

2. DEFINITIONS

A-Weighted Sound Level (dbA): A measurement of sound pressure level, which has been filtered or weighted to progressively de-emphasize the importance of frequency sensitivity at low frequencies and at extremely high frequencies, relative to the mid-range of the frequency spectrum. This area of sensitivity also corresponds to the human speech band. This measurement is the most commonly used filter in industrial noise applications (OSHA) and community noise regulations.

Blade Glint: The intermittent reflection of the sun off the glossy surface of wind turbine blades.

Cluster: A group of WECS, contained within the same WECOD, that are geographically adjacent, and each tower is less than 1.25 times the minimum spacing distance from at least one other WECS in the group.

C-Weighted Sound Level (dbC): The measurement of sound pressure level which is designed to be more responsive to low-frequency noise. C-weighting is intended to represent how the ear perceives sound at high decibel levels and is also used for evaluating impact or impulse noise such as demolition or mining blasting, artillery firing, and bomb explosions using conventional explosives of less than approximately one ton.

Decibel (db): The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 db(A-weighted). In general, this means the quietest sound we can hear is near 0 db (A-weighted), and the loudest we can hear without pain is near 120 db (A-weighted). Most sounds in the typical day-to-day environment range from 30 to 100 db (A-weighted). Normal speech at 3 feet averages about 65 db (A-weighted).

Furling: the wind turbine is designed to limit its power output in high winds by changing the rotor's plane of rotation to a plane that is not perpendicular to the prevailing wind direction.

Ice Throw: Ice build-up that is thrown by the spinning blades.

Nacelle: The enclosure located at the top of a wind turbine tower that houses the gearbox, generator and other equipment.

Property Line: A line of record bounding a lot of record that divides one lot from another lot, or from a public street, or private street, or any other public space.

Pure Tone: A sound whose instantaneous sound pressure is a simple sinusoidal function of the time and is characterized by a single frequency or singleness of pitch. For the purpose of these regulations, a pure tone shall exist if the one-third (1/3) octave band sound pressure level in the bandwidth of the tone exceeds the arithmetic average of the sound pressure levels on the two contiguous one-third (1/3) octave bands by 5 db for center frequencies of 500 Hz and above, and 8 db for center frequencies between 160 and 400 Hz, and by 15 db for center frequencies less than or equal to 125 Hz.

Rotor: The rotating part of a turbine, including the turbine blades.

Shadow Flicker: When the blades of an operating wind turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and their immediate environment.

Stall-Control: A braking mechanism on wind turbines where the rotor blades are bolted onto the hub at a fixed angle. The rotor blade profile is aerodynamically designed to ensure that the moment the wind speed becomes too high, it creates turbulence on the side of the rotor blade that is not facing the wind. This stall prevents the lifting force of the rotor blade from acting on the rotor.

Turbine: A wind-driven machine that converts wind energy into electrical power, also known as a wind energy conversion system (WECS).

Upwind Rotor: A design in which the rotor on a wind turbine tower faces into the wind.

Visual Dominance Zone: A zone within or distance from which a turbine may be perceived as dominating the visual landscape, determined to be a zone surrounding a turbine that is twenty (20) times the total height of the turbine.

Well Designed Braking System: The primary braking system, which uses a mechanical brake, pitch-control of the turbine blades, or stall-control to bring the turbine to a stop in such a way that stall-induced vibrations/noise are avoided.

Wind Energy Conversion System, Commercial (WECS-C): A wind-driven machine that converts wind energy into electrical power for the primary purpose of sale, resale, or off-site use.

Wind Energy Conversion System, Small (WECS-S): A wind-driven machine, less than 175 feet in height, that converts wind energy into electrical power for the primary purpose of on-site use and not for commercial power production.

Wind Energy Conversion System, Maximum Height: The highest vertical point on the machine, including the rotor blade tips, measured from the ground immediately adjacent to the tower base.

SECTION 29 WIND ENERGY CONVERSION OVERLAY DISTRICT (WECOD)

29.1 Intent and Purpose

29.1.1 The intent of the Wind Energy Conversion Overlay District is to establish an area or areas where Wind Energy Conversion Systems-Commercial (WECS-C) are allowed by Conditional Use Permit. Interested property owners in the area that is proposed for designation shall instigate the initiative for the designation.

