
ZONING TEXT AMENDMENT APPLICATION FOR PARTIES IN INTEREST

For Office Use

Application # _____

Application Fee: _____
Publication, mailing, and hearing costs are the
responsibility of the applicant and separate
from the application fee.

Contact Information:

Date of Application: June 5, 2020

Applicant's Name(s): Protect Christian County, LLC, Applicant's Address: 141 N. Chestnut St., Assumption, IL 62510

Phone Number: 217-216-3215 Cell Number: _____ Email: (info@protectchristian county.com)

Agent/Attorney Name: Phillip A. Luetkehans Agent/Attorney/Firm: Luetkehans, Brady, Garner & Armstrong, LLC

Agent/Attorney Phone Number: 630-917-6475 Email: pal@lbgalaw.com

Application History

Have any previous applications been made for a similar text amendment to the Christian County Zoning Ordinance?

Yes ___ No X

If yes, please provide specific details (Date, application number, etc.)

Interested Party Status

Please state the basis for your being a "Party in Interest," as that term is used in Christian County Zoning Code § 1-11-36:

Protect Christian County, LLC is a Christian County LLC owned and managed by
residents and property owners of Christian County.

Text Amendment

1. Identify the specific section(s) of the Zoning Ordinance sought to be amended, including section number.

Ordinance Regulating the Siting of Wind Energy Conversion Systems

Ordinance No. 02008 ZN 004

2. What is the existing text requested to be eliminated, if any? (The ZBA prefers that the applicant provide a (1) copy of the proposed amendment redlined on top of the existing version of the text, and (2) a clean copy of the proposed new text in proposed final form.)

See attached.

3. What is the proposed text, if any? (The ZBA prefers that the applicant provide a (1) copy of the proposed amendment redlined on top of the existing version of the text, and (2) a clean copy of the proposed new text in proposed final form.)

See attached.

4. State the reason(s) for the proposed text amendment(s):

To better protect the health, safety and welfare of Christian County

residents and property values in Christian County.

I, the applicant, hereby declare under penalty of perjury that the above information is true and correct to the best of my knowledge. I also certify that I understand that I am responsible for the initial application filing fee due at the time of submission of the application, the costs of notice (including publication and mailing), and court reporter costs at the ZBA hearing.

Applicant's Signature: 

Application's Printed Name: Phillip A. Luebker - Attorney

Date: 6/5/20

ZONING ADMINISTRATOR'S RECEIPT
Application for Text Amendment by Party in Interest

Application Number: _____

A. The Christian County Zoning Administrator certifies the following:

that this Application for Text Amendment to the Zoning Code is complete;

the initial filing fee has been paid in full; and

Applicant has submitted 16 copies of the Application.

B. This application will be transmitted to the ZBA:

with comments or recommendation.

without comments or recommendation.

Christian County Zoning Administrator

Date

Initial ZBA Hearing Date: _____

CHRISTIAN COUNTY ORDINANCE
REGULATING THE SITING OF WIND ENERGY
CONVERSION SYSTEMS
ORDINANCE NO. 02008 ZN 004

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FINAL

I. INTRODUCTION

A. *Title*

This Ordinance shall be known, cited and referred to as the Christian County Wind Energy Siting Ordinance.

B. *Purpose*

This Ordinance is adopted for the following purposes:

1. To assure that any development and production of wind-generated electricity in Christian County is safe and effective;
2. To facilitate economic opportunities for local residents;
3. To promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.
4. WECS Project shall be a special use in the Agriculture zoning district on single or contiguous parcels of land totaling forty (40) acres or more in size.

II. DEFINITIONS

- A. "Applicant" means the entity or persons who submits to the County pursuant to Section V of this Ordinance, an application for the siting of any WECS or Substation.
- B. "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.
- C. "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.
- D. "Owner" means the entity or entities with an equity interest in the WECS(s), including the respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) 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.

- E. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- F. "Primary Structure" means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, schools, hospitals, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.
- G. "Substation" means that apparatus that connects the electrical collection system of the WECS (s) and increases the voltage for connection with the utility's transmission lines.
- H. "Wind Energy Conversion System" ("WECS") means all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower to the Substation(s).
- I. "WECS Project" means the collection of WECS(s) and Substations as specified in the siting approval application pursuant to Section V of this Ordinance. WECS Project shall be a special use in the Agriculture zoning district on single or contiguous parcels of land totaling forty (40) acres or more in size.
- J. "WECS Tower" means the support structure to which the nacelle and rotor are attached.
- K. "WECS Tower Height" means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

III. APPLICABILITY

This Ordinance governs the siting of WECS(s) and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of WECS(s) with an aggregate generating capacity of 3MW or less who locate the WECS(s) on their own property are not subject to this Ordinance.

IV. PROHIBITION

No WECS or Substation governed by Section III of this Ordinance shall be constructed, erected, installed or located within Christian County unless prior siting approval has been obtained for each individual WECS and Substation pursuant to this Ordinance.

V. SITING APPROVAL APPLICATION

- A. To obtain siting approval, the Applicant must first submit a siting approval application to the County.
- B. The siting approval application shall contain or be accompanied by the following information:
 - 1. A WECS Project summary, including, to the extent available:
 - (1) a general description of the project, including its approximate name plate generating capacity; the actual equipment manufacturer(s), type(s) of WECS(s), number of WECS(s), and name plate generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS(s) rotor(s); the general location of the project; and
 - (2) a description of the Applicant, Owner and Operator, including their respective business structures;
 - 2. The names, addresses, and phone numbers of the Applicants, Owner, Operator, Lessees of record and all property owners; and as to whether the petitioner or Applicant is acting for himself or herself or as an agent, alter ego, or representative of a principal and the name and address of the principal; whether the petitioner or Applicant is a corporation and of all stockholders or shareholders owning any interest in excess of 20% of all of the outstanding stock or shares of the corporation; whether the petitioner or Applicant, or his or her principal, is a business or entity doing business under an assumed name, and if so, the name and residence of all actual owners of the business or entity; whether petitioner or Applicant, or his or her principal, is a partnership, joint venture, syndicate, or an unincorporated voluntary association, and if so, the names and addresses of all partners or members of the partnership, joint venture, syndicate, or unincorporated voluntary association. Where the property owner has entered into a contract for the use of the property sought to be affected, the property owner and the user of the property shall be co-Applicants and provide the above information, along with a letter of authorization signed by the property owner, allowing the petitioner to represent the property owner's interest;
 - 3. A final site plan for the installation of WECS(s) showing the planned location of each WECS Tower, guy lines and anchor bases (if any). Primary Structure(s), property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), electrical cabling from the WECS Tower to the Substation(s), ancillary equipment, third party transmission lines, layout of all structures within the geographical boundaries of any applicable setback and the location of any construction staging

areas, including concrete batch plants;

4. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance;
 5. Any other information normally required by the County as part of its Zoning Ordinance;
 6. Sufficient documentation that the Applicant, Owner, company and parent company/companies are viable and have the capability to complete the WECS Project as proposed;
 7. If the Applicant intends to offer a Good Neighbor Plan or Property Value Guarantee Plan, a copy of such plan shall be included with the siting approval application at the time the application is submitted; and
 8. Executed interconnection agreements.
- C. The Applicant shall immediately notify Christian County of any changes to the information provided in Section V.B. above that occur while the siting approval application is pending.

VI. DESIGN AND INSTALLATION

A. *Design Safety Certification*

1. WECS(s) 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. *Controls and Brakes*

1. All WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

2. All WECS shall be curtailed in the case of inclement weather. If a warning is issued for Christian, Montgomery, Sangamon, Macon, or Shelby Counties, turