AN ORDINANCE TO ADD ARTICLE XIV TO CHAPTER 66 OF THE CODE OF THE COUNTY OF WASHINGTON, VIRGINIA (2002) TO ESTABLISH PERMITTING AND LOCATION STANDARDS FOR WIND ENERGY CONVERSION SYSTEMS

WHEREAS, the Board of Supervisors of the County of Washington, Virginia, acknowledges the Commonwealth of Virginia has adopted objectives pertaining to energy issues as stated in Virginia Code section 67-100, *et seq.* (Commonwealth Energy Policy), which, in general, advocate facilitation of availability and delivery to citizens of the Commonwealth of reliable and adequate supplies of energy;

WHEREAS, the Board accepts that increasing the diversity of sources of energy available to residents of the County is consistent with the Commonwealth Energy Policy;

WHEREAS, wind power generation is a form of energy conversion system that would offer an alternative energy source, but it also has potential to create negative impacts, such as blocking scenic views, creating shadow flicker effect, generating noise, and introducing a safety hazard; and

WHEREAS, Virginia Code sections 15.2-2200 et seq. and Virginia Code section 67-103, enable the Board to provide, by ordinance, for land use regulations to govern siting of wind energy conversion systems in a manner consistent with the Commonwealth Energy Policy and in a form designed to reduce the potential negative impacts on surrounding property uses; and

WHEREAS, on the basis of the foregoing, the Board of Supervisors of the County of Washington, Virginia (Board), finds it in the best interest of the public health, welfare, and safety to allow construction of wind power generating facilities subject to

zoning regulations as set forth in this ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Board after notice and public hearing, as required by law:

1. That Chapter 66 is amended to include Article XIV, as set forth herein, to establish permitting and location standards for wind energy conversion systems.
2. That this ordinance shall become effective immediately upon adoption.
3. That should any section or provision of this ordinance be decided to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of any other section or provision of this ordinance or of the Washington County Code.
4. That the Code Editor is directed to assign section and subsection numbers consistent with the codification system for the County Code.
5. That the Code of the County of Washington shall be amended by the addition of the following text:

CHAPTER 66 – ZONING
Article XIV – Alternative Energy Generating Systems

Division 1. – Wind Energy Conversion Systems

Section 66-1200. Purpose and Intent.

The purpose of this division is to regulate siting, construction, modification, decommissioning, and removal of wind energy conversion systems while promoting safe, effective and efficient use of such systems and not unreasonably interfering with development of renewable energy sources. These facilities will be considered for approval in zoning districts, as set forth in this division, while assessing visual impact and minimizing potential adverse safety and environmental impact. Systems may be used to generate electricity or perform work that may be connected to the utility grid pursuant to Virginia's net metering laws (Virginia Code §56-594), serve as an independent source of energy, or serve in a hybrid system whether a new system or existing system is being altered or modified.

Specifically, the purposes of this article are to:

(a) Permit provision of wind energy services to residents and businesses of the county in an orderly fashion;

(b) Regulate siting of wind energy conversion systems;

(c) Assess visual impacts of the proposed facilities;

(d) Minimize adverse safety and environmental impacts associated with proposed facilities through design and siting techniques;

(e) Avoid potential harm to persons and damage to property and natural resources posed by wind energy conversion systems by ensuring that such facilities are soundly and carefully designed, constructed, modified, maintained and removed when no longer used or determined to be structurally unsound;

(f) Ensure that the deployment of wind energy conversion systems is compatible with the county comprehensive plan and surrounding land uses;

(g) Protect the county's rural and scenic landscapes, including but not limited to cultural and historic sites.

Section 66-1201. Definitions

The following words, terms and phrases, when used in this division shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

Administrator means the zoning administrator, as defined in Chapter 66, Article I. For purposes of this division, the administrator may delegate authorities and functions to the zoning official, who shall act with all authority as the administrator as set forth in this article.

Applicant means person or entity filing an application under this Ordinance.

Board of supervisors or ***Board*** means the board of supervisors of the county.

Department of Environmental Quality (DEQ) means a Commonwealth of Virginia Department the purpose of which is to protect the environment of Virginia in order to promote the health and well-being of the citizens of the Commonwealth.

Facility operator means the entity responsible for the day-to-day operation and maintenance of a Wind Energy Facility.

Facility owner means the entity or entities having controlling or majority ownership interest in a Wind Energy Facility, including their respective successors and assigns.

Federal Aviation Administration (FAA) means an agency of the United States Department of Transportation with authority to regulate and oversee all aspects of civil aviation in the United States.

Meteorological tower or met tower means a tower constructed at a potential Wind Energy Facility site that is designed to assess wind resources and collect meteorological data. Generally, a met tower will have anemometers, wind direction vanes, temperature and pressure sensors and other measurement devices attached.

Non-participating landowner means any landowner not under agreement with the Facility Owner or Operator.

Occupied building means a residence, business, school, hospital, church, public library or other buildings used for public or private gathering that is occupied or in use when the permit application is submitted.

Participating landowner means a landowner under lease or other property agreements with the Facility Owner or Operator pertaining to the Wind Energy Facility.

Public road means a full passage right-of-way dedicated to or customarily used for public transport.

Public use areas means any non-private facility, structural or otherwise, that is intended for public use and can reasonably be assumed to have regular use or traffic for recreational or commercial activities. Public Use Areas shall include, but are not limited to: buildings or above-ground facilities that provide utility services, police and fire facilities, hospitals, cemeteries, road maintenance facilities and storage yards, parks, trails and other publicly-owned properties.

Shadow flicker means the visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures, causing a repeating pattern of light and shadow.

State Corporation Commission (SCC) means a Commonwealth of Virginia Department that issues all charters and amendments of domestic corporations and all licenses of foreign corporations that do business in the Commonwealth of Virginia.

System means a wind energy conversion system, small or large, and may be limited by reference as a small system or large system.

Virginia Administrative Code (VAC) means a codified source of administrative regulations of Virginia agencies compiled by the Virginia Code Commission.

Virginia Department of Transportation (VDOT) means a Commonwealth of Virginia Department responsible for transportation.

Virginia Uniform Statewide Building Code (VUSBC) means building regulations applicable when constructing, maintaining or repairing a new building, structure or an addition to an existing building.

Wind energy facility means an electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

Wind energy conversion system, small means a single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 25 kW or less.

Wind energy conversion system, large means a wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 25 kW. These facilities may have off-site applications.

Wind farm means a grouping of wind turbines used for production of electric power with the potential of generating power for sale.

Wind power means the conversion of wind energy into another form of energy.

Wind turbine or windmill means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a hub, rotor, tower, guy wires and pad transformer.

Wind turbine height means the distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

Section 66-1202. County responsibility.

By its review and approval of zoning authorization for wind energy conversion systems, the county shall accept no responsibility for operation, maintenance, or impacts that result from such systems. Each owner, developer and operator of wind energy conversion system shall, jointly and severally, indemnify and hold harmless the county from any and all costs and expenses, and ordered reimbursements, penalties and fines,

to the greatest extent permissible at law, resulting from any responsibility or liability, or alleged responsibility or liability, of any description under any state or federal law or regulation arising out of the construction, operation or decommission of the system. Costs and expenses shall include but not be limited to costs, expenses and attorney fees incurred in the negotiation and settlement of disputes over alleged liability, as well as those incurred in actual litigation.

Section 66-1203. Wind Energy Conversion Systems -- Federal and State Requirements.

(a) County approval for zoning purposes shall not relieve a facility owner or facility operator from requirement for compliance with any other applicable local, state, or federal regulation, including without limitation, the following:

1. Uniform Statewide Building Code. Building permit applications for small systems shall be accompanied by all necessary documentation, which may include the following: standard drawings of the wind turbine structure, including the wind energy tower, base, and footings, as well as complete copies of the manufacturer's specifications for the structural and electrical components; and engineering analysis of the system tower showing compliance with the uniform statewide building code and certified by a licensed professional engineer.

2. National Electric Code. Building permit applications for small systems may require inclusion of a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the national electrical code.

3. Federal Aviation Administration regulations. Small systems shall comply with applicable federal aviation administration regulations, including any necessary approvals for installations close to airports.

4. County Airport Safety Overlay Zone. Small systems shall comply with regulations or restrictions imposed pursuant to the county airport safety overlay zone.

5. Energy Net Metering Compliance. Small systems connected to the utility grid shall comply with the Virginia Administrative Code (20 VAC 5-315) governing energy net metering, as such may be amended from time to time.