29.1.2 Careful consideration as to practicable suitability of an area requesting designation with respect to the existing and reasonably assumable future land uses should factor heavily in the decision of whether or not an area should be designated for WECOD status.

29.2 Qualifying Underlying Zoning Districts: A WECOD may be requested in Agriculture or Industrial zoning districts.

29.3 District Boundary Requirements:

29.3.1 Two Components: Each WECOD shall be composed of two parts, the Primary District and the Buffer.

29.3.1.1 Primary District Area Requirements:

- The smallest component of a Primary District is one-quarter (1/4) Section as defined by the Public Land Survey System. Therefore, when any portion of a lot that is included in a WECOD falls within a one-quarter section, the entire quarter section shall be included in the WECOD
- A Primary District must include a minimum of four (4) contiguous one-quarter (1/4) Sections

29.3.1.2 Buffer Area Requirements: The Buffer shall extend 1,320 feet outward from the perimeter of the Primary District.

29.4 Procedures for Designating A Wind Energy Conversion Overlay District

29.4.1 Application. Any Petition for Application for designation of a WECOD must be submitted to the County Commission through the Director. The Petition for Application shall be completed on forms provided by the Director and shall include information as required by Section 29.5 (Application Content, Fees, Costs).

29.4.2 Determination of Completeness – An application shall be deemed complete when the Director determines that all required application materials have been submitted and

contain sufficient detail for review. An incomplete application will be returned to the applicant. The owner shall be responsible for the cost of shipping the returned application. The Director shall have up to 30 days to make a Determination of Completeness.

29.4.3 Application Review Period – The Director shall have 120-days from the Determination of Completeness to review the application materials and provide written comments to the owner. The owner shall have up to 120 days to address the comments.

29.4.4 Independent Third-Party Review – If the Director determines that the Department does not have the appropriate expertise to review any or all of the required application materials, they may contract with an independent third party to conduct such reviews. In such cases, the applicant shall be responsible for the cost of the external review.

29.4.5 Notice. When the Director and applicant agree that the application is ready for public hearing and at least 15 days prior to the next regularly scheduled Planning and Zoning Commission hearing, the Director shall give notice in a manner consistent with procedures described in Section 29.6. The applicant shall pay all costs of public notice prior to any public hearing regarding the proposal.

29.4.6 Planning and Zoning Commission Recommendation: The Planning and Zoning Commission shall hold a public hearing. Following the public hearing, the Commission shall vote on a recommendation to approve, modify, deny or table the request. In formulating its recommendation, the Commission shall make findings consistent with the criteria contained in Section 29.7 (Approval Standards).

29.4.7 County Commission: Upon receipt of a recommendation from the Commission and before the adoption of a WECOD, the County Commission shall hold at least one public hearing thereon. The County Commission may approve, deny or remand the proposal back to the Commission for modification. In order to approve a WECOD, the County Commission must make findings consistent with the criteria contained in Section 29.7.

29.4.7.1 In cases where the Commission recommends denial of a request, the County Commission shall summarily endorse denial action of the Commission unless the applicant files a Notice of Appeal to the County Commission. The Notice of Appeal must be filed with the Director within 72 hours (three working days) following the Commission hearing. The Notice of Appeal shall state the grounds why the Commission recommendation for denial is in error. The applicant must appear before the County Commission in person or by a representative with written authorization by the applicant.

29.4.7.2 In cases where the Commission recommends approval of an application, the County Commission will summarily deny the application if the following two conditions occur: (1) the applicant does not appear at the County Commission hearing in person or by representative with the written authorization of the owner, **and** (2) there is opposition to the application expressed in person at the County Commission Hearing.

29.4.8 An applicant requesting the establishment of a WECOD shall have the responsibility to demonstrate to the Planning and Zoning Commission and the County Commission, by competent substantial evidence, that establishment of the WECOD is justified.

