to a density similar to surrounding grade material.
 - d) All unexcavated areas compacted by equipment used in decommissioning shall be de-compacted in a manner that adequately restores the topsoil and sub-grade material to the proper density consistent and comparable with the surrounding area.
 - e) Where possible, the topsoil shall be replaced to its original depth and surface contours.
 - f) Any topsoil deficiency and trench settling shall be mitigated with imported topsoil that is consistent with the quality of the effective site.
- 3) Disturbed areas shall be reseeded to promote re-vegetation of the area to a condition reasonably similar to the original condition. A reasonable amount of wear and tear is acceptable.
 - 4) Restoration measurements shall include: leveling, terracing, mulching, and other necessary steps to prevent soil erosion; to ensure establishment of suitable grasses and forbs; and to control noxious weeds and pests.
 - 5) Items required to be repaired after decommissioning include but are not limited to: roads; bridges; and culverts.
 - 6) An independent drainage engineer shall be present to insure drainage tiles, waterways, culverts, etc. are repaired as work progresses.
 - 7) A soil erosion control plan shall be approved by the County Engineer and the DeKalb County Soil and Water Conservation District.
 - 8) All stormwater management, floodplain, and other surface water codes and ordinances shall be followed.
- e. **Estimating the Costs of Decommissioning:**
 - 1) Costs shall include but not be limited to engineering fees, legal fees, accounting fees, insurance costs, decommissioning and site restoration.
 - 2) When factoring the WECS salvage value into decommissioning costs, the authorized salvage value may be deducted from decommissioning costs if the following standards are met:
 - a) The net salvage value shall be based on the average salvage price of the past five (5) consecutive years, this includes any devaluation costs.
 - b) The maximum allowable credit for the salvage value of any WECS shall be no more than the estimated decommissioning costs of removal of the above ground portions of that individual WECS or up to seventy percent (70%) of the total estimated decommissioning costs, whichever is greater.
 - 3) Adjustments to the financial assurance amount that reflect changes in the decommissioning costs and salvage values shall be resubmitted every five (5) years and shall be adjusted for inflation and other factors. The escrow account shall be adjusted accordingly within six (6) months of receiving the updated information as determined by an Illinois professional engineer. Failure to provide financial assurance as outlined herein shall be considered a cessation of operation.
 - 4) When determining salvage values – demolition costs, transportation costs, and road permits shall be a consideration.
 - 5) If salvage value items are removed prior to decommissioning, then the escrow account must be credited.
 - f. **Financial Assurance:**

- 1) The County shall have access to the decommissioning fund secured by the escrow account in a bank of the County's choosing if:
 - a) The WECS operator fails to address a health and safety issue in a timely manner; or
 - b) The WECS operator fails to decommission the abandoned turbine(s) or the entire WECS project in accordance with the decommissioning and site reclamation plan.
 - 2) The applicant and/or WECS owner shall grant perfected security in the escrow account by use of a control agreement establishing the County as an owner of record pursuant to the Secured Transit Article of the Uniform Commercial Code, 810 ILCS 9/101 et seq.
 - 3) The escrow agent shall release the decommissioning funds when the WECS owner or operator has demonstrated and DeKalb County concurs that decommissioning has been satisfactorily completed, or upon written approval of the County to implement the decommissioning plan. Ten percent of the fund shall be retained one (1) year past the decommissioning date to settle any outstanding concerns.
 - 4) Any interest accrued on the escrow account that is over and above the total value as determined by the Illinois professional structural engineer shall go to the WECS owner.
 - 5) The applicant shall identify procedures for DeKalb County to assess the financial assurances, particularly if it is determined that there is a health and/or safety issue with the WECS and the principal company fails to adequately respond as determined by the County Board.
 - 6) The County shall be listed as a debtor but shall not be responsible for any claims against the WECS owner and/or operator.
 - 7) The applicant shall agree that the sale, assignment in fact or at law, or other transfer of the applicant's financial interest in the WECS shall in no way effect or change the applicant's obligation to continue to comply with the terms, covenants, and obligations of this agreement and agrees to assume all reclamation liability and responsibility.
 - 8) DeKalb County and its authorized representatives have the right of entry onto the WECS premises for the purpose of inspecting the methods of reclamation or for performing actual reclamation if necessary.
- g. **Remedies:**
- 1) The applicant's, owner's, or operator's failure to materially comply with any of the above provisions shall constitute a default under this ordinance.
 - 2) 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 sixty (60) days, for good faith negotiations to resolve the alleged default(s).
 - 3) If the County determines in its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing county ordinance provisions addressing the resolution of such default(s) shall govern.
- h. **Future Operators:** Future operators, successors, assignees, or heirs shall agree in writing to accept and to conform to all provisions of the Special Use Permit. Prior notice to the County of the intent to sell or transfer ownership shall be done in a timely manner. Such agreement shall be filed with and accepted by the County before the transfer to a new operator, successor, assignees, or heirs shall be effective.