6. Virginia State Corporation Commission (SCC).

7. Virginia Department of Environmental Quality (DEQ)

(b) If such standards and regulations are changed, then the owners and operators of the systems shall bring such systems into compliance as required by such applicable state or federal agency. Failure to comply with federal or state standards and regulations

shall constitute grounds for condemnation and removal of the noncompliant systems by the County at the owner's or operator's expense.

Section 66-1204. Small Wind Energy Conversion Systems -- Zoning District Authorizations.

(1) The installation of small wind energy conversion systems shall be authorized in agricultural-limited district (A-1), agricultural-general district (A-2), and conservation and recreation district (CR), provided that all requirements of the standards and criteria set forth in this division are met. Applications shall be reviewed and considered for approval by the administrator.

(2) The installation of a small wind energy conversion system in business-general (B-2), manufacturing-limited (M-1), and manufacturing-general (M-2) shall be by special exception permit.

Section 66-1205. Small Wind Energy Conversion Systems -- Permit Required.

(a) Permit requirements. All applicants for small systems shall submit an application containing such provisions as required by the administrator.

(b) Permit Fees. The application shall be accompanied with a small wind energy conversion system application fee in the amount set forth in Appendix A in addition to any other administrative and/or permitting fees required pursuant to this Chapter.

Section 66-1206. Small Wind Energy Conversion Systems -- General Requirements.

Small wind energy conversion systems shall meet the following criteria:

(a) The use will not pose a significant adverse impact to public health or safety, or to the natural resources of the surrounding area.

(b) There will be no significant hazard to pedestrians or vehicles from the use.

(c) Adequate and appropriate facilities shall be provided for the proper operation of the small wind energy conversion system.

(d) The system shall be constructed and maintained in accordance with manufacturers' guidelines, unless federal aviation administration standards require otherwise, or if the owner is attempting to have the structure conform to the surrounding environment and architecture, in which case the owner may propose an alternative to reduce visual obtrusiveness.

(e) The system shall not be artificially lighted unless required by the federal aviation administration or an appropriate authority.

(f) The system shall not have any signs, writings, or pictures that may be construed as advertising.

(g) System generators and alternators shall be constructed so as to prevent emission of radio and television signals and shall comply with the provisions of section 47 of the federal code of regulations, part 15 and subsequent revisions governing said emissions.

(h) Systems shall be sited in a manner that does not result in significant shadowing or flicker effects. The applicant has the burden of proving that any shadowing or flicker effects do not have significant adverse impacts on habitable structures or occupied buildings.

(i) Sound produced by systems shall not exceed 60 decibels as measured at the property boundary for the parcel on which the system is located.

(j) Systems shall not create perceivable ground borne (seismic) vibrations.

Section 16-1207. Small Wind Energy Conversion Systems – Setbacks.

Small systems shall be set back a distance at least equal to One Hundred Ten Percent (110%) of the structure height from all adjacent property lines and a distance equal at least to One Hundred and Fifty Percent (150%) of the structure height from any structure on neighboring property. These setbacks may be reduced by notarized consent of the owner of the property on which the requested wind energy system is to be erected and the adjacent landowner whose property line or dwelling falls within the specified distance. Additionally, if any portion of the property of the adjoining landowner lies in the setback area, such adjacent landowner must execute a deed of easement for the benefit of the property on which the wind energy system is to be erected prohibiting construction of any new structure on such adjacent property within the setback area. The owner of the wind energy system shall enforce all terms of the subject easement. Small systems shall meet all setback requirements for primary structures for the zoning district in which the wind energy system is located in addition to the requirements set forth above. Additionally, no portion of the small system, including guy wire anchors, may extend closer than ten (10) feet to the property line.

Section 66-1208. Small Wind Energy Conversion Systems -- Removal of Defective or Abandoned Wind Energy Systems.

Any small system found to be unsafe by the building official shall be repaired by the owner to meet federal, state and local safety standards or removed. Any small system that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of the system and/or of the property upon which the system is located shall remove the system within ninety (90) days of receipt of notice from the county that demands removal of such system.

Section 66-1209. Large Wind Energy Conversion Systems -- Zoning District Authorizations.

Large Wind Energy Conversion Systems shall be permitted in the Agriculture-Limited District (A-1), Agriculture-General District (A-2), and Conservation and Recreation District (CR), by special exception permit and provided that the use complies with all requirements set forth in this Division.

Section 66-1210. Large Wind Energy Conversion Systems -- Special Exception Permit Required.