29.5 Application Content, Fees, Costs.

29.5.1 No action on the request will be taken until all of the required information has been submitted. Applications for establishing a WECOD shall include the following:

29.5.1.1 Satisfactory evidence that the applicant is the owner of the property or has written permission of the owner(s) to make such application;

29.5.1.2 Developer Information:

- Name, address, phone number, and e-mail address of the developer and the developer's contact person for the project;
- A statement from the developer providing relevant information regarding an overview of the company, the company's financial condition, the company's environmental management history, and the company's qualifications and experience in WECS-C development. Specific references regarding other WECS-C projects are required;
- An identification and description of the expected owner and builder of the proposed project and a complete financial statement for such owner and/or builder including audits or reviews, whichever are applicable, for three (3) years preceding the date of application;
- The name, address, phone numbers, and e-mail address of the project manager in the event the project is approved and the name, address, phone numbers, and e-mail address of any potential buyers of the project.

29.5.1.3 A Petition for Application on forms provided by the Director. For purposes of calculating the percentages described below, each legal lot will qualify for one signature. The product of all calculations shall be rounded to the nearest whole number. The petition shall contain the following:

- The notarized signatures of the owners of at least 75% of the real property, as identified by legal lot, within the proposed primary district. The following formula shall be used:
 - Total acreage of primary district x 0.75 = total acreage for which signatures must be obtained

- The notarized signatures of at least 67% of the owners of real property, as identified by legal lot, within the proposed primary district. The following formula shall be used:
 - $\text{Number of legal lots} \times 0.67 = \text{number of signatures}$
- The notarized signatures of at least 67% of the owners of real property, as identified by legal lot, within the proposed buffer. The following formula shall be used:
 - $\text{Number of legal lots} \times 0.67 = \text{number of signatures}$
- A list including the name, address, and parcel number(s) of all property owners within the proposed primary district.
- A list including the name, address, and parcel number(s) of all property owners within the proposed buffer.
- A list including the name, address, and parcel number(s) of all property owners within one thousand feet (1000') of the boundary of the proposed overlay district.

29.5.1.4 Relevant background information on the project, including rationale and need for the project by the landowner and developer, timeframe and project life, phases of development, likely markets for the electricity produced, and the possibilities for future expansion;

29.5.1.5 A narrative explanation of why the proposed project site was chosen by the applicant over alternative locations for the project in the region and reasons for preferring the proposed site over the alternatives considered by the applicant. The region shall be defined as all counties adjoining and including Boone County;

29.5.1.6 The applicant's position regarding the consequences of not approving the project;

29.5.1.7 An overlay district plan, drawn to a scale where all features are legible, including the following:

- A legal description of the proposed Overlay District prepared by and bearing the seal of a Land Surveyor Licensed to practice in the State of Missouri;
- An aerial image showing the boundary of the proposed overlay district, displaying distinctly both the primary and buffer components of the proposed district, and property boundaries of all legal lots within the proposed District and within one thousand feet (1000') of the boundary of the proposed District;

- The general vicinity of the project location within the County;
- Scale and north arrow;
- Acreage of the primary district;
- Acreage of the buffer;
- Location and physical dimensions of existing structures and general location and approximate physical dimensions of proposed structures, including all proposed individual wind turbines. If an exact number or dimensions of wind turbines is not known at the time of application, the site plan shall identify a maximum number and maximum dimensions that will be expected and a range from minimum number expected to the maximum;
- Identify potential staging and maintenance areas;
- Houses within one thousand feet (1,000') of the overlay district boundary and the approximate distance of such houses from the district boundary;
- Any additional houses within one-half (1/2) mile of the district boundary;
- Location of existing electrical lines and facilities, including transmission lines;
- Approximate location of proposed electrical lines and facilities, including transmission lines and whether underground or overhead;
- Existing topography;
- Approximate proposed grading and removal of natural vegetation;
- Wind characteristics and dominant wind direction;
- Proposed setbacks of all proposed structures from the district boundary;
- Projected methods of traffic circulation within the proposed district;
- Anticipated ingress and egress locations for each proposed turbine location within the proposed district;
- Location of all public roads within the proposed district and the location and distance to public roads in all directions surrounding the proposed district boundary;

- Approximate location of any major known underground pipelines or other underground utilities;
- Approximate location of any major known utility easements;
- Location of any delineated 100-year floodplains, stream buffers, sinkholes, wetlands, and other environmentally sensitive areas.

