

Effective Date: August 12, 2008

ORDINANCE

REGULATING THE SITING OF LARGE WIND ENERGY CONVERSION SYSTEMS IN FULTON COUNTY, ILLINOIS

This Ordinance shall amend the Fulton County Zoning Ordinance and be known, cited, and referred to as the Fulton County Large Wind Energy Siting Ordinance, and will become Section 9.2 of the Fulton County Zoning Code.

WHEREAS, Fulton County, Illinois has been granted authority to regulate Small WECS by the State of Illinois under 55 ILCS 5/5-12020 as "electric-generating wind devices;" and,

WHEREAS, Fulton County, Illinois has been granted authority to regulate Small WECS by the State of Illinois under 55 ILCS 5/5-12001 as "structures."

NOW, THEREFORE, BE IT ORDAINED by the Fulton County Board as follows:

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I. INTRODUCTION

A. Title

This Ordinance shall amend the Fulton County Zoning Ordinance and be known, cited, and referred to as the Fulton County Large Wind Energy Siting Ordinance.

B. Purpose

This Ordinance is adopted for the following purposes:

1. To provide a regulatory scheme for the construction and operation of Large Wind Energy Conversion Systems (WECS) in Fulton County, Illinois, subject to reasonable restrictions intended to preserve the public health and safety.
2. To assure that any development and production of wind-generated energy in Fulton County is safe and effective;
3. To facilitate economic opportunities for local residents;
4. To promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.

II. DEFINITIONS

- A. "Abandoned" means a Large WECS that has not been properly tended and maintained for a period of six (6) months. If a Large WECS is determined by the Zoning Officer to be abandoned, decommissioning must be completed within six (6) months following the determination.
- B. "Applicant" means any entity or person who submits to the County an application (building permit) for the siting of any Large WECS, WECS Project, WECS Facility, MET Tower, or Substation.
- C. "County" means Fulton County, Illinois.
- D. "DoA" means State of Illinois, Department of Transportation, Division of Aeronautics.

- E. "FAA" means Federal Aviation Administration.
- F. "Financial Assurance" means reasonable assurance from a credit worthy party, examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit.
- G. "Guy Wire" means any wire or cable that extends from a WECS Tower for the purpose of supporting the WECS.
- H. "Inhabited Structure" means any structure where people commonly congregate for more than one (1) continuous hour at a time. Inhabited Structure excludes structures such as hunting blinds, storage sheds, pool houses, unattached garages and barns.
- I. "Inoperable" means a Large WECS that has not generated power within the preceding thirty (30) days. If a Large WECS is deemed inoperable by the County Zoning Officer, decommissioning must be completed within six (6) months.
- J. "IPCB" means Illinois Pollution Control Board
- K. "Large WECS" means any WECS with a WECS Height of one hundred seventy (170) feet or more, and/or rated output of 100 kilowatts (KW) or greater.
- L. "MET Tower" means a meteorological tower used for the measurement of wind speed.
- M. "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS Facility, including any third party subcontractors. The WECS facility Owner is responsible for all actions and conduct of the Operator(s).
- N. "Owner" means the entity or entities with an equity interest in the WECS(s), including their respective successors, assigns, and heirs.

Owner does not mean:

1. the property owner from whom 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(s) solely to secure an extension of credit, or a person

foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) at the earliest practicable date.

- O. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- P. "Substation" means the apparatus that connects the energy collection system of the WECS(s) with a utility's transmission lines.
- Q. "Wind Energy Conversion System" ("WECS") means all structures and devices that together convert wind energy into any other form of energy.
- R. "WECS Facility" means all equipment, structures, substations, WECS(s), and properties as described in the WECS siting approval application.
- S. "WECS Project" means the collection of WECS(s) and Substation(s) as specified in the siting approval application.
- T. "WECS Tower" means the support structure to which the nacelle and rotor are attached.
- U. "WECS Height" means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.
- V. "Zoning Officer" means the Fulton County Zoning & Community Development Director.

III. AUTHORITY

- A. Fulton County, Illinois has been granted authority to regulate Large WECS by the State of Illinois under 55 ILCS 5/5-12020 as "electric-generating wind devices."
- B. Fulton County, Illinois has been granted authority to regulate Large WECS by the State of Illinois under 55 ILCS 5/5-12001 as "structures."

IV. APPLICABILITY

This Ordinance governs the siting of Large WECS constructed after the effective date of this Ordinance. WECS which have been legally installed prior to the date of this Ordinance are exempted until such time as:

- A. any pre-existing WECS does not produce energy for a continuous period of thirty (30) days. If such event occurs, the WECS must be brought into compliance with this Ordinance.
- B. any repair, modification, or alteration is made to pre-existing WECS, other than routine repairs using replacement parts of like kind. If such event occurs, the WECS must be brought into compliance with this Ordinance.

V. PROHIBITION

No WECS, MET Tower, or associated Substation shall be constructed, erected, installed, or located within Fulton County, unless siting approval has been obtained and necessary permits have been issued for each individual WECS, MET Tower, and Substation, or WECS Project, pursuant to this Ordinance.

VI. FEES

Fees for WECS siting approval and building permit shall be included in the Fulton County Zoning Fee Schedule, as amended from time to time by the Fulton County Board.

VII. SITING APPROVAL APPLICATION

- A. All Large WECS and/or WECS Facilities shall be Conditional Use, and shall require permitting by the Fulton County Zoning Board of Appeals (See Section XII).
- B. To obtain siting approval for a WECS Project, the Applicant must first submit a building permit application to the County Zoning Officer.

C. The Siting Approval Application shall contain or be accompanied by the following information:

1. A WECS Project summary, including:

- a.** A general description of the project, including its rated generating capacity; the potential equipment manufacturer(s), type(s) of WECS, number of WECS, and rated generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS rotor(s); the general location of the project.
- b.** The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), along with a description of the prospective business structure.
- c.** A site plan for the installation of WECSs showing the planned location of each WECS Tower, MET Tower, Inhabited Structure(s) within one-half (½) mile of the nearest boundary of the WECS Facility, property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), transmission lines from the WECS Tower(s) to the Substation(s), ancillary equipment, third party transmission lines, and layout of all structures within the geographical boundaries of the proposed WECS Facility.
- d.** The applicant shall submit a proposed WECS Facility lighting plan that describes all lighting that will be required including any lighting that may be required by the FAA. Such plan shall include but is not limited to the planned number and location of lights, light color, whether any such lights will be flashing, and mitigation measures planned to control the light so that it does not spill over onto neighboring properties.
- e.** An ingress and egress study for all construction and operation.
- f.** All required studies, reports, certifications, and approvals demonstrating compliance with any

applicable law(s) and the provisions of this Ordinance.

g. Any other information required by the County as part of its zoning process.

D. The Applicant shall notify the Fulton County Zoning Officer within 48 hours of any changes to the information provided in Section VII, subsection B above, that occur while the siting approval application is pending.

VIII. 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 under this Ordinance, a Professional Engineer shall certify, as part of the building permit application, that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

B. *Color*

1. WECS towers, nacelles, blades, etc., shall be painted a non-obtrusive (e.g., light environmental color such as white, gray, beige, or as recommended by the avian study) color that is non-reflective, and shall not be used for advertisement beyond the name of the WECS manufacturer.
2. The design of the WECS Project buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the WECS Project to the natural setting and the existing environment.

C. Compliance with the Federal Aviation Administration

The Applicant for the WECS shall comply with all applicable local, State or Federal laws, rules, regulations, and/or requirements, set forth by such agencies as, but not limited to, the FAA, and/or the DoA.

D. Safety and Security

1. The Fulton County Zoning Officer and Fulton County Engineer are granted the right of entry onto the WECS Facility, pursuant to reasonable notice (or attempt to notify at the last known address), to perform safety inspections.
2. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. A manual and/or over-speed shutdown disconnect switch(es) shall be provided and clearly labeled on the WECS Tower. All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation alone shall not be considered a sufficient braking system for over-speed protection.
 - a. The rotor over-speed control system shall be certified in writing by a Professional Engineer. The Engineer shall certify compliance with good engineering practices
3. All structures at the WECS Facility shall be grounded according to provisions of the National Electric Code.
4. All WECS Project wiring shall be underground, except where the WECS Project wiring is connected to the transmission or distribution network, adjacent to that network. All electrical components of the WECS(s) shall conform to applicable Local, State, and National Electric Codes, and relevant national and international standards (e.g. ANSI and International Electrical Commission).
 - a. The electrical system shall be certified in writing by a Professional Engineer. The

Engineer shall certify compliance with good engineering practices and with the appropriate provisions of the National Electric Code.

5. The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of not less than seventy-five (75) feet.
6. Wind Turbine towers shall not be climbable up to fifteen (15) feet above ground level.
7. All access doors at the WECS Facility shall be lockable and shall remain locked at all times when WECS Facility personnel are not present.
8. All Large WECS Towers shall be self-supporting. No Guy Wire supported Large WECS Towers shall be permitted.
9. Appropriate warning signage shall be placed on WECS Towers, electrical equipment, and WECS Facility entrances.
10. Fencing at the periphery of the WECS Facility or at the base of the WECS Towers may be required to prevent unauthorized access to the WECS Facility.

E. Setbacks

1. All WECS Towers shall be set back at least one-thousand (1000) feet or two (2) times the WECS height, whichever is greater, from any Inhabited Structure. The distance for the above setback shall be measured from the point of the Inhabited Structure foundation closest to the WECS Tower to the center of the WECS Tower foundation. The owner of the Inhabited Structure may waive this setback requirement; but in no case shall a WECS Tower be located closer to an Inhabited Structure than one and one-tenth (1.1) times the WECS Height. (See VIII-E-5 below)
2. All WECS Towers shall be set back a distance of at least one and one-tenth (1.1) times the WECS Height from public roads, third party transmission lines, and communication towers. The Zoning Board of Appeals may waive the setback requirement for County roads. (See VIII-E-5 below)

3. All WECS Towers shall be set back a distance of at least one and one-tenth (1.1) times the WECS Height from adjacent property lines. The affected adjacent property owner may waive this setback requirement. (See VIII-E-5 below)
4. All WECS towers must be separated by a minimum distance equal to one and one-tenth (1.1) times the WECS height, based on the tallest WECS Height involved.
5. The Applicant or Owner must obtain a variance from the Fulton County Zoning Board of Appeals upon proposed waiver by either the Zoning Board of Appeals or any property owner of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and must be recorded with the Fulton County Clerk's Office, as part of the chain of title in the deed of the subject property.

F. Zoning

1. For purposes of land use and lot size, WECS shall only be installed:
 - a. in accordance with any existing Comprehensive Land Use Plan, and
 - b. on lands zoned AC, and
 - c. on lots 5 acres or larger, or
 - d. if the County issues a Conditional Use permit for land use or lot size differing from those set forth in items a, b, or c.

G. Compliance with Additional Regulations

Nothing in this Ordinance is intended to preempt other applicable local, state, and/or federal laws, rules, and regulations.

H. Use of Public Roads

1. An Applicant, Owner, or Operator proposing to use any public roadway for the purpose of transporting oversize or

overweight WECS or Substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) or Substation(s), shall:

- a. Identify all such public roads; and
 - b. Obtain applicable weight and size permits from relevant government agencies prior to construction.
2. To the extent an Applicant, Owner, or Operator must obtain a weight or size permit the Applicant, Owner, or Operator shall:
- a. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
 - b. Create a pre-construction agreement between the WECS Facility Owner(s) and Appropriate Highway Authorities concerning the standards by which roadways will be repaired, and set forth standards for roadways which will be followed in completing road repairs after construction and for maintenance purposes during the life of the WECS Facility, and
 - c. 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.

IX. OPERATION

A. Maintenance

1. The Applicant, Owner, or Operator of the WECS Facility must submit, on an annual basis, a summary of the operation and maintenance reports to the County Zoning Office. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County Zoning Officer requests.

2. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major

components shall require re-certification by a Professional Engineer(s). Like-kind replacements will not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with a Professional Engineer to determine whether the physical modification will require re-certification, and provide the results of such conference to the Fulton County Zoning Officer. Once modifications are complete a certificate from a Professional Engineer showing the modifications to be safe shall be placed on record with the Fulton County Zoning Officer.

B. Interference

1. The Applicant, Owner, or Operator shall provide the applicable microwave transmission providers and all local emergency service provider(s) 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(s), the Applicant shall attempt to mitigate such anticipated interference.
2. If, after construction of the WECS, the Applicant, Owner, or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall take reasonable steps to respond to the complaint and correct any interference deficiencies found.

C. Coordination with Local Fire Department

1. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.
2. The Applicant, Owner, or Operator shall submit to the local fire department a detailed copy of the site plan.
3. Fire Control and Prevention Program Required: The Applicant, Owner, or Operator shall submit a Fire Control and Prevention Program that is appropriate and adequate for the proposed WECS Facility. The proposed program may include, but is not limited to, the following:
 - a. Fireproof or fire resistant building materials;
 - b. Buffers or fire retardant landscaping;

- c. An automatic fire-extinguishing system for all buildings or equipment enclosures of substantial size containing control panels, switching equipment, or transmission equipment—without regular human occupancy;
 - d. Fire breaks which will be cleared of vegetation and maintained as a fire/fuel break as long as the WECS Facility is in operation (e.g., 30 feet around the periphery of the proposed project site; 10 feet around all transformers and WECS and their foundations; 30 feet around all buildings);
 - e. Provision of training and fire fighting equipment for local fire protection personnel.
4. Upon request by the local fire department, the Owner or Operator shall cooperate to develop an emergency response plan.

D. *Materials Handling, Storage and Disposal*

- 1. All solid wastes related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
- 2. All hazardous materials related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

X. NOISE LEVELS

- A. Noise levels from each WECS or WECS Project shall be in compliance with applicable IPCB regulations. The Applicant, through the use of a qualified professional, as part of the siting approval application process, shall appropriately demonstrate compliance with IPCB noise requirements. The Applicant, Owner, or Operator shall provide evidence of compliance with IPCB regulations upon request by the County Zoning Officer.