(a) All applicants for large systems shall submit an application for special exception permit containing such provisions as required by the administrator.
(b) Permit Fees. The application shall be accompanied with a large wind energy conversion system application fee in the amount set forth in Appendix A in addition to any other applicable administrative and/or permitting fees.
(c) Application Filing Requirements. Application for special exception permit for large system(s) shall contain such provisions as required by the administrator, including but not limited to:
    1. Project description. A narrative identifying the applicant and describing the proposed wind project, including an overview of the project and its location; approximate rated capacity of the wind energy project; the approximate number, representative types and height or range of heights of wind turbines to be constructed; and a description of ancillary facilities, if applicable.
    2. Site plan. The site plan shall include supplemental plans and submissions, and shall include the following information:
        i. Property lines and setback lines;
        ii. Existing and proposed buildings and structures, including preliminary location(s) and elevation(s) of the proposed wind turbine(s);
        iii. Existing and proposed access roads, drives, turnout locations, and parking;
        iv. Location of substations, electrical cabling from the wind turbine(s) to the substations, ancillary equipment, buildings, and structures (including those within any applicable setbacks);
        v. Photo-simulations of the proposed wind energy conversion system from at least three (3) different locations. The simulations shall show views of such simulated wind energy structures from such locations as

property lines, roadways, as deemed necessary by the county in order to assess the visual impact of the wind energy system; and

vi. Additional information as may be required, as determined by the administrator that may be necessary for a technical review of the proposal.

3. Documentation of right to use property for the proposed project. Documentation shall include proof of control over the land or possession of the right to use the land in the manner requested. The applicant may redact sensitive financial or confidential information.
4. Decommissioning plan. The application shall include a decommissioning plan and other documents required by this article.
5. Date of balloon testing, which shall be no earlier than two weeks after the filing of application with the administrator and no later than two weeks prior to consideration of the special exception permit by the board of supervisors, and total number, locations, and type of balloons for the test exercise.

Section 66-1211. Large Wind Energy Conversion Systems -- General Requirements.

(a) Large systems shall be constructed and operated in locations that minimize adverse safety and environmental impacts. Approval shall not be granted unless the following criteria are met:
   1. the use will not pose a significant adverse impact to public health, public safety, or natural resources;
   2. there will be no significant hazard to pedestrians or vehicles from the use; and
   3. adequate and appropriate facilities will be provided for proper operation of the large system.

(b) Large systems shall be maintained in accordance with manufacturers' guidelines, unless Federal Aviation Administration standards require otherwise, or if the owner is attempting to have the structure conform to the surrounding environment and architecture, in which case the owner may propose an alternative to reduce visual obtrusiveness.

(c) Large systems shall not be artificially lighted unless required by the federal aviation administration or an appropriate authority.

(d) The applicant shall conduct balloon testing within thirty days of submission of application. Balloons shall be placed at each site for at least four (4) daytime hours on three separate days and flown at a height equal to the structure height requested in the application. The balloon testing dates and time shall be advertised by notice posted continuously at the test site for at least two (2) weeks prior to the first test date. Such notice shall be posted by the applicant at the applicant's expense and shall be in size and format readable from the public roadway in closest proximity to the test site.

(e) Large systems shall not have on the system facility any signs, writings, or pictures that may be construed as advertising for entities other than the manufacturer of such equipment or the facility owner or facility operator, if such is a business entity, except

as otherwise specifically allowed by this chapter.

(f) The administrator shall provide written notification to the office of a national or state forest, national or state park, wildlife management area, or known historic or cultural resource site if a large system is proposed to be located within five (5) miles of the boundary of said entity. Such notice shall include the date of the public hearing on the application for special exception permit.

(g) The applicant shall conduct two (2) public information meetings, at the applicant's expense, to discuss development plans and obtain community feedback. The first meeting shall be held prior to application submission. The second meeting shall be held after the application submission but prior to the special exception permit public hearing. The applicant shall have both meetings advertised in a local newspaper of general circulation, at applicant's expense, at least twice in the two week period prior to such information meeting with no less than six days intervening between the first and last publication dates.

Section 66-1212. Large Wind Energy Conversion Systems -- Height and Setbacks.

(a) Height

(1) Subject to the potential allowance stated in this section, the height of the wind turbine of a large system shall not exceed five hundred (500) feet or the height recommended by the manufacturer or distributor of the system, whichever is lesser.