29.5.1.8 An accurate computer-generated visual simulation, including dynamic motion of the turbine blades, of the project components from the following:

- All houses located within one thousand feet (1000') of the District boundary;
- All houses within the district whose owners did not sign the Petition for Application;
- Up to twelve (12) key vantage points, as determined by the Resource Management Department, in consultation with the applicant, from public roads from which the project is visible or from sites that are determined to be of historic, cultural, or archeological significance;
- Any government-designated scenic byways, government-designated scenic overlooks, public parks, Conservation Areas, and Wildlife Refuges from which the project is readily visible as determined by the Resource Management Department in consultation with the applicant;
- If deemed necessary by the Planning and Zoning Commission, two additional locations of the Planning and Zoning Commission's choosing.

29.5.1.9 An estimated economic cost/benefit analysis describing the impact of the project on the local and state economy in the following respects:

- The amount of property taxes to be generated by the project;
- The amount of sales taxes to be generated by the project;
- The amount of other applicable taxes to be generated by the project;
- Any distinction in the amount of taxes that will be generated and the distribution of the tax revenue if the facility is privately owned or acquired/owned by a public entity or public utility.
- The construction dollars to be spent locally;

- The number of construction jobs and estimated construction payroll;
- The number of permanent jobs and estimated continuing payroll;
- The benefit of the electricity generated by the project;
- Any projected costs or benefits to tourism in the County;
- The impact of the project on existing surrounding property values within the visual dominance zone, as defined, based on studies of any similar projects in similar areas and based upon an opinion from three (3) qualified Missouri real estate appraisers or valuation experts;
- Other projected economic benefits and costs of the project;
- Costs associated with the impact on roads or other County infrastructure in the area and a draft Transportation Infrastructure Plan and Mitigation Agreement approved by the County Engineer and the Director.

29.5.1.10 An environmental assessment of the potential adverse impacts from the project and any proposed measures to mitigate or lessen the effects of the adverse impacts. The assessment and mitigation plan shall include, at a minimum, all of the following:

- Documentation that the owner/applicant has followed the United States Fish and Wildlife Service Land Based Wind Energy Guidelines and copies of all resulting studies and recommendations;
- Impact on wildlife and wildlife habitat on the site and in the proposed WECOD;
- Impact on any endangered or threatened species on the site and in the proposed WECOD;
- Impact on flora on the site;
- “A”-weighted and “C”-weighted noise levels at the residence nearest to the district boundary and at the property line of such residence nearest to the project boundary;
- Any wastes, either municipal solid waste or hazardous waste, generated by the project at any point in its lifespan;
- Electromagnetic fields and communications interference generated by the project;

- Risk of fire from the project, including threat of lightning strikes;
- Impact of the project on civilian and military aviation in the area;
- Impact of the project on soil erosion;
- Impact of the project on water quality and water supply in the area;
- Potential hazards from ice throws and debris throws;
- Dust from project activities;
- Potential hazards from collapse or damage of turbines or system components in severe storms;
- Impact on historic, cultural, or archaeological resources;
- Impact of shadow “flicker” on houses from any WECS-C and estimated duration of the shadow flicker (in hours per year);
- Potential hazards of "blade glint";
- A general discussion of any potential changes to the above assessment items that could be anticipated when considering the cumulative impacts of other wind energy projects in the region. The region shall be defined as all counties adjoining Boone County and including Boone County. When considering the cumulative impacts, only wind energy projects that are either existing, approved or applied for shall be considered. Speculative projects that are not publicly known are not required to be considered.

29.5.1.11 A copy of the written notification to the utility of the proposed interconnection;

29.5.1.12 Information, in as much detail as possible, on the type, size, maximum and minimum height, rotor size, rotor material, color scheme, rated power output, performance, safety, and noise characteristics of each proposed wind turbine model, tower and electrical transmission equipment;

29.5.1.13 A general description of the decommissioning and land reclamation strategy in the event the project is abandoned or upon the end of the useful life of the project. The applicant shall specify the anticipated useful life of the project;

29.5.1.14 The anticipated volume and designated route for traffic generated during the construction phase, including routes for oversized and heavy equipment, and the proposed method of providing assurances to the public entities responsible

for the roads of repairs and on-going maintenance to the roads and bridges needed to support the project;