- B. Audible sound due to WECS operations shall not exceed sixty (60) dBA for any period of time, when measured at any property boundary of the WECS Facility.
- C. The County may impose a noise setback that exceeds other setbacks in this Ordinance if it deems that greater setbacks are necessary to protect the public health, safety and welfare of the community.
- D. The County may impose noise limits lower than those required by the IPBC if it deems that lower noise levels are necessary to protect the public health, safety and welfare of the community.

XI. BIRDS

A qualified professional, such as an ornithologist or wildlife biologist, shall conduct an avian habitat study, as part of the siting approval application process, to determine if the installation of WECSs will have a substantial adverse impact on birds.

XII. PUBLIC NOTICE AND PARTICIPATION

There shall be a Public Hearing held, with proper notice, by the Fulton County Zoning Board of Appeals prior to the permitting of any Large WECS(s) or WECS Facility. Not less than fifteen (15) days prior to the Public Hearing, the Large WECS Applicant(s), Operator(s), or Owner(s) shall send notice via U.S. Postal Service to all property owners with property located within one (1) mile of any property line of the proposed Large WECS Facility notifying them of the proposed Large WECS Facility along with date, time, and place of the Public Hearing. Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation.

XIII. LIABILITY INSURANCE

The Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage with limits of at least two (2) million dollars per occurrence and ten (10) million dollars in the aggregate.

XIV. DECOMMISSIONING PLAN

Prior to receiving siting approval under this Ordinance the Owner(s) must formulate and present to the County Board, a Decommissioning Plan to ensure that the WECS Project is properly decommissioned upon end of project life, abandonment, or inoperability.

A. Decommissioning shall include: removal of all structures (including transmission equipment and fencing) and debris to a depth of four (4) feet, restoration of the soil, and restoration of vegetation within six (6) months of the end of project life or WECS Facility abandonment. The decommissioning plan shall state how the WECS(s) will be decommissioned, a Professional Engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the surety bond or escrow agent with which the resources shall be deposited. The decommissioning plan shall also include an agreement between the applicant and the County which states:

1. The financial resources for decommissioning which shall be in the form of a surety bond, or shall be deposited in an escrow account with an escrow agent acceptable to the County Board.

2. If the applicant chooses an escrow agreement:

a. A written escrow agreement will be prepared, establishing upon what conditions the funds will be disbursed; and

b. The County shall have access to the escrow account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within six (6) months of the end of project life or WECS Facility abandonment.

B. The County, and/or its agents, is granted the right of entry onto the WECS Facility, pursuant to reasonable notice (or attempt to notify), to effect or complete decommissioning.

C. The County is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the County's right to seek reimbursement from applicant or applicant's successors assigns, or heirs for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by the

Owner or the Owners' successors, assigns, or heirs, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.

- D. The Decommissioning Plan shall include a provision stating that the terms of the plan shall be binding upon the Owner(s) and any of their successors, assigns, or heirs.

XV. REMEDIES

- A. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Ordinance, and shall cause them to be subject to fines set forth in Section 20, subsection B, of the Fulton County Zoning Ordinance.
- B. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first attempt to notify the Applicant, Owner(s), and Operator(s), at the last known address, setting forth the alleged default(s). Such written notice shall provide the Applicant, Owner(s), and Operator(s) a reasonable time period, not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).
- C. If the County Board determines 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, WECS permit(s) shall be revoked, and decommissioning shall be completed within six (6) months.

0822417

JAMES I. NELSON
COUNTY CLERK & RECORDER
FULTON COUNTY, IL

RECORDED ON
08/28/2008 01:49:17PM

REC FEE: 0.00
PAGES: 18

Effective Date: August 12, 2008

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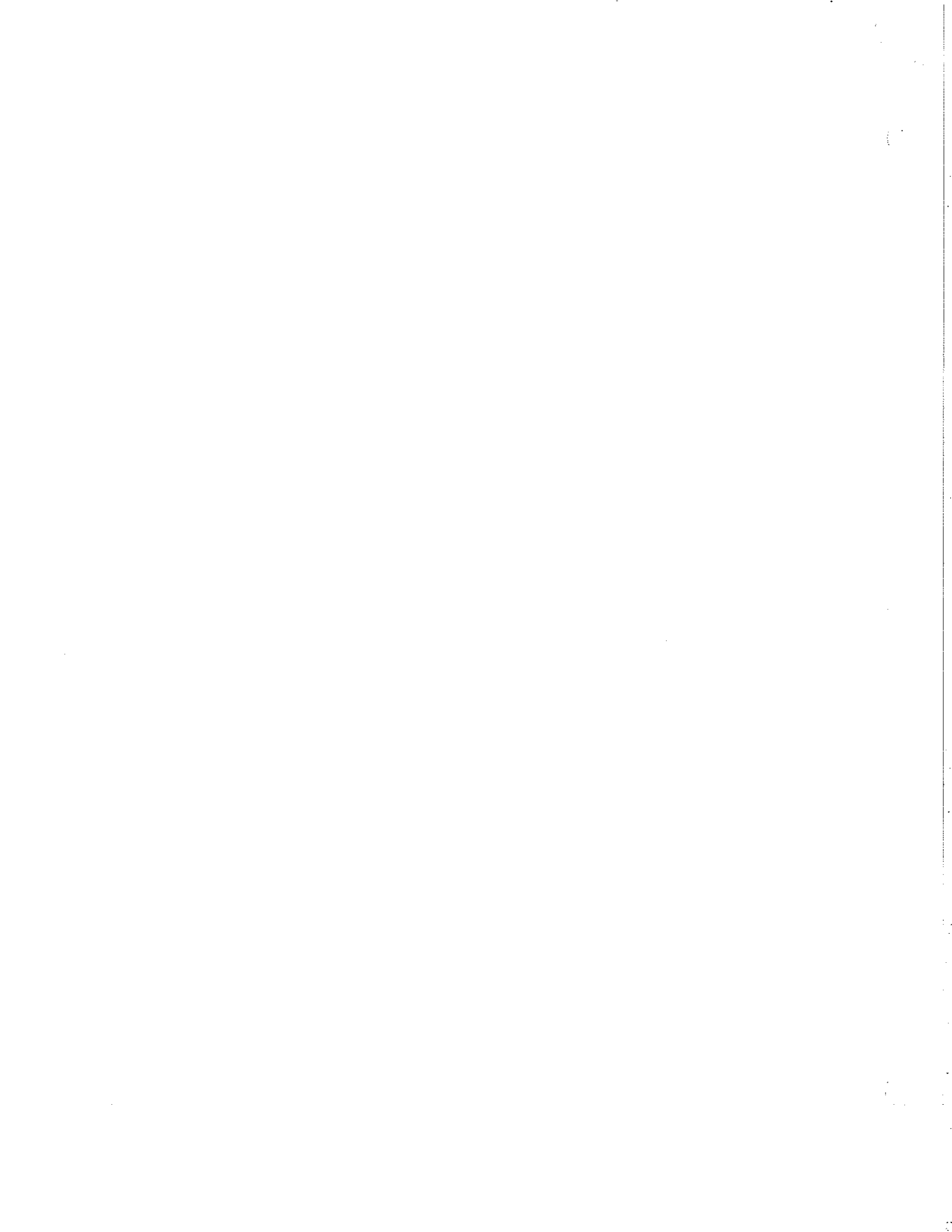
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3. To facilitate economic opportunities for local residents;
4. To promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.

II. DEFINITIONS

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- K.** "Large WECS" means any WECS with a WECS Height of one hundred seventy (170) feet or more, and/or rated output of 100 kilowatts (KW) or greater.
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- M.** "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS Facility, including any third party subcontractors. The WECS facility Owner is responsible for all actions and conduct of the Operator(s).
- N.** "Owner" means the entity or entities with an equity interest in the WECS(s), including their respective successors, assigns, and heirs.

Owner does not mean:

1. the property owner from whom 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(s) solely to secure an extension of credit, or a person

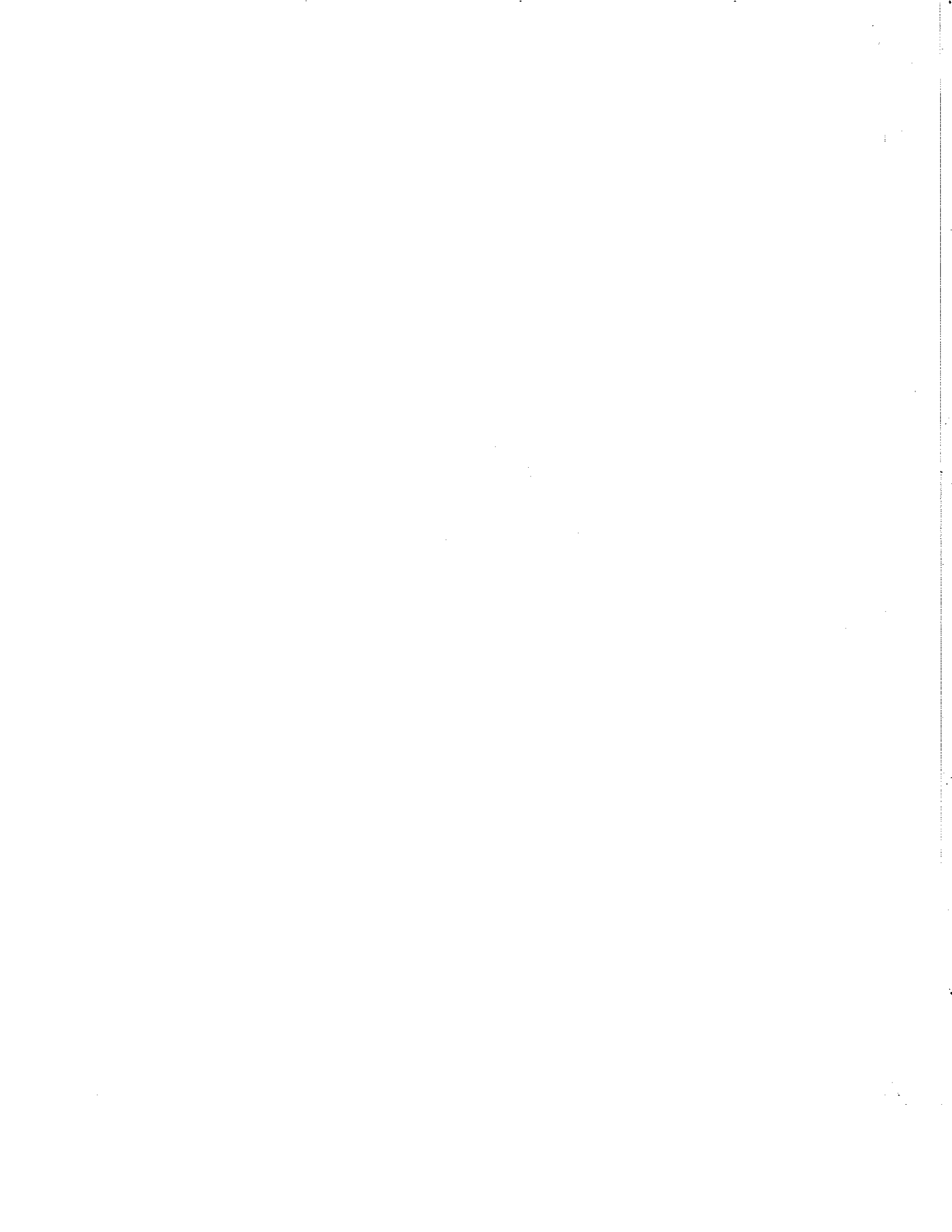


foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) at the earliest practicable date.

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III. AUTHORITY

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IV. APPLICABILITY

This Ordinance governs the siting of Large WECS constructed after the effective date of this Ordinance. WECS which have been legally installed prior to the date of this Ordinance are exempted until such time as:

- A.** any pre-existing WECS does not produce energy for a continuous period of thirty (30) days. If such event occurs, the WECS must be brought into compliance with this Ordinance.
- B.** any repair, modification, or alteration is made to pre-existing WECS, other than routine repairs using replacement parts of like kind. If such event occurs, the WECS must be brought into compliance with this Ordinance.

V. PROHIBITION

No WECS, MET Tower, or associated Substation shall be constructed, erected, installed, or located within Fulton County, unless siting approval has been obtained and necessary permits have been issued for each individual WECS, MET Tower, and Substation, or WECS Project, pursuant to this Ordinance.

VI. FEES

Fees for WECS siting approval and building permit shall be included in the Fulton County Zoning Fee Schedule, as amended from time to time by the Fulton County Board.