(2) Notwithstanding the foregoing height restriction, the board of supervisors may allow a project to exceed the height restriction and set an alternate height for a specific project if the project applicant can demonstrate by submission of substantial evidence:

a. That the proposed height is within the height limitation recommended by the manufacturer or distributor of the system;

b. That the proposed height reflects industry standards for a similarly rated wind energy conversion system;

c. That the additional height is needed and would result in significant additional benefits in terms of energy production and efficiency; and

d. That the proposed wind energy conversion system satisfies all other criteria for the granting of a special exception permit under this section of the zoning ordinance.

(3) Board of supervisors allowance for a project to exceed the general height limit shall not constitute a variance from other applicable provisions of this chapter.

(b) Setbacks and separation.

(1) The wind energy conversion system shall be set back from roads a distance at least equal to One Hundred and Twenty Five percent (125%) of the structure height from all adjoining nonparticipating property lines and a distance equal to One Hundred and Sixty Percent (160%) of the structure height or Eight Hundred (800) feet, whichever is greater, from any occupied building or public use area. These setbacks may be reduced by notarized consent of the owner of the property on which the requested wind energy conversion system is to be erected and the adjoining landowner whose property line or dwelling falls within the setback area. Additionally, such adjoining landowner must execute a deed of easement for the benefit of the property on which the wind energy conversion system is to be erected prohibiting construction of any new structure on such adjacent property within the setback area. Applicant shall enforce the terms of any such easement.

(2) Large systems shall meet all setback requirements for primary structures for the zoning district in which the wind energy conversion system is located in addition to the requirements set forth above.

(3) The setbacks shall be kept free of all habitable structures or occupied buildings so long as the facility is in place; however, these areas need not be cleared of trees or other vegetation. Setbacks shall be measured from the outside surface at the base of the wind energy tower and in a horizontal direction. The board of supervisors may provide in the special exception permit for reduced or increased setbacks as appropriate, based on site specific considerations, and only after review of substantial evidence, including without limitation, detailed engineering reports or product engineering certification that demonstrate that safety concerns have been adequately addressed and that setbacks have been complied with to the maximum extent practicable.

(4) Such reduction of required setbacks, if granted, shall not constitute a variance from this Chapter.

Section 66-1213. Large Wind Energy Conversion Systems – Environmental.

(a) Wetlands. Large systems shall be located in a manner consistent with all applicable local and state wetlands regulations.

(b) Land Clearing/Open Space. Large systems shall be designed to minimize land clearing, and shall avoid permanently protected open space.

(c) Noise. Large systems shall not exceed Sixty (60) decibels or other more stringent standard otherwise applicable as measured at the closest non-participating property line. An analysis, prepared by a qualified acoustical engineer, shall be provided by the

applicant to demonstrate compliance with the standard for sound emission. Appropriate sound mitigation measures shall be applied when necessary.

(d) Shadowing/Flicker. Large systems shall be sited in a manner that does not result in significant shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on habitable structures or occupied buildings through siting or mitigation.

(e) Signals. Large system generators and alternators shall be constructed so as to prevent the emission of radio and television signals and shall comply with the provisions of Section 47 of the Federal Code of Regulations, Part 15 and subsequent revisions governing said emissions.

(f) Vibration. Large systems shall not create perceivable ground borne (seismic) vibrations.

(g) Fish, Wildlife, and Native Plant Protection. Large systems shall be designed, constructed, and operated without significant adverse impact to fish, wildlife, or native plant resources, including fish and wildlife habitat, migratory routes, and state or federally-listed threatened or endangered fish, wildlife, or plant species, and shall meet all state and federal environmental requirements.

Section 66-1214. Large Wind Energy Conversion Systems -- Independent Consultant's Services.

Within thirty (30) days of acceptance of a preliminarily complete application for special exception permit for a large system, the county shall submit said application to an independent consultant for review and recommendations. The cost of these services shall be borne by the applicant. The application shall be deemed complete after the consultant has issued to the administrator a report with recommendations regarding the application.

Section 66-1215. Large Wind Energy Conversion Systems – Airport authority review and approval.

Upon receipt of a complete application, the administrator shall forward a copy thereof to the Virginia Highlands airport authority for review and comment.

Section 66-1216. Large Wind Energy Conversion Systems -- Site Access and Control.

(a)The applicant shall submit, at the time of application for a special exception permit, documentation of the legal right to install and use said property for the proposed facility.

Documentation shall include proof of control over the land or possession of the right to use the land in the manner requested. The applicant may redact sensitive financial or confidential information. The county may ask that the applicant supply an attorney's opinion letter with documentation.