- 29.5.1.15 The anticipated volume and designated route for traffic generated during the utilization of the facilities, including routes for oversized and heavy equipment needed for maintenance and repairs, and the proposed method of providing assurances to the public entities responsible for the roads of repairs and on-going maintenance to the roads and bridges needed to support the project;
 - 29.5.1.16 The anticipated operation and maintenance requirements (including estimated frequency of maintenance activities) for the turbines and internal transmission lines connecting the individual turbines within the project and the transmission lines connecting the system to the power “grid”;
 - 29.5.1.17 The anticipated location, width and proposed method of acquisition of transmission line easements required, including access requirements to the easements and any associated necessary restrictions on land use, development, and access within said easements;
 - 29.5.1.18 The anticipated timeline for completing construction of all proposed structures within the proposed WECOD.
 - 29.5.1.19 A general description of the plan for securing the site and the various structures and facilities from access by unauthorized persons;
 - 29.5.1.20 A description of the Federal Aviation Administration requirements applicable to the structures and facilities on the site and the proposed methods for meeting those requirements.
- 29.5.2 Fees. The applicant shall submit an application fee, as established by the County Commission, with the application.
- 29.5.3 Costs. The applicant shall be responsible for the costs of all required public notice and the preparation of the application materials, including but not limited to all required surveys and property descriptions.

29.6 Notice Procedures. The Director shall give notice of the application in the following manner:

- 29.6.1 By certified mail to the owners of all property within the proposed overlay district.
- 29.6.2 By certified mail to the owners of all property within one thousand feet (1000’) of the boundary of the proposed overlay district.

29.6.3 Publication of a locality map in a newspaper having a daily circulation.

29.6.4 Publication of a locality map in a newspaper having a weekly or daily circulation in the northern portion of the County (if any) if any part of the proposed district lies north of the north boundary of Township 49 North.

29.6.5 Publication of a locality map in a newspaper having a weekly or daily circulation in the southern portion of the County (if any) if any part of the proposed district lies south of the north line of Township 47 North.

29.7 Approval Standards. The following guidelines shall be considered by the Planning and Zoning Commission and the County Commission in evaluating the appropriateness of proposed locations for WECS-C and the proposed project components. The purpose of the guidelines is to assist decision-makers in uniformly analyzing the impacts of each proposed WECS-C project and thereby arrive at consistent and balanced decisions.

29.7.1 Natural and Biological Resources

29.7.1.1 WECS-C should not be located in areas that have a substantial potential for biological conflicts.

29.7.1.2 WECS-C should avoid large intact areas, at least 640 acres in size, of native vegetation that has not been significantly disturbed by man-made developments such as power lines, gas lines, oil or gas wells, public roads, etc.

29.7.1.3 WECS-C should avoid areas that would interfere with important wildlife migratory corridors and staging areas.

29.7.2 Visual Impacts

29.7.2.1 WECS-C should avoid sites that are readily visible from government-designated scenic byways, government-designated scenic overlooks, public parks, Conservation Areas, and Wildlife Refuges.

29.7.2.2 To avoid clutter, the visual effects of ancillary structures, roads, and fences on the site should be minimized.

29.7.2.3 A WECS-C project should maintain visual unity among clusters of turbines.

29.7.2.4 To promote visual uniformity, the rotors, nacelles, and towers of all turbines in an array should appear similar and shall be a shade of white in color.

29.7.2.5 To avoid objectionable density, each turbine shall maintain a minimum spacing of six (6) times the diameter of its rotor from any other turbine.

29.7.2.6 To avoid visual clutter, intra-project power lines having a voltage of 34,500 volts or less shall be buried unless the applicant can sufficiently demonstrate that burying the lines will violate other governmental or industry-wide guidelines/standards, violate applicable law, render the project economically infeasible or have demonstrated to the Commission that such lines will be hidden from public view.

29.7.2.7 To avoid cluttering the skyline, transformers and other electric equipment should be hidden from view or otherwise constructed in harmony with the surrounding landscape.