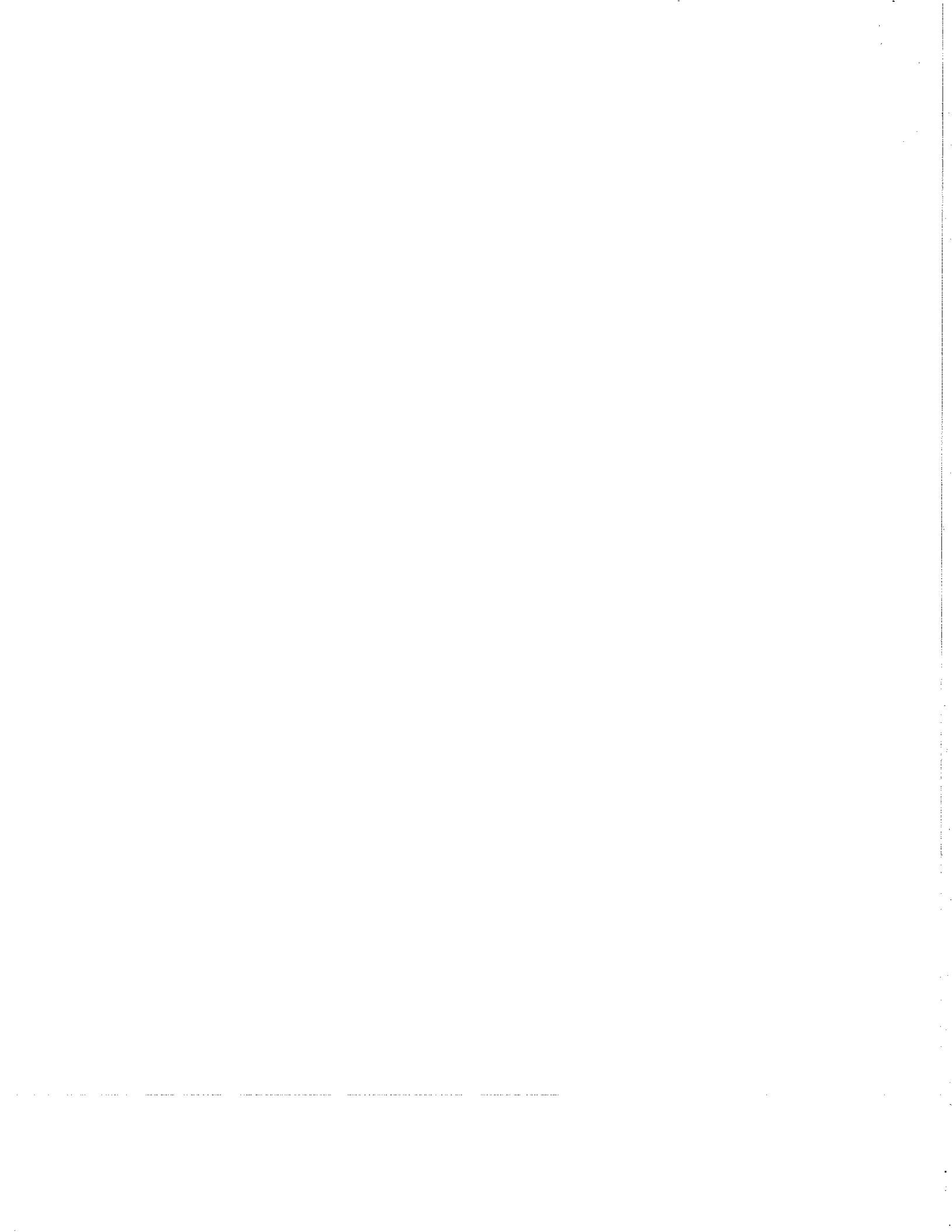
VII. SITING APPROVAL APPLICATION

- A.** All Large WECS and/or WECS Facilities shall be Conditional Use, and shall require permitting by the Fulton County Zoning Board of Appeals (See Section XII).
- B.** To obtain siting approval for a WECS Project, the Applicant must first submit a building permit application to the County Zoning Officer.

C. The Siting Approval Application shall contain or be accompanied by the following information:

1. A WECS Project summary, including:

- a. A general description of the project, including its rated generating capacity; the potential equipment manufacturer(s), type(s) of WECS, number of WECS, and rated generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS rotor(s); the general location of the project.
- b. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), along with a description of the prospective business structure.
- c. A site plan for the installation of WECSs showing the planned location of each WECS Tower, MET Tower, Inhabited Structure(s) within one-half (1/2) mile of the nearest boundary of the WECS Facility, property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), transmission lines from the WECS Tower(s) to the Substation(s), ancillary equipment, third party transmission lines, and layout of all structures within the geographical boundaries of the proposed WECS Facility.
- d. The applicant shall submit a proposed WECS Facility lighting plan that describes all lighting that will be required including any lighting that may be required by the FAA. Such plan shall include but is not limited to the planned number and location of lights, light color, whether any such lights will be flashing, and mitigation measures planned to control the light so that it does not spill over onto neighboring properties.
- e. An ingress and egress study for all construction and operation.
- f. All required studies, reports, certifications, and approvals demonstrating compliance with any



applicable law(s) and the provisions of this Ordinance.

g. Any other information required by the County as part of its zoning process.

D. The Applicant shall notify the Fulton County Zoning Officer within 48 hours of any changes to the information provided in Section VII, subsection B above, that occur while the siting approval application is pending.

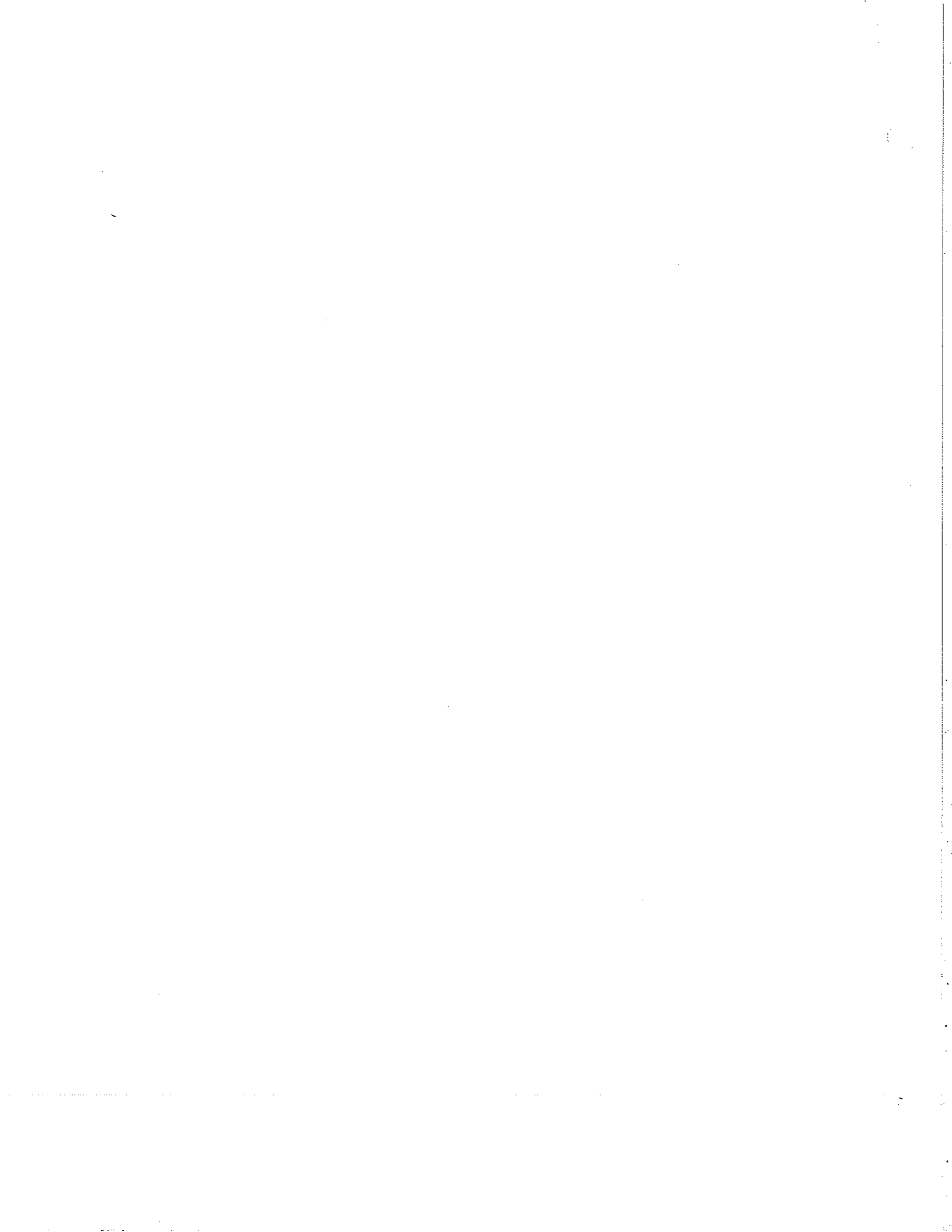
VIII. DESIGN AND INSTALLATION

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 under this Ordinance, a Professional Engineer shall certify, as part of the building permit application, that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

B. *Color*

1. WECS towers, nacelles, blades, etc., shall be painted a non-obtrusive (e.g., light environmental color such as white, gray, beige, or as recommended by the avian study) color that is non-reflective, and shall not be used for advertisement beyond the name of the WECS manufacturer.
2. The design of the WECS Project buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the WECS Project to the natural setting and the existing environment.

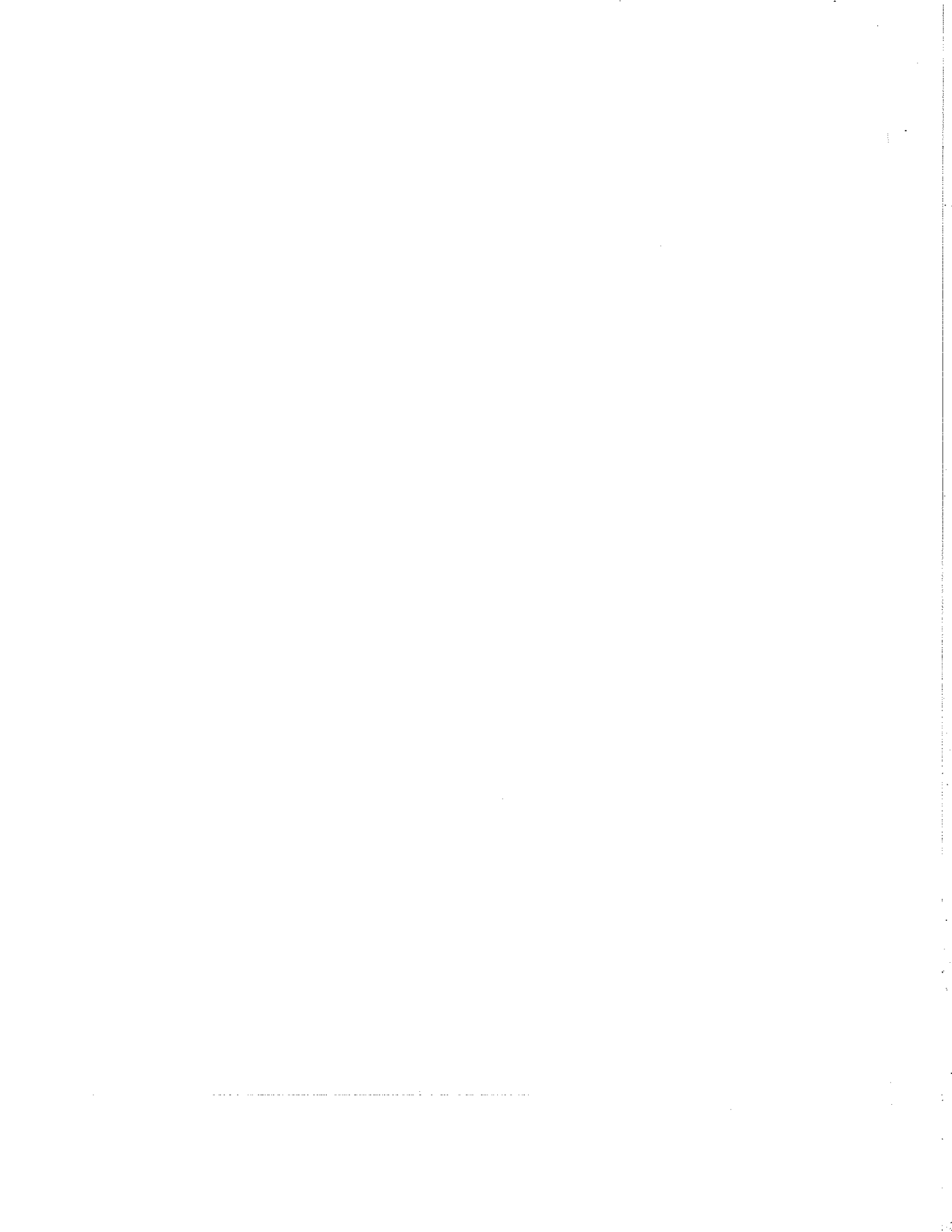


C. Compliance with the Federal Aviation Administration

The Applicant for the WECS shall comply with all applicable local, State or Federal laws, rules, regulations, and/or requirements, set forth by such agencies as, but not limited to, the FAA, and/or the DoA.