(b)The county may require applicant to submit written documentation that the applicant has accepted full financial responsibility for repairs to damage to private roads used during the construction or operation of the proposed facility. Private roads used to access the proposed facility, including roads that serve non-participating landowners, shall be restored and maintained to pre-construction conditions during operation of the facility.

(c)All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

(d)The system shall be designed and installed so as not to provide bolt steps, ladders, or any other means readily accessible to the public for a minimum of twelve (12) feet above ground.

Section 66-1217. Large Wind Energy Conversion Systems -- Proof of Liability Insurance.

The applicant, owner and operator shall be required to provide evidence of the availability of liability insurance in an amount sufficient to cover loss or damage to persons and structures occasioned by the failure or use of the facility. Whether or not the applicant is participating in the net metering program, the applicant will be required to meet the insurance coverage requirements set forth in 20 VAC 5-315-60.

Section 66-1218. Large Wind Energy Conversion Systems – Modifications.

The facility owner shall notify the county of all modifications to a wind energy conversion system made after issuance of the special exception permit. Such modifications shall require approval by the board of supervisors in accordance with the County's existing process for modifications to special exception permit approvals.

A modification of the special exception permit shall not be required if the proposed changes reflect upgrade in technology in the models or manufacture of wind turbines. This waiver is allowed only if the extension in the tower height is within fifteen (15) feet of the height granted and all other special exception permit regulations and conditions are met.

Section 66-1219. **Large Wind Energy Conversion Systems -- Monitoring and Maintenance.**

(a) The applicant shall maintain the wind energy conversion system in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the foundation and support structure and security barrier (if applicable), and maintenance of the buffer areas and landscaping if present.

(b) Site access shall be maintained to a level acceptable to the administrator. The project owner shall be responsible for the cost of maintaining the wind energy conversion system and access road, unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.

(c) The facility owner shall provide to the board of supervisors an annual state of the system report. The report shall include a summary of all public information submitted annually to state and federal agencies and shall provide an analysis of the sufficiency of the decommissioning/removal bond. The administrator shall arrange for owner, or owner designee, presentation to the board of supervisors of the annual report.

(d) The facility owner shall provide notice to the County of any change in ownership of the facility.

Section 66-1220. **Large Wind Energy Conversion Systems -- Abandonment or Discontinuation of Use.**

(a) At such time that a wind energy conversion system is scheduled to be abandoned or discontinued, the owner shall notify the administrator by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

(b) Within twelve months of the date of abandonment or discontinuation, the owner shall physically remove the wind energy conversion system. This period may be extended at the request of the owner and at the discretion of the County. Physical removal shall include but not be limited to:

(1) Removal of the wind turbine and wind energy tower, all machinery, equipment, equipment shelters, security barriers and all appurtenant structures from the subject property;

(2) Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and state solid waste disposal regulations;

(3) Restoration of the location of the wind energy conversion system to its natural pre-existing condition, except that any landscaping or grading may remain in the after-condition if a written request is submitted by the landowner to the County.

(4) Foundations shall be removed to a depth of four (4) feet below ground level or covered to an equivalent depth with fill material. At the time of removal, the site shall be restored to its pre-existing condition. If a written request is submitted by the landowner to the County then this requirement may be waived or altered for any other legally authorized use. Restoration shall be verified by the administrator.

(c) If the wind energy conversion system, or any part thereof, is inoperable for more than One Hundred and Eighty (180) days and the owner fails to give such notice to the administrator, then the wind energy conversion system shall be considered abandoned or discontinued. The administrator shall determine in its discretion what proportion of the wind energy conversion system is inoperable for the wind energy conversion system to be considered abandoned.

(d) Decommissioning

(1) If an applicant fails to remove a wind energy conversion system in accordance with this section of this ordinance, the County shall have the authority to enter the subject property and physically remove the facility.

(2) The administrator shall require the applicant, and/or subsequent owners of the property or wind energy conversion system, to provide a form of surety acceptable to the administrator to cover costs of the removal in the event the County must remove the facility.

(3) Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the administrator.

(4) The decommissioning funds shall be posted and maintained with a bonding company or Federal or State chartered lending institution acceptable to the administrator.

Appendix A

Section 66-1205 – Application fee for small wind energy conversion system -- $250.
Section 66-1210 – Application fee for large wind energy conversion system -- $2,500 per proposed turbine.