29.7.3 Soil Erosion and Water Quality

29.7.3.1 WECS-C shall avoid construction activities on slopes that are steep or susceptible to erosion.

29.7.3.2 The number of improved private access roads and construction staging areas should be kept to a minimum.

29.7.3.3 The grading width of private access roads should be minimized. One-lane roadways with lay-bys are recommended.

29.7.3.4 The number and size of staging areas and crane pad sites should be minimized.

29.7.4 Historical, Cultural, and Archeological Resources

29.7.4.1 WECS-C should avoid sites in close proximity to known sensitive historical, cultural, or archeological resources.

29.7.5 Transportation Infrastructure Impacts

29.7.5.1 All impacts to the transportation network should be mitigated to the maximum extent practicable. The applicant shall work with the County Chief Engineer and, if applicable, the Missouri Department of Transportation to develop a Transportation and Infrastructure Mitigation Plan.

29.8 Siting and Performance Standards. The following standards are to be achieved by each WECS-C project without exception. Because they are standards, they are considered to be requirements of any WECS-C project. The final decision on whether or not a particular standard is achieved by a WECS-C project shall be made by the County Commission after considering the recommendations of the Planning and Zoning Commission and the Resource Management Department.

29.8.1 Noise Management

29.8.1.1 The noise level caused by the operation of the project, measured at five feet (5') above ground level at the property line coincident with or outside the district boundary, shall not exceed 65 decibels (A-weighted) and shall not

exceed 50 decibels (C-weighted) if it is determined that a pure tone noise is generated by the project.

29.8.1.2 Upon receipt of a complaint regarding noise from an existing WECS-C project by the Boone County Resource Management Department, which the Department determines to be reasonable, the project owner shall, within 30-days of notification, be required to provide an acoustical study that shall demonstrate compliance with the above noise standard on the basis of equivalent sound pressure levels. The acoustical study shall be prepared at the owner's expense by an independent acoustical consultant approved by the Resource Management Department. "Equivalent sound pressure levels" means the steady sound level that, over ten-minute (10) measurement periods, would produce the same energy equivalence as the fluctuating sound level actually occurring.

29.8.1.3 Low Frequency Noise Criteria. WECS-C that are not designed in "accordance with good engineering practices" shall be prohibited. WECS-C designed with the following characteristics shall be deemed in "accordance with good engineering practices":

- At least three (3) blades
- Upwind rotor
- No furling, where "furling" means that the wind turbine is designed to limit its power output in high winds by changing the rotor's plane of rotation to a plane that is not perpendicular to the prevailing wind direction.

29.8.2 Natural and Biological Resources

29.8.2.1 In areas where grassland burning is practiced, appropriate "buffer" areas shall be used to enable infrastructure to withstand periodic burning of vegetation.

29.8.2.2 No perches are permitted on the nacelles of turbines. WECS-C towers shall not use lattice-type construction or other designs that provide perches for avian predators.

29.8.3 Visual Impacts

29.8.3.1 To provide visual order to a WECS-C project, all individual turbines shall have the same number of rotor blades. All rotor blades shall spin in the same direction (i.e., clockwise or counter-clockwise) in relation to the wind.

29.8.3.2 To promote visual uniformity, all turbines at a similar ground elevation shall have the same height from blade tip to the ground.

29.8.3.3 Distinct groupings or clusters of machines shall be limited to no more than 12 machines per cluster. Each cluster must be greater than 1.25 times the minimum spacing distance from another cluster.

- 29.8.3.4 In light wind conditions, turbine rotor blades shall not be kept in a locked position except as necessary to meet operational or maintenance requirements.
- 29.8.3.5 Except during construction, re-construction or removal, outdoor storage is not permitted.
- 29.8.3.6 If turbines become inoperable for any reason, they shall be repaired within 90-days unless the County Commission approves an extension upon request of the operator and showing of good cause why such extension should be granted.
- 29.8.3.7 To avoid cluttering the skyline, inverters and pendant power cables shall be located inside the wind turbine tower, nacelle or structure.
- 29.8.3.8 No telecommunications dishes, antennas, cellular telephone repeaters or other similar devices shall be attached to wind turbine towers unless mounted inside the tower.
- 29.8.3.9 Aircraft obstruction markings of the turbines by use of alternating red and white bands shall be prohibited.
- 29.8.3.10 No billboards, logos, or advertising signs of any kind shall be located on the turbines.
- 29.8.3.11 The maximum height of the turbines shall be 355 feet. Greater height, but not in excess of 400 feet, may be considered on a case by case basis if the applicant can sufficiently demonstrate that the increased height will result in increased energy efficiencies, thereby reducing the overall number of turbines in the project. However, in all cases, due consideration shall be given to the scale of the turbines in relation to the surrounding landscape.