D. Safety and Security

1. The Fulton County Zoning Officer and Fulton County Engineer are granted the right of entry onto the WECS Facility, pursuant to reasonable notice (or attempt to notify at the last known address), to perform safety inspections.
2. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blade within the design limits of the rotor. A manual and/or over-speed shutdown disconnect switch(es) shall be provided and clearly labeled on the WECS Tower. All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation alone shall not be considered a sufficient braking system for over-speed protection.
 - a. The rotor over-speed control system shall be certified in writing by a Professional Engineer. The Engineer shall certify compliance with good engineering practices
3. All structures at the WECS Facility shall be grounded according to provisions of the National Electric Code.
4. All WECS Project wiring shall be underground, except where the WECS Project wiring is connected to the transmission or distribution network, adjacent to that network. All electrical components of the WECS(s) shall conform to applicable Local, State, and National Electric Codes, and relevant national and international standards (e.g. ANSI and International Electrical Commission).
 - a. The electrical system shall be certified in writing by a Professional Engineer. The

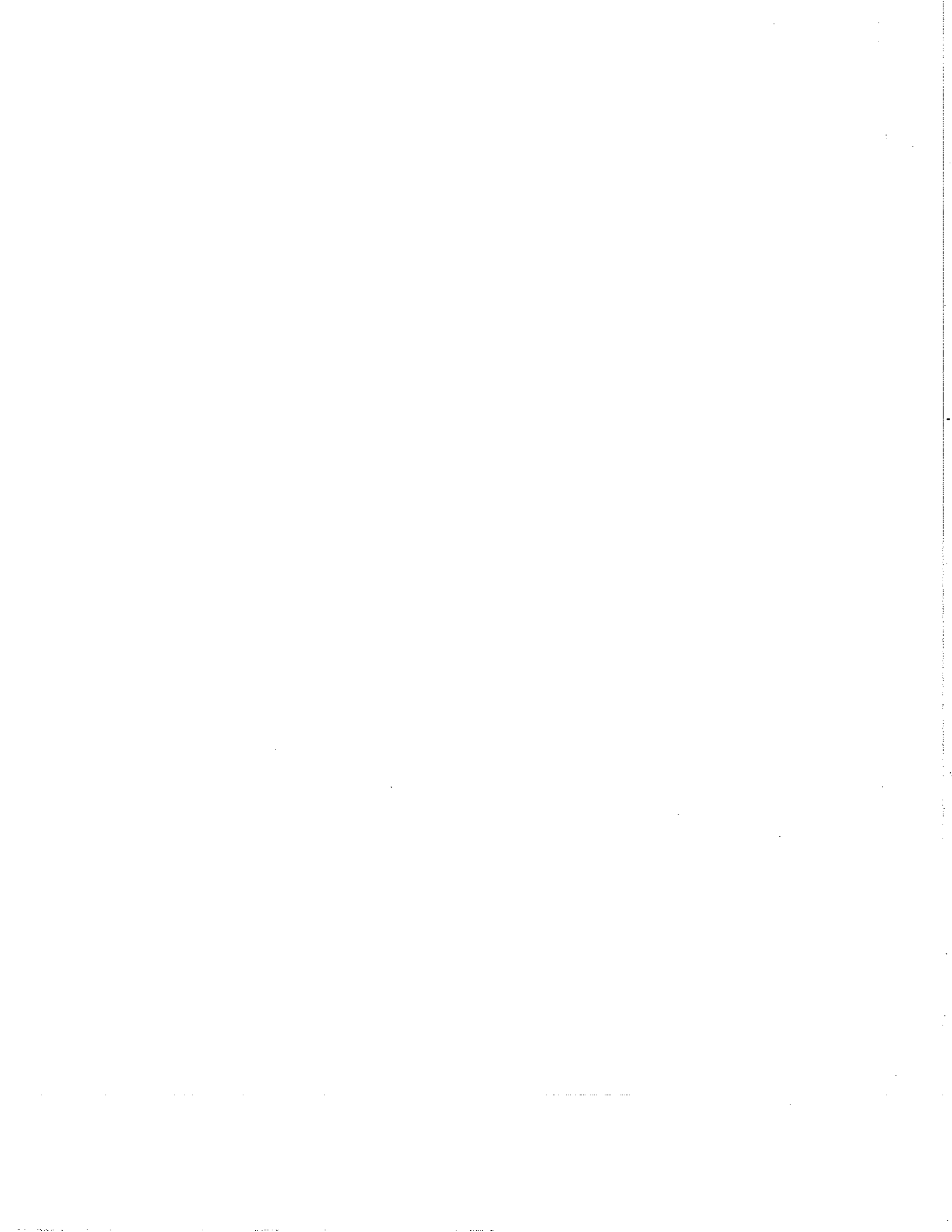


Engineer shall certify compliance with good engineering practices and with the appropriate provisions of the National Electric Code.

5. The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of not less than seventy-five (75) feet.
6. Wind Turbine towers shall not be climbable up to fifteen (15) feet above ground level.
7. All access doors at the WECS Facility shall be lockable and shall remain locked at all times when WECS Facility personnel are not present.
8. All Large WECS Towers shall be self-supporting. No Guy Wire supported Large WECS Towers shall be permitted.
9. Appropriate warning signage shall be placed on WECS Towers, electrical equipment, and WECS Facility entrances.
10. Fencing at the periphery of the WECS Facility or at the base of the WECS Towers may be required to prevent unauthorized access to the WECS Facility.

E. Setbacks

1. All WECS Towers shall be set back at least one-thousand (1000) feet or two (2) times the WECS height, whichever is greater, from any Inhabited Structure. The distance for the above setback shall be measured from the point of the Inhabited Structure foundation closest to the WECS Tower to the center of the WECS Tower foundation. The owner of the Inhabited Structure may waive this setback requirement; but in no case shall a WECS Tower be located closer to an Inhabited Structure than one and one-tenth (1.1) times the WECS Height. (See VIII-E-5 below)
2. All WECS Towers shall be set back a distance of at least one and one-tenth (1.1) times the WECS Height from public roads, third party transmission lines, and communication towers. The Zoning Board of Appeals may waive the setback requirement for County roads. (See VIII-E-5 below)



3. All WECS Towers shall be set back a distance of at least one and one-tenth (1.1) times the WECS Height from adjacent property lines. The affected adjacent property owner may waive this setback requirement. (See VIII-E-5 below)
4. All WECS towers must be separated by a minimum distance equal to one and one-tenth (1.1) times the WECS height, based on the tallest WECS Height involved.
5. The Applicant or Owner must obtain a variance from the Fulton County Zoning Board of Appeals upon proposed waiver by either the Zoning Board of Appeals or any property owner of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and must be recorded with the Fulton County Clerk's Office, as part of the chain of title in the deed of the subject property.

F. Zoning

1. For purposes of land use and lot size, WECS shall only be installed:
 - a. in accordance with any existing Comprehensive Land Use Plan, and
 - b. on lands zoned AC, and
 - c. on lots 5 acres or larger, or
 - d. if the County issues a Conditional Use permit for land use or lot size differing from those set forth in items a, b, or c.

G. Compliance with Additional Regulations

Nothing in this Ordinance is intended to preempt other applicable local, state, and/or federal laws, rules, and regulations.

H. Use of Public Roads

1. An Applicant, Owner, or Operator proposing to use any public roadway for the purpose of transporting oversized or

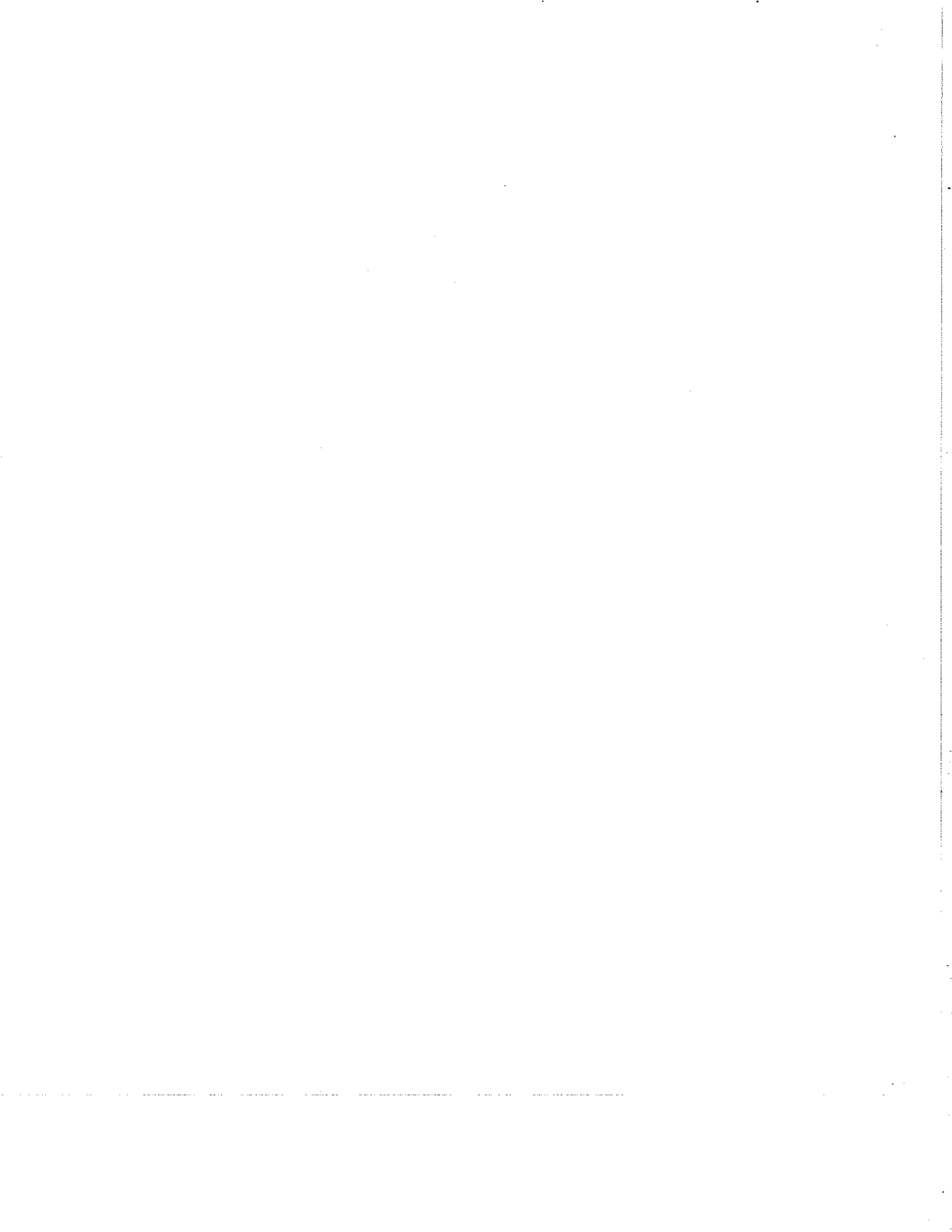
overweight WECS or Substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) or Substation(s), shall:

- a. Identify all such public roads; and
 - b. Obtain applicable weight and size permits from relevant government agencies prior to construction.
2. To the extent an Applicant, Owner, or Operator must obtain a weight or size permit the Applicant, Owner, or Operator shall:
- a. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
 - b. Create a pre-construction agreement between the WECS Facility Owner(s) and Appropriate Highway Authorities concerning the standards by which roadways will be repaired, and set forth standards for roadways which will be followed in completing road repairs after construction and for maintenance purposes during the life of the WECS Facility, and
 - c. 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.

IX. OPERATION

A. Maintenance

1. The Applicant, Owner, or Operator of the WECS Facility must submit, on an annual basis, a summary of the operation and maintenance reports to the County Zoning Office. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County Zoning Officer requests.
2. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major



components shall require re-certification by a Professional Engineer(s). Like-kind replacements will not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with a Professional Engineer to determine whether the physical modification will require re-certification, and provide the results of such conference to the Fulton County Zoning Officer. Once modifications are complete a certificate from a Professional Engineer showing the modifications to be safe shall be placed on record with the Fulton County Zoning Officer.

B. *Interference*

1. The Applicant, Owner, or Operator shall provide the applicable microwave transmission providers and all local emergency service provider(s) 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(s), the Applicant shall attempt to mitigate such anticipated interference.
2. If, after construction of the WECS, the Applicant, Owner, or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall take reasonable steps to respond to the complaint and correct any interference deficiencies found.

C. *Coordination with Local Fire Department*

1. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.
2. The Applicant, Owner, or Operator shall submit to the local fire department a detailed copy of the site plan.
3. Fire Control and Prevention Program Required: The Applicant, Owner, or Operator shall submit a Fire Control and Prevention Program that is appropriate and adequate for the proposed WECS Facility. The proposed program may include, but is not limited to, the following:
 - a. Fireproof or fire resistant building materials;
 - b. Buffers or fire retardant landscaping;

- c. An automatic fire-extinguishing system for all buildings or equipment enclosures of substantial size containing control panels, switching equipment, or transmission equipment—without regular human occupancy;
 - d. Fire breaks which will be cleared of vegetation and maintained as a fire/fuel break as long as the WECS Facility is in operation (e.g., 30 feet around the periphery of the proposed project site; 10 feet around all transformers and WECS and their foundations; 30 feet around all buildings);
 - e. Provision of training and fire fighting equipment for local fire protection personnel.
4. Upon request by the local fire department, the Owner or Operator shall cooperate to develop an emergency response plan.

D. *Materials Handling, Storage and Disposal*

- 1. All solid wastes related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
- 2. All hazardous materials related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

X. NOISE LEVELS

- A. Noise levels from each WECS or WECS Project shall be in compliance with applicable IPCB regulations. The Applicant, through the use of a qualified professional, as part of the siting approval application process, shall appropriately demonstrate compliance with IPCB noise requirements. The Applicant, Owner, or Operator shall provide evidence of compliance with IPCB regulations upon request by the County Zoning Officer.

- B. Audible sound due to WECS operations shall not exceed sixty (60) dBA for any period of time, when measured at any property boundary of the WECS Facility.
- C. The County may impose a noise setback that exceeds other setbacks in this Ordinance if it deems that greater setbacks are necessary to protect the public health, safety and welfare of the community.
- D. The County may impose noise limits lower than those required by the IPBC if it deems that lower noise levels are necessary to protect the public health, safety and welfare of the community.

XI. BIRDS

A qualified professional, such as an ornithologist or wildlife biologist, shall conduct an avian habitat study, as part of the siting approval application process, to determine if the installation of WECSs will have a substantial adverse impact on birds.

XII. PUBLIC NOTICE AND PARTICIPATION

There shall be a Public Hearing held, with proper notice, by the Fulton County Zoning Board of Appeals prior to the permitting of any Large WECS(s) or WECS Facility. Not less than fifteen (15) days prior to the Public Hearing, the Large WECS Applicant(s), Operator(s), or Owner(s) shall send notice via U.S. Postal Service to all property owners with property located within one (1) mile of any property line of the proposed Large WECS Facility notifying them of the proposed Large WECS Facility along with date, time, and place of the Public Hearing. Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation.

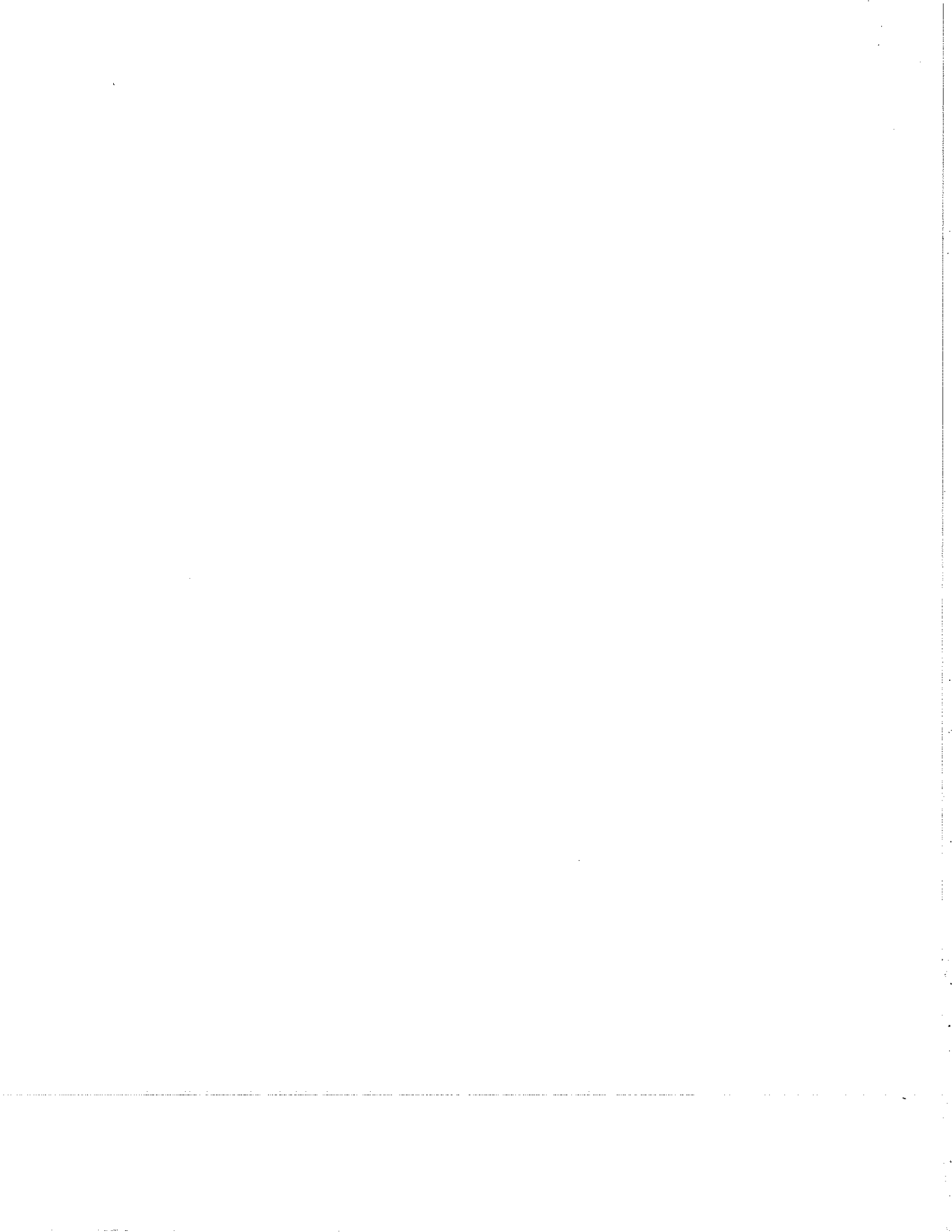
XIII. LIABILITY INSURANCE

The Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage with limits of at least two (2) million dollars per occurrence and ten (10) million dollars in the aggregate.

XIV. DECOMMISSIONING PLAN

Prior to receiving siting approval under this Ordinance the Owner(s) must formulate and present to the County Board, a Decommissioning Plan to ensure that the WECS Project is properly decommissioned upon end of project life, abandonment, or inoperability.

- A.** Decommissioning shall include: removal of all structures (including transmission equipment and fencing) and debris to a depth of four (4) feet, restoration of the soil, and restoration of vegetation within six (6) months of the end of project life or WECS Facility abandonment. The decommissioning plan shall state how the WECS(s) will be decommissioned, a Professional Engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the surety bond or escrow agent with which the resources shall be deposited. The decommissioning plan shall also include an agreement between the applicant and the County which states:
 - 1.** The financial resources for decommissioning which shall be in the form of a surety bond, or shall be deposited in an escrow account with an escrow agent acceptable to the County Board.
 - 2.** If the applicant chooses an escrow agreement:
 - a.** A written escrow agreement will be prepared, establishing upon what conditions the funds will be disbursed; and
 - b.** The County shall have access to the escrow account funds for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within six (6) months of the end of project life or WECS Facility abandonment.
- B.** The County, and/or its agents, is granted the right of entry onto the WECS Facility, pursuant to reasonable notice (or attempt to notify), to effect or complete decommissioning.
- C.** The County is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the County's right to seek reimbursement from applicant or applicant's successors assigns, or heirs for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by the

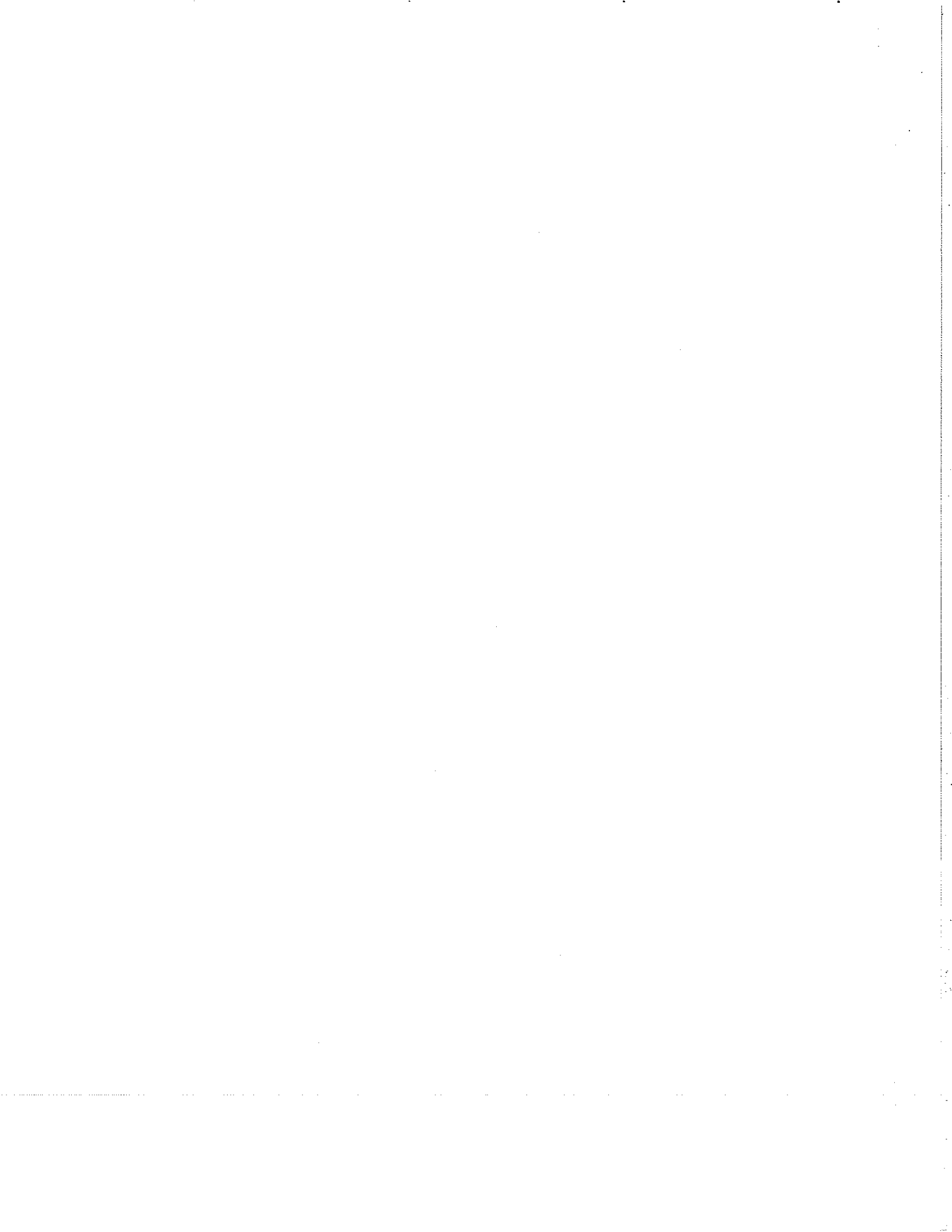


Owner or the Owners' successors, assigns, or heirs, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.

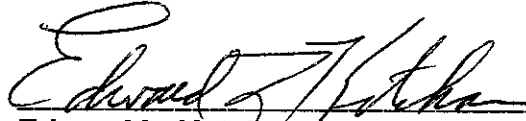
- D. The Decommissioning Plan shall include a provision stating that the terms of the plan shall be binding upon the Owner(s) and any of their successors, assigns, or heirs.

XV. REMEDIES

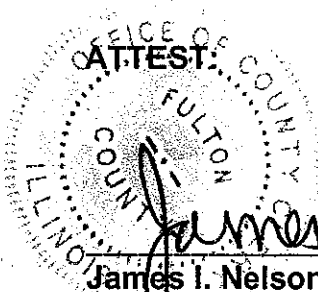
- A. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Ordinance, and shall cause them to be subject to fines set forth in Section 20, subsection B, of the Fulton County Zoning Ordinance.
- B. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first attempt to notify the Applicant, Owner(s), and Operator(s), at the last known address, setting forth the alleged default(s). Such written notice shall provide the Applicant, Owner(s), and Operator(s) a reasonable time period, not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).
- C. If the County Board determines 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, WECS permit(s) shall be revoked, and decommissioning shall be completed within six (6) months.



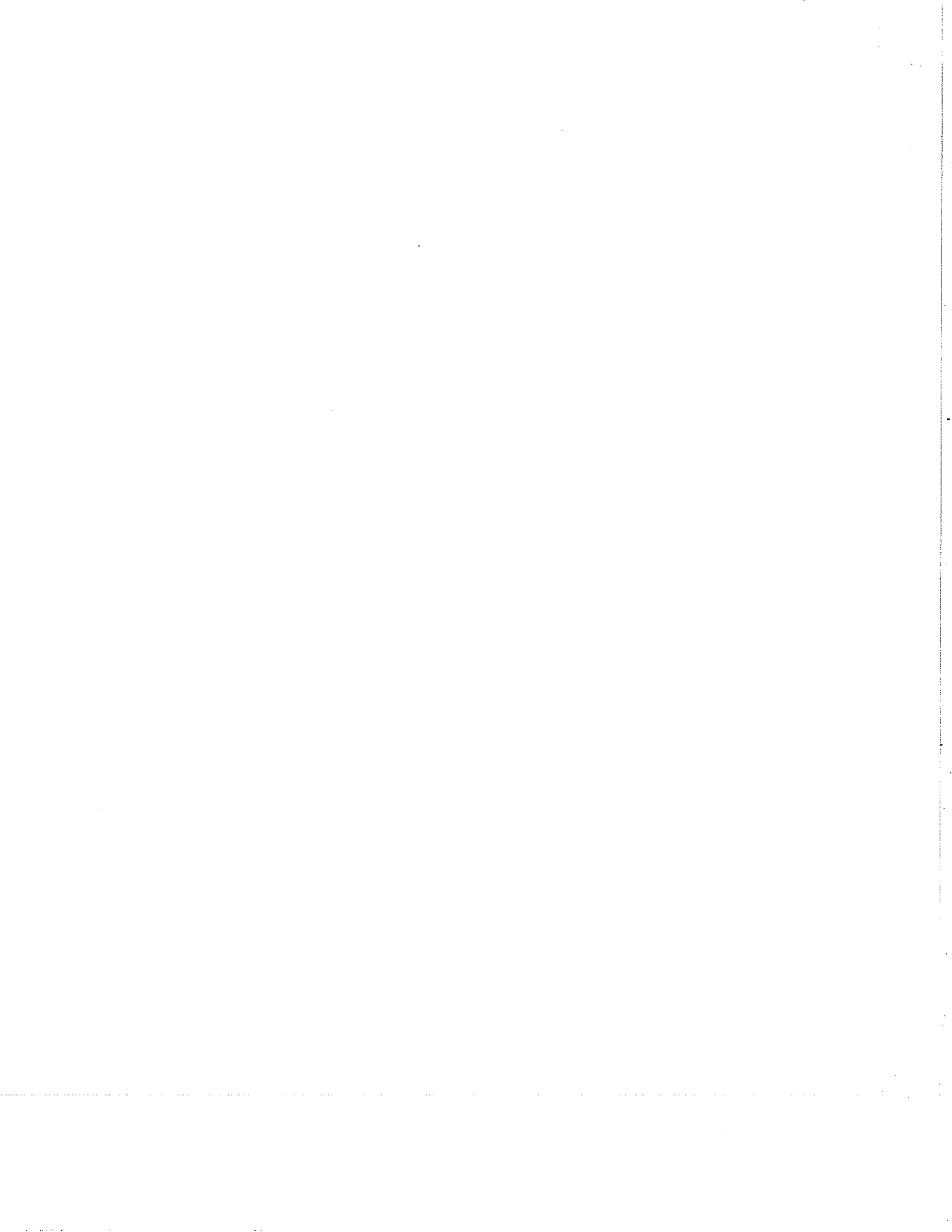
Adopted this 12th Day of August, 2008



Edward L. Ketcham
Chairman of the Fulton County Board


ATTEST:

James I. Nelson
Ex-Officio Clerk of the Fulton County Board



0822416

JAMES I. NELSON
COUNTY CLERK & RECORDER
FULTON COUNTY, IL

RECORDED ON
08/28/2008 01:49:16PM

REC FEE: 0.00
PAGES: 11

Effective Date: August 12, 2008

ORDINANCE

REGULATING THE SITING OF SMALL WIND ENERGY CONVERSION SYSTEMS IN FULTON COUNTY, ILLINOIS

This Ordinance shall amend the Fulton County Zoning Ordinance and be known, cited, and referred to as the Fulton County Small Wind Energy Siting Ordinance and will become Section 9.1 of the Fulton County Zoning Code.