29.8.4 Soil Erosion and Water Quality

- 29.8.4.1 Construction and maintenance shall be done in strict accordance with the erosion and sediment control plan submitted with the building permit so as to minimize soil erosion and damage to native vegetation. If native vegetation is damaged during construction, it shall be restored after construction is complete in areas not occupied by the WECS-C and related facilities and roads. Compliance with Section 28 (Storm Water Ordinance) is required.

29.8.5 Safety

- 29.8.5.1 Individual wind turbines shall be set back 1,750-feet from all property lines of the single discrete undivided lot of record upon which it is located. Lease, easement, or other ownership interest of adjoining discrete lots does not remove the property lines between discrete lots from which the measurements are made.

29.8.5.2 Individual wind turbines shall be set back 1,750-feet from all public road rights of way.

29.8.5.3 Spacing: Each WECS-C must be at least six (6) times its rotor diameter from another WECS-C.

29.8.5.4 Minimum Clearance: Each WECS-C must maintain a minimum clearance of 15-feet from the ground, immediately adjacent to the tower base, to the rotor tip at its lowest point.

29.8.5.5 Individual wind turbine heights and markings shall comply with Federal Aviation Administration (FAA) regulations. If lighting of turbines, or other structures, is required, "daytime white-nighttime red" shall be the only type of lighting allowed unless prohibited by law. All turbines and towers shall be a shade of white in color.

29.9 Decommissioning and Reclamation

29.9.1 Security.

29.9.1.1 Purpose. The purpose of the security requirement is to ensure that adequate funding is available to be used to pay the costs of decommissioning and site reclamation, including removal of individual turbines and other above-ground project improvements subject to permit in the event of abandonment of individual turbines or abandonment of the entire project.

29.9.1.2 Submittal of Security. The project owner of a WECS-C shall, at its expense, and not later than 30-days before commencement of project construction, obtain and submit Security in favor of the County for approval by the County.

29.9.1.3 Form of Security. Such Security shall be in the form of a letter of credit, a cash escrow account, a performance bond, or other form of Security which is acceptable to the County. The entity providing the letter of credit or the performance bond must be authorized to provide such security instruments in the State of Missouri. The Security must be written in a form that is acceptable to the County and must contain such provisions, terms or conditions as the County deems to be necessary, including, but not limited to, those set out herein, unless specifically waived in writing by the County.

29.9.1.4 Amount. The Security shall be in an amount equal to one hundred fifty (150) percent of the estimated decommissioning and reclamation costs and shall provide for an annual adjustment of the amount of the Security based on the annual rate of inflation. Such amount shall be determined by the County Commission based upon estimates from knowledgeable contractors and such other information or factors that the Commission deems to be relevant.

29.9.1.5 Maintenance of Security. The Security may not be canceled, released, or in any way terminated without prior written approval from Boone County. The Security shall be maintained and continued in force as long as such turbines or other above-ground improvements exist and until all decommissioning and site reclamation has been completed and paid for.

29.9.1.5.1 Additional Security, When Required. If the County Commission has any reason to believe that the Security is insufficient, it may demand such other Security as it deems to be necessary.

29.9.1.5.2 Survival of Sale. The Security must be written so as to survive any sale or transfer of the turbines and related project property or the insolvency of the project owner. It shall further apply to all successors and assigns of the project owner. Any entity providing Security must be authorized to provide such Security in the State of Missouri and must be acceptable to the County Commission.

29.9.2 Abandonment.

29.9.2.1 Individual Turbine. An individual turbine shall be considered to have been abandoned when the turbine is incapable of producing more than 20% of the average amount of electricity produced by such turbine in comparable previous time periods (adjusted for actual wind conditions), as determined by the Resource Management Department, for a period of at least six (6) consecutive months and there is no demonstrated viable plan to restore the equipment to operating condition or if determined inoperable under Section 29.8.3.6.