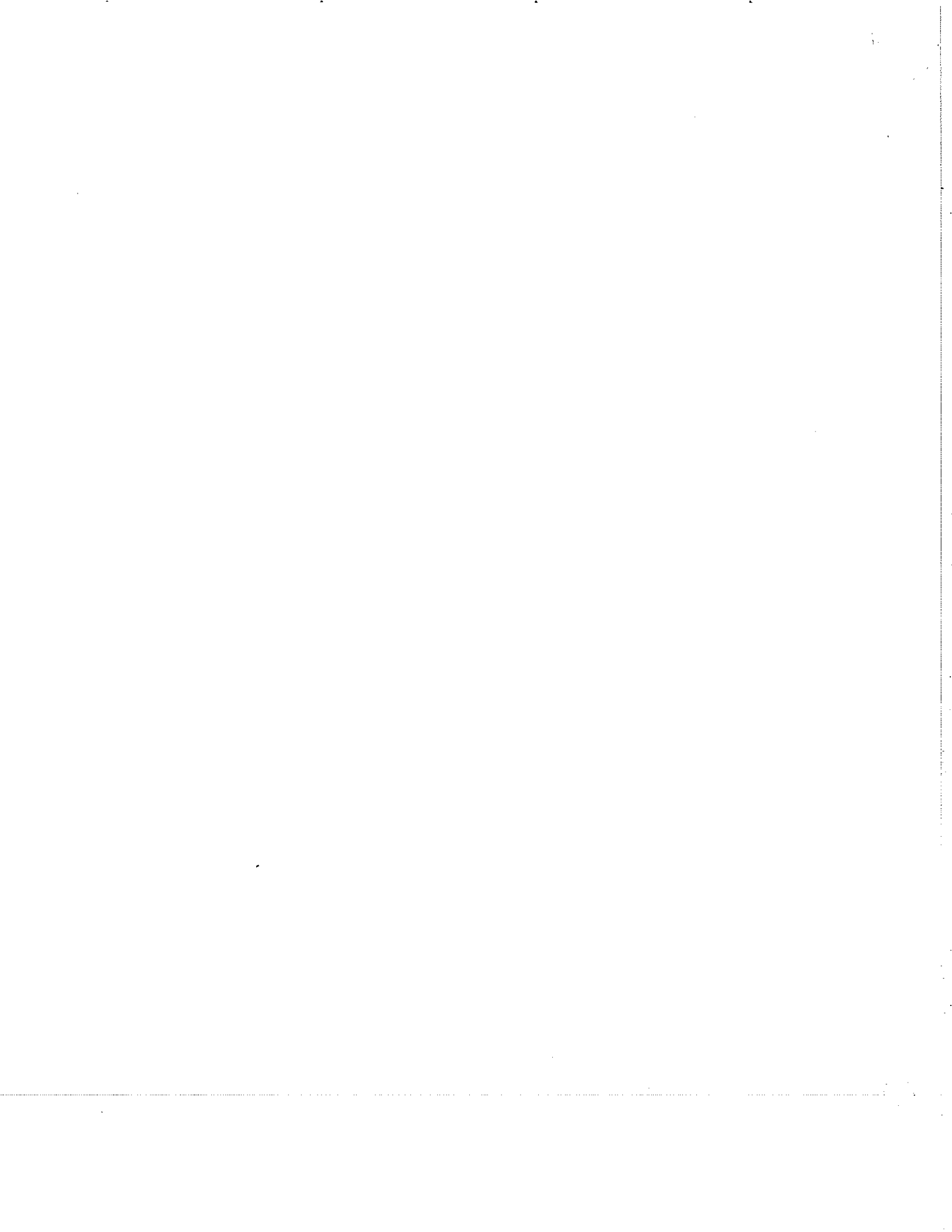
WHEREAS, Fulton County, Illinois has been granted authority to regulate Small WECS by the State of Illinois under 55 ILCS 5/5-12020 as "electric-generating wind devices;" and,

WHEREAS, Fulton County, Illinois has been granted authority to regulate Small WECS by the State of Illinois under 55 ILCS 5/5-12001 as "structures."

NOW, THEREFORE, BE IT ORDAINED by the Fulton County Board as follows:

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I. INTRODUCTION

A. Title

This Ordinance shall amend the Fulton County Zoning Ordinance and be known, cited, and referred to as the Fulton County Small Wind Energy Siting Ordinance.

B. Purpose

This Ordinance is adopted for the following purposes:

1. To provide a regulatory scheme for the construction and operation of Small Wind Energy Conversion Systems (WECS) in Fulton County, Illinois, subject to reasonable restrictions intended to preserve the public health and safety.
2. To assure that any development and production of wind-generated energy in Fulton County is safe and effective;
3. To facilitate economic opportunities for local residents;
4. To promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.

II. DEFINITIONS

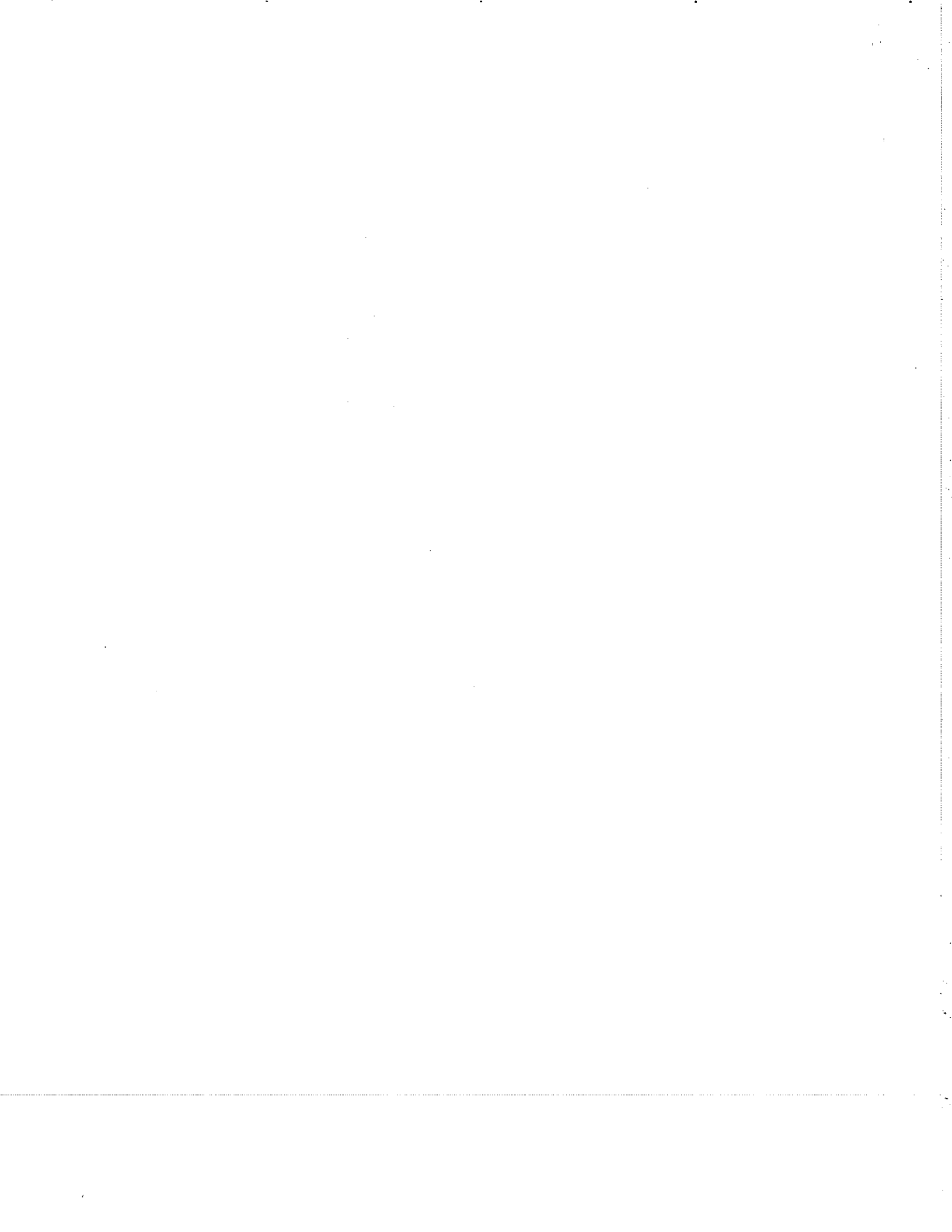
- A. "Applicant" means any person or entity who submits to the County an application (building permit) for the siting of a Small WECS.
- B. "County" means Fulton County, Illinois.
- C. "DoA" means State of Illinois, Department of Transportation, Division of Aeronautics.
- D. "FAA" means Federal Aviation Administration.
- E. "Guy Wire" means any wire or cable that extends from a small WECS for the purpose of supporting the WECS structure.
- F. "Inoperable" means a Small WECS that has not generated power within the preceding ninety (90) days or has been deemed unsafe by the County Zoning Officer, with the exception of the construction phase which shall last no more than six (6) months. If a Small WECS is deemed inoperable

by the County Zoning Officer, repair or removal of the Small WECS must be completed within forty-five (45) days.

- G. "IPCB" means Illinois Pollution Control Board
- H. "MET Tower" means a meteorological tower used for the measurement of wind speed.
- I. "Owner" means the person owning the land on which the small WECS is located. If a person or entity other than the Owner wishes to erect a small WECS on land that is rented or leased, the Owner must file a document with the Fulton County Clerk's Office stating that the Owner, their successors, assigns, and/or heirs, accept financial responsibility for the Small WECS and its removal when it becomes Inoperable.
- J. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- K. "Small WECS" means a WECS having a WECS Height of less than one hundred seventy (170) feet and/or output of less than 100 kilowatts (KW), and used to offset energy usage of a private property with no intent to generate energy as a commercial venture.
- L. "Wind Energy Conversion System" ("WECS") means all structures and devices that together convert wind energy into any other form of energy.
- M. "WECS Tower" means the support structure to which the energy producing assembly is attached.
- N. "WECS Height" means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.
- O. "Zoning Officer" means the Fulton County Zoning & Community Development Director.

III. AUTHORITY

- A. Fulton County, Illinois has been granted authority to regulate Small WECS by the State of Illinois under 55 ILCS 5/5-12020 as "electric-generating wind devices."
- B. Fulton County, Illinois has been granted authority to regulate Small WECS by the State of Illinois under 55 ILCS 5/5-12001 as "structures."



IV. APPLICABILITY

This Ordinance governs the siting of Small WECS constructed after the effective date of this Ordinance. Small WECS legally installed prior to the date of this Ordinance are exempted until such time as:

- A. any pre-existing Small WECS does not produce energy for a continuous period of thirty (30) days. If such event occurs, the Small WECS must be brought into compliance with this Ordinance.
- B. any modification or alteration is made to pre-existing Small WECS, other than routine repairs using replacement parts of like kind. If such event occurs, the Small WECS must be brought into compliance with this Ordinance.

V. PROHIBITION

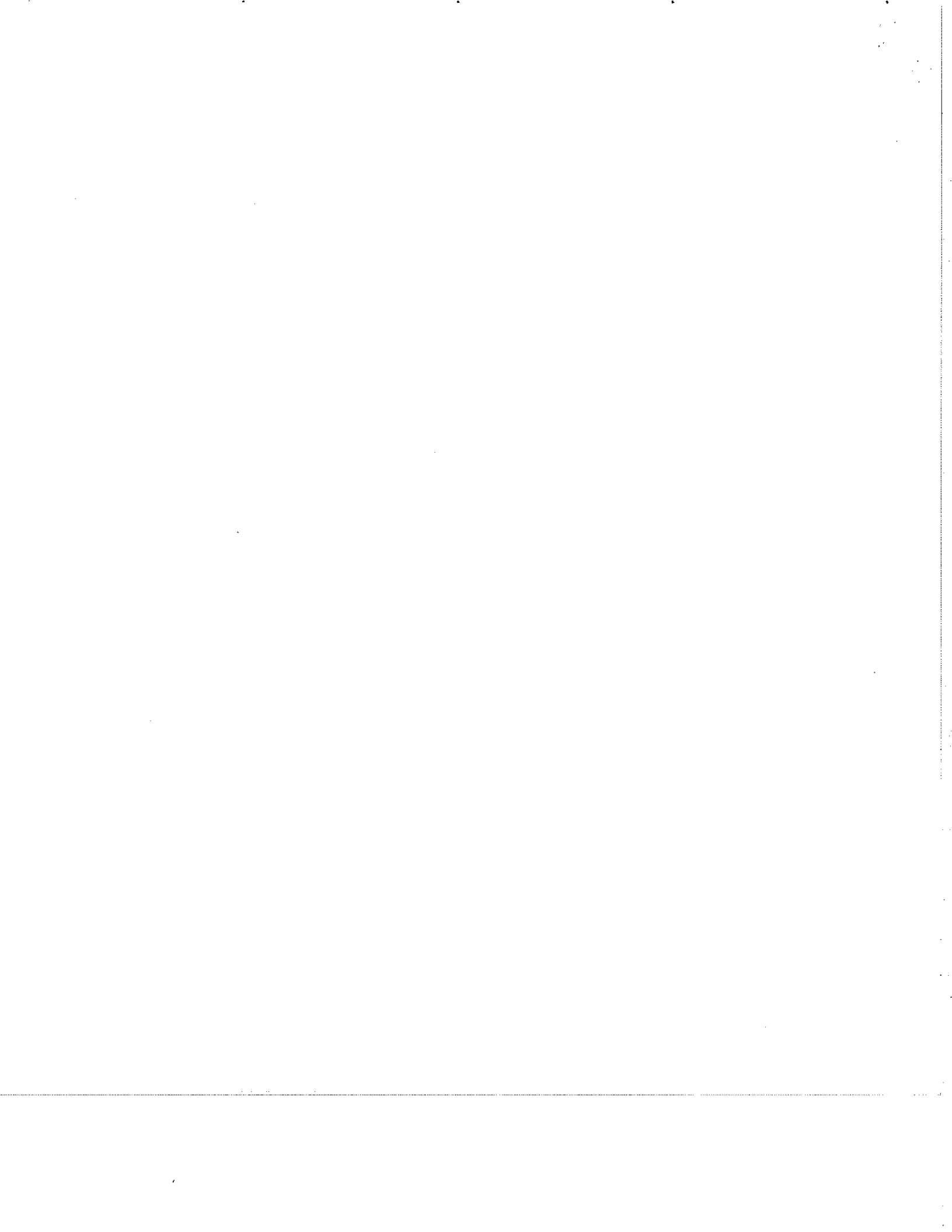
No Small WECS shall be constructed, erected, installed, or located within Fulton County, unless siting approval has been obtained and necessary permits have been issued for each Small WECS pursuant to this Ordinance.

VI. FEES

Fees for Small WECS siting approval and building permits shall be included in the Fulton County Fee Schedule, as amended from time to time by the Fulton County Board.

VII. SITING APPROVAL APPLICATION

- A. All Small WECS(s) shall be Conditional Use, and shall require permitting by the Fulton County Zoning Board of Appeals (See Section XI).
- B. To obtain siting approval for a Small WECS, the Applicant or Owner must first submit a building permit application to the Fulton County Zoning Officer.
- C. The siting approval application shall contain or be accompanied by the following information:
 - 1. a general description of the Small WECS, including the rated generating capacity, the potential equipment manufacturer, type of Small WECS, the type and height of the Small WECS Tower, the



diameter of the Small WECS rotor, the proposed Small WECS Height, the location of proposed installation, the name(s), address(es), and phone number(s) of the Owner(s).

- a. The Applicant or Owner shall provide evidence that the weight of the proposed energy producing assembly to be placed atop the Small WECS Tower does not exceed the rated capacity of the proposed Small WECS Tower.
2. A site drawing showing the planned location of the Small WECS, tower base and footings, guy wire anchors, property lines (including identification of adjoining properties), inhabited structures within one-half (1/2) mile of the proposed Small WECS location, setback lines, public roads, railroads, overhead utilities, and all structures within one and one-half (1.5) times the Small WECS Height of the Small WECS.
3. The Owner of a Small WECS is responsible to provide any other information required by the County as part of its zoning process.
- D. The Applicant or Owner shall notify the Fulton County Zoning Officer within 48 hours of any changes to the information provided in Section VII, subsection B above, that occur while the siting approval application is pending.

VIII. DESIGN AND INSTALLATION

A. Color

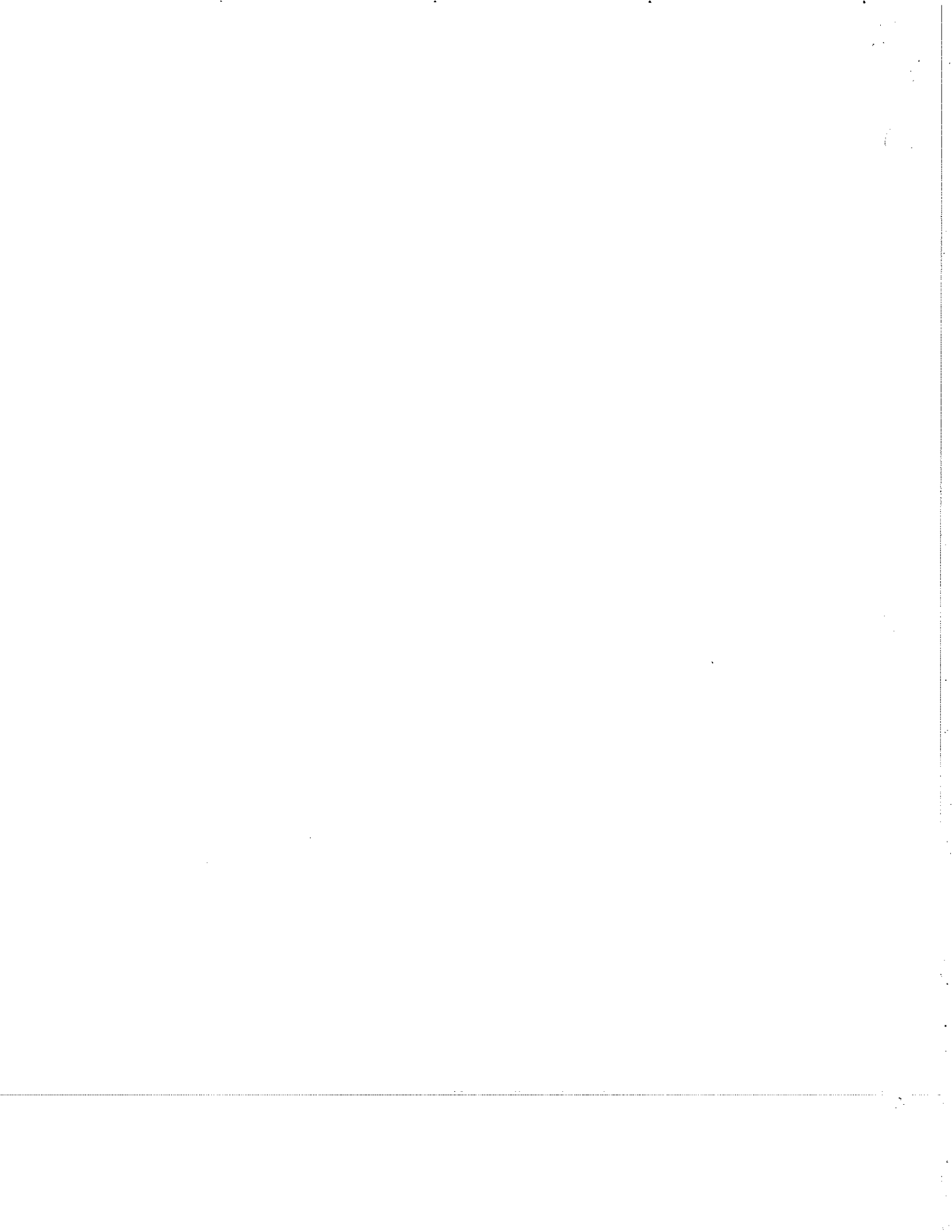
Small WECS towers, generators, nacelles, blades, etc., shall be painted a non-obtrusive neutral color (e.g., light environmental color such as white, gray, or beige) that is non-reflective, shall not have any flags, streamers, banners, or decorative items attached at any time, and shall contain no message beyond warning placards, the name of the owner, and/or the name of the Small WECS manufacturer.

B. Compliance with the Federal Aviation Administration

The Owner of a Small WECS is responsible to ensure that the Small WECS complies with all applicable FAA and DoA regulations.

C. Safety and Security

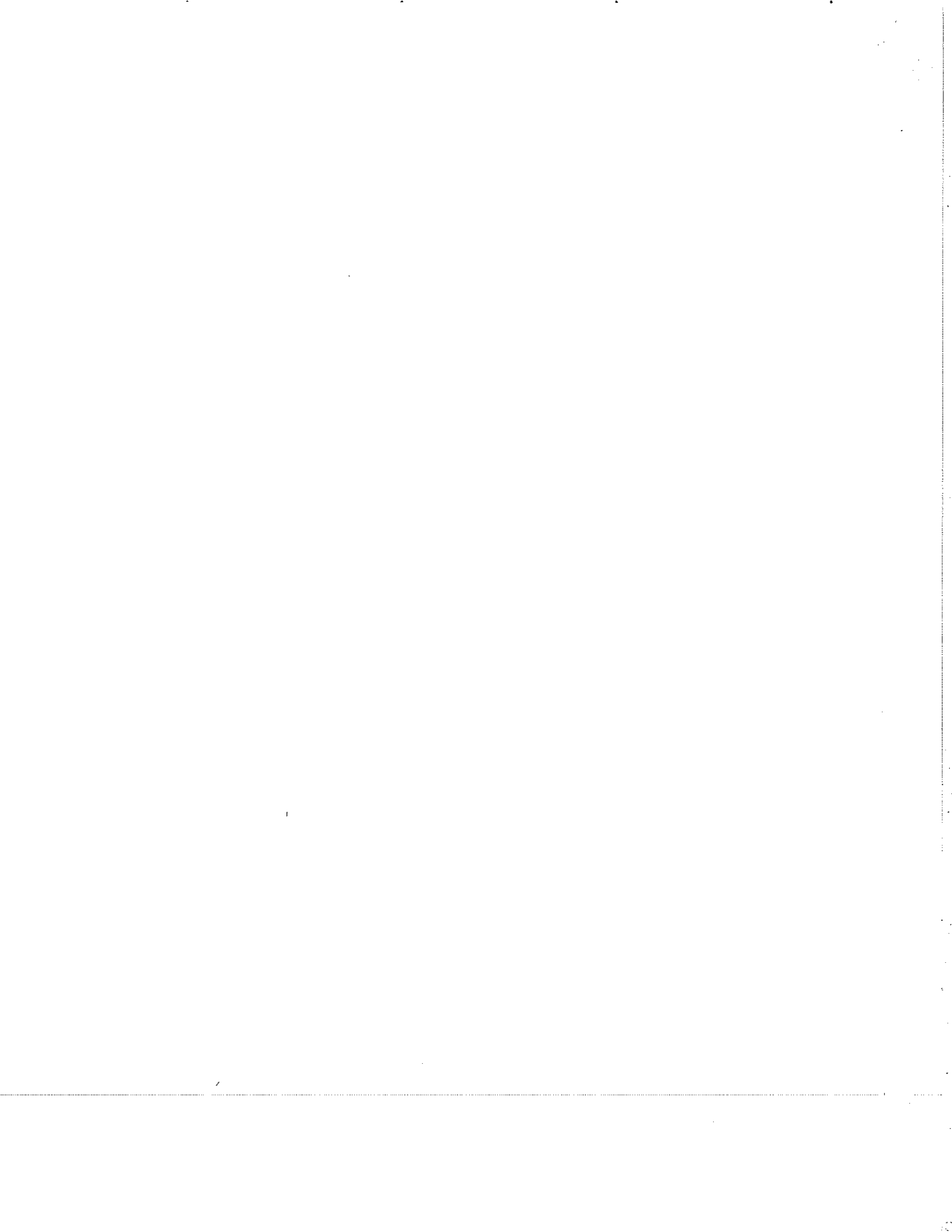
1. The County Zoning Officer is granted the right of entry onto the site of the Small WECS, pursuant to reasonable notice (or attempt to notify), to perform safety inspections.



2. Each Small WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blades within the design limits of the rotor. Mechanical brakes shall be operated in a fail-safe mode.
3. All Small WECS shall be grounded according to the appropriate provisions of the National Electric Code.
4. All electrical components of the Small WECS shall conform to all applicable local, state, and national codes, and shall be installed in compliance with the National Electric Code.
5. The blade tip of any horizontal axis Small WECS shall, at its lowest point, have ground clearance of not less than fifteen (15) feet.
6. Small WECS towers shall not be climbable up to twelve (12) feet above ground level, or shall be enclosed by a fence at least eight (8) feet in height.
 - a. If fencing is used to secure the Small WECS, all gates shall be lockable and kept locked except when the Owner or his agent are immediately present.

D. Setbacks

1. All Small WECS Towers shall be set back one and one-half (1.5) times the Small WECS Height from all adjacent property lines, road right-of-ways, railroad right-of-ways, and overhead utility right-of-ways. The owner of adjacent property may waive this setback requirement, but in no case shall a Small WECS Tower be located closer to adjacent property than one and one-tenth (1.1) times the Small WECS Height. The Owner must obtain a variance from the County upon waiver of the above setback requirement. Any waiver of the above setback requirement shall run with the land and must be recorded with the Fulton County Clerk's Office, as part of the chain of title in the deed of the subject property.
2. Guy wires and guy wire anchors shall meet the setback requirements for accessory structures in the zoning district in which the Small WECS is located.



3. All Small WECS towers must be separated by a minimum distance equal to one and one-tenth (1.1) times the Small WECS height, based on the tallest Small WECS height involved.

E. Zoning

1. For purposes of land use and lot size, Small WECS shall only be installed:
 - a. in accordance with any existing Comprehensive Land Use Plan, and
 - b. on lands zoned AC or R1, and
 - c. on lots 1 acre or larger, or
 - d. if the County issues a Conditional Use permit for land use or lot size differing from that set forth in items a, b, or c.

F. Compliance with Additional Regulations

Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

IX. OPERATION

A. Maintenance

1. Small WECS shall be maintained in such manner to insure the public health and safety. If the County Zoning Officer deems a Small WECS to be unsafe it will be the responsibility of the Owner to repair or remove the Small WECS within forty-five (45) days.

B. Interference

The Small WECS shall not cause any radio, television, microwave, or navigation interference. If a signal disturbance problem is identified, the Owner shall correct the problem within forty-five (45) days of being notified of the problem.



X. NOISE LEVELS

- A.** Noise levels from each Small WECS shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. It is the Owner's responsibility to demonstrate compliance with IPCB noise requirements to the satisfaction of the County Zoning Officer.
- B.** Audible sound due to WECS operations shall not exceed sixty (60) dBA for any period of time, when measured at any property boundary on which the Small WECS is located.
- C.** The County may impose a noise setback that exceeds other setbacks in this Ordinance if it deems that greater setbacks are necessary to protect the public health, safety and welfare of the community.
- D.** The County may impose noise limits lower than those required by the IPBC if it deems that lower noise levels are necessary to protect the public health, safety and welfare of the community.