29.9.2.2 Entire Project. An entire project shall be considered to have been abandoned when at least fifty percent (50%) of the individual turbines in any WECOD are abandoned or considered to be abandoned in accordance with 29.9.2.1, and there is no demonstrated viable plan to restore the equipment to operating condition. An extension of the 6-month time period may be granted by the County Commission upon the presentation of sufficient justification by the project owner. All underground equipment and foundation systems of WECS-C shall be removed to a depth of at least four feet (4') to allow for the cultivation of crops, restoration of pasture, or installation of underground utilities.

29.9.3 Reclamation

29.9.3.1 Owner Initiated.

29.9.3.1.1 The owner/operator shall commence reclamation proceedings within 90-days of the date of abandonment of an individual turbine and/or the entire project. Reclamation activities shall be conducted in

accordance with the reclamation plan and the standards contained in these regulations.

29.9.3.2 County Initiated.

29.9.3.2.1 Notice of Abandonment. Upon determining that an individual turbine and/or entire project has been abandoned, the Director shall notify the owner/operator by certified mail. The notice shall allow 90-days for the commencement of decommissioning. The notice shall also inform the owner/operator of their right to request a hearing before the County Commission.

29.9.3.2.2 Abandonment and Reclamation Hearing. Upon request of the owner/operator or expiration of the 90-day deadline, the Director shall schedule a hearing with the County Commission and provide the owner/operator notice as to the time and location of the hearing. The purpose of the hearing is to determine the validity of the determination of abandonment, establish whether the owner/operator intends to reclaim, and whether to authorize the use of Security to complete the reclamation of the individual turbine site or the entire project.

29.10 Permit Procedures and Requirements

29.10.1. Permit Holder. All Commission Orders by the County Commission granting a conditional use permit for a WECS-C project shall specify that the conditional use permit is issued to the project owner.

29.10.2 Transfer of Conditional Use Permit, Approval Required. The holder of the conditional use permit for a WECS-C project may not transfer, assign or otherwise convey the conditional use permit to another without prior approval of the County Commission. The County Commission shall give such approval upon its finding that the party to which the conditional use permit is to be conveyed will comply with all of the requirements of these regulations and all conditions of the conditional use permit.

29.10.3 Building Permit Issuance. Upon signing of the conditional use permit, the Resource Management Department may issue a building permit for the project following a 30-day waiting period and prior to the start of construction. In addition to the requirements outlined in the building code, as adopted by the County of Boone, the building permit application shall contain all of the following information to be provided by the project owner:

29.10.3.1 All of the special conditions outlined in the conditional use permit approval.

29.10.3.2 A site plan, in final detail, that includes all of the information required on the application site plan.

29.10.3.3 A final grading plan.

29.10.3.4 A final erosion and sediment control plan.

29.10.3.5 A final plan for site security.

29.10.3.6 A final decommissioning and reclamation plan.

29.10.3.7 Documentation of the establishment of the Account/Bond for reclamation.

29.10.3.8 Documentation that the project is in compliance with all of the requirements of the following:

- Federal Aviation Administration;
- Federal Communications Commission, if applicable;
- Missouri Department of Natural Resources, if applicable;
- Missouri Department of Conservation, if applicable;
- Any other federal or state agency that has regulations applicable to the project.

29.10.4 The Resource Management Department shall issue a separate building permit for the construction of each individual wind turbine structure and each related accessory structure and each structure within a staging area as determined by the Resource Management Director.

29.11 Procedures for Vacation (Removal) of the Overlay District:

29.11.1 Removal of a designated WECOD shall be accomplished by the same procedures as followed to establish the overlay district except as provided below.

29.11.2 Failure to Perform. Additionally, the County Commission shall have the authority, after a public hearing, to remove the overlay district if it determines that no WECS-C have been constructed in the District within a period of ten (10) years from the date of the County Commission Order that established the District.

29.11.3 Abandonment. If an entire project is deemed abandoned under Section 29.9.2, the County Commission shall have the authority, after a public hearing, to remove the overlay district.

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