XI. PUBLIC NOTICE AND PARTICIPATION

There shall be a Public Hearing held, with proper notice, by the Fulton County Zoning Board of Appeals prior to the permitting of any Small WECS(s). Not less than fifteen (15) days prior to the Public Hearing, the Small WECS Owner(s) shall send notice via U.S. Postal Service to all property owners with property located within five-hundred (500) feet of any property line of the property on which the proposed Small WECS will be located, notifying them of the proposed Small WECS installation along with date, time, and place of the Public Hearing. Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation.

XII. REMOVAL

- A.** If a Small WECS is deemed Inoperable or unsafe by the County Zoning Officer it shall be repaired or removed within forty-five (45) days.
- B.** The County is granted the right to seek injunctive relief to effect complete removal, as well as the County's right to seek reimbursement from Owner's successors, assigns, or heirs for removal costs and to file a lien against any real estate owned by the Owner or Owner's successors, assigns, or heirs, or in which they have an interest, for the amount of the removal, and to take all steps allowed by law to enforce said lien.

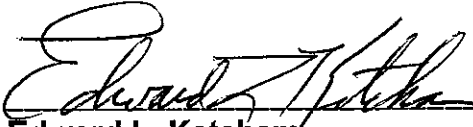
XIII. REMEDIES

- A.** Failure by the Owner(s) to materially comply with any of the above provisions shall constitute a default under this Ordinance, and shall cause them to be subject to fines set forth in Section 20, subsection B, of the Fulton County Zoning Ordinance.

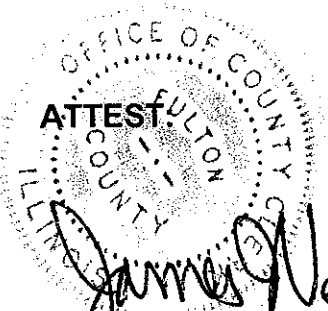
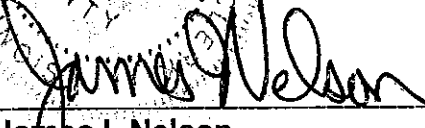
- B.** Prior to implementation of the existing County procedures for the resolution of such default(s), the County Zoning Officer shall first provide written notice to the Owner, setting forth the alleged default(s). Such written notice shall provide the Owner a reasonable time period, not to exceed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

- c.** If the County Board determines 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 and the Small WECS permit shall be revoked and the Small WECS shall be removed.

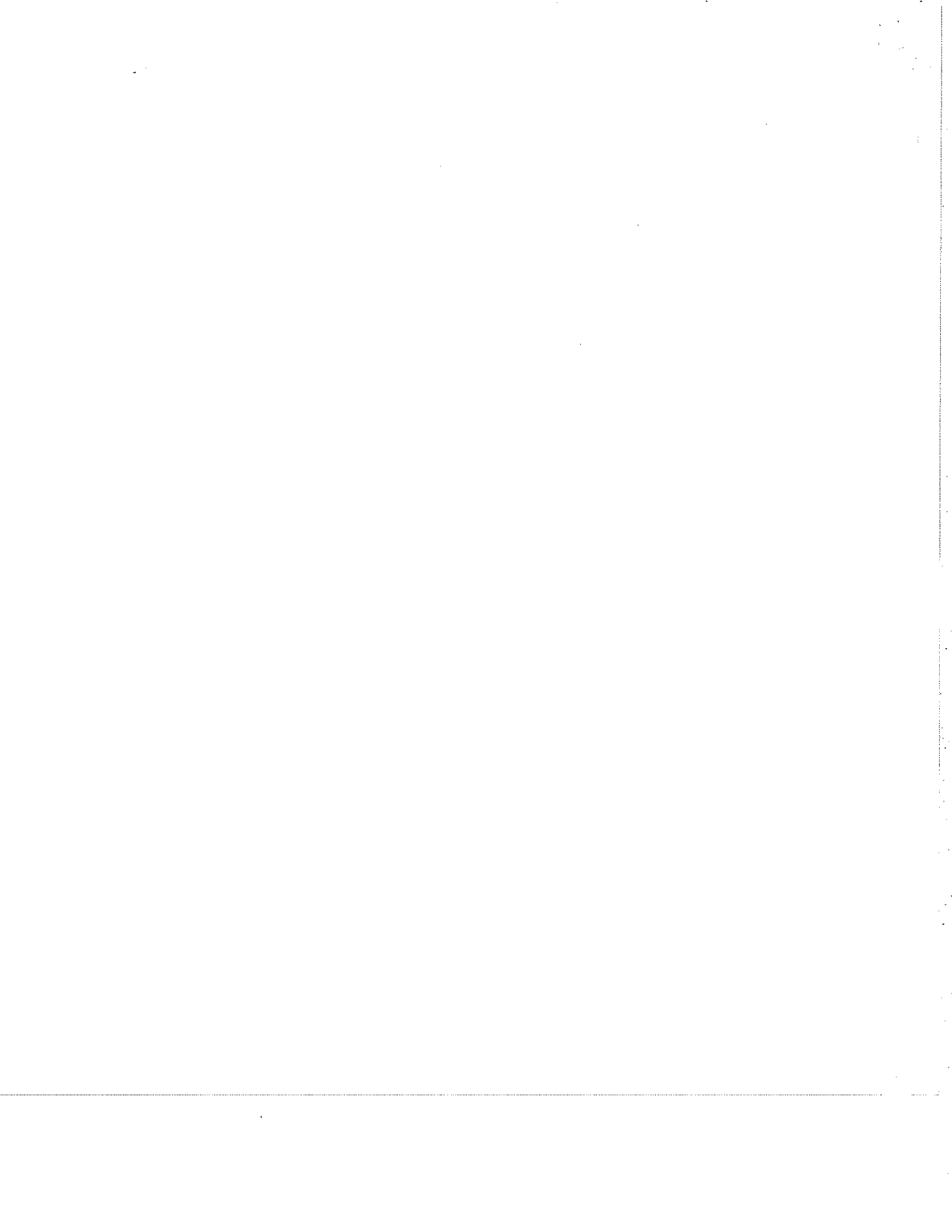
Adopted this 12th Day of August, 2008



Edward L. Ketcham
Chairman of the Fulton County Board

James I. Nelson
Ex-Officio Clerk of the Fulton County Board



Effective Date: August 12, 2008

ORDINANCE

REGULATING THE SITING OF SMALL WIND ENERGY CONVERSION SYSTEMS IN FULTON COUNTY, ILLINOIS

This Ordinance shall amend the Fulton County Zoning Ordinance and be known, cited, and referred to as the Fulton County Small Wind Energy Siting Ordinance and will become Section 9.1 of the Fulton County Zoning Code.

WHEREAS, Fulton County, Illinois has been granted authority to regulate Small WECS by the State of Illinois under 55 ILCS 5/5-12020 as "electric-generating wind devices;" and,

WHEREAS, Fulton County, Illinois has been granted authority to regulate Small WECS by the State of Illinois under 55 ILCS 5/5-12001 as "structures."

NOW, THEREFORE, BE IT ORDAINED by the Fulton County Board as follows:

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I. INTRODUCTION

A. Title

This Ordinance shall amend the Fulton County Zoning Ordinance and be known, cited, and referred to as the Fulton County Small Wind Energy Siting Ordinance.

B. Purpose

This Ordinance is adopted for the following purposes:

1. To provide a regulatory scheme for the construction and operation of Small Wind Energy Conversion Systems (WECS) in Fulton County, Illinois, subject to reasonable restrictions intended to preserve the public health and safety.
2. To assure that any development and production of wind-generated energy in Fulton County is safe and effective;
3. To facilitate economic opportunities for local residents;
4. To promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.

II. DEFINITIONS

- A. "Applicant" means any person or entity who submits to the County an application (building permit) for the siting of a Small WECS.
- B. "County" means Fulton County, Illinois.
- C. "DoA" means State of Illinois, Department of Transportation, Division of Aeronautics.
- D. "FAA" means Federal Aviation Administration.
- E. "Guy Wire" means any wire or cable that extends from a small WECS for the purpose of supporting the WECS structure.
- F. "Inoperable" means a Small WECS that has not generated power within the preceding ninety (90) days or has been deemed unsafe by the County Zoning Officer, with the exception of the construction phase which shall last no more than six (6) months. If a Small WECS is deemed inoperable

by the County Zoning Officer, repair or removal of the Small WECS must be completed within forty-five (45) days.

- G. "IPCB" means Illinois Pollution Control Board
- H. "MET Tower" means a meteorological tower used for the measurement of wind speed.
- I. "Owner" means the person owning the land on which the small WECS is located. If a person or entity other than the Owner wishes to erect a small WECS on land that is rented or leased, the Owner must file a document with the Fulton County Clerk's Office stating that the Owner, their successors, assigns, and/or heirs, accept financial responsibility for the Small WECS and its removal when it becomes Inoperable.
- J. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- K. "Small WECS" means a WECS having a WECS Height of less than one hundred seventy (170) feet and/or output of less than 100 kilowatts (KW), and used to offset energy usage of a private property with no intent to generate energy as a commercial venture.
- L. "Wind Energy Conversion System" ("WECS") means all structures and devices that together convert wind energy into any other form of energy.
- M. "WECS Tower" means the support structure to which the energy producing assembly is attached.
- N. "WECS Height" means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.
- O. "Zoning Officer" means the Fulton County Zoning & Community Development Director.

III. AUTHORITY

- A. Fulton County, Illinois has been granted authority to regulate Small WECS by the State of Illinois under 55 ILCS 5/5-12020 as "electric-generating wind devices."
- B. Fulton County, Illinois has been granted authority to regulate Small WECS by the State of Illinois under 55 ILCS 5/5-12001 as "structures."

IV. APPLICABILITY

This Ordinance governs the siting of Small WECS constructed after the effective date of this Ordinance. Small WECS legally installed prior to the date of this Ordinance are exempted until such time as:

- A. any pre-existing Small WECS does not produce energy for a continuous period of thirty (30) days. If such event occurs, the Small WECS must be brought into compliance with this Ordinance.
- B. any modification or alteration is made to pre-existing Small WECS, other than routine repairs using replacement parts of like kind. If such event occurs, the Small WECS must be brought into compliance with this Ordinance.

V. PROHIBITION

No Small WECS shall be constructed, erected, installed, or located within Fulton County, unless siting approval has been obtained and necessary permits have been issued for each Small WECS pursuant to this Ordinance.

VI. FEES

Fees for Small WECS siting approval and building permits shall be included in the Fulton County Fee Schedule, as amended from time to time by the Fulton County Board.

VII. SITING APPROVAL APPLICATION

- A. All Small WECS(s) shall be Conditional Use, and shall require permitting by the Fulton County Zoning Board of Appeals (See Section XI).
- B. To obtain siting approval for a Small WECS, the Applicant or Owner must first submit a building permit application to the Fulton County Zoning Officer.
- C. The siting approval application shall contain or be accompanied by the following information:
 - 1. a general description of the Small WECS, including the rated generating capacity, the potential equipment manufacturer, type of Small WECS, the type and height of the Small WECS Tower, the

diameter of the Small WECS rotor, the proposed Small WECS Height, the location of proposed installation, the name(s), address(es), and phone number(s) of the Owner(s).

- a. The Applicant or Owner shall provide evidence that the weight of the proposed energy producing assembly to be placed atop the Small WECS Tower does not exceed the rated capacity of the proposed Small WECS Tower.
2. A site drawing showing the planned location of the Small WECS, tower base and footings, guy wire anchors, property lines (including identification of adjoining properties), inhabited structures within one-half (½) mile of the proposed Small WECS location, setback lines, public roads, railroads, overhead utilities, and all structures within one and one-half (1.5) times the Small WECS Height of the Small WECS.
3. The Owner of a Small WECS is responsible to provide any other information required by the County as part of its zoning process.
- D. The Applicant or Owner shall notify the Fulton County Zoning Officer within 48 hours of any changes to the information provided in Section VII, subsection B above, that occur while the siting approval application is pending.

VIII. DESIGN AND INSTALLATION

A. *Color*

Small WECS towers, generators, nacelles, blades, etc., shall be painted a non-obtrusive neutral color (e.g., light environmental color such as white, gray, or beige) that is non-reflective, shall not have any flags, streamers, banners, or decorative items attached at any time, and shall contain no message beyond warning placards, the name of the owner, and/or the name of the Small WECS manufacturer.

B. *Compliance with the Federal Aviation Administration*

The Owner of a Small WECS is responsible to ensure that the Small WECS complies with all applicable FAA and DoA regulations.

C. *Safety and Security*

1. The County Zoning Officer is granted the right of entry onto the site of the Small WECS, pursuant to reasonable notice (or attempt to notify), to perform safety inspections.

2. Each Small WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the blades within the design limits of the rotor. Mechanical brakes shall be operated in a fail-safe mode.
3. All Small WECS shall be grounded according to the appropriate provisions of the National Electric Code.
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1. All Small WECS Towers shall be set back one and one-half (1.5) times the Small WECS Height from all adjacent property lines, road right-of-ways, railroad right-of-ways, and overhead utility right-of-ways. The owner of adjacent property may waive this setback requirement, but in no case shall a Small WECS Tower be located closer to adjacent property than one and one-tenth (1.1) times the Small WECS Height. The Owner must obtain a variance from the County upon waiver of the above setback requirement. Any waiver of the above setback requirement shall run with the land and must be recorded with the Fulton County Clerk's Office, as part of the chain of title in the deed of the subject property.
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- A.** Noise levels from each Small WECS shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. It is the Owner's responsibility to demonstrate compliance with IPCB noise requirements to the satisfaction of the County Zoning Officer.
- B.** Audible sound due to WECS operations shall not exceed sixty (60) dBA for any period of time, when measured at any property boundary on which the Small WECS is located.
- C.** The County may impose a noise setback that exceeds other setbacks in this Ordinance if it deems that greater setbacks are necessary to protect the public health, safety and welfare of the community.
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- A.** Failure by the Owner(s) to materially comply with any of the above provisions shall constitute a default under this Ordinance, and shall cause them to be subject to fines set forth in Section 20, subsection B, of the Fulton County Zoning Ordinance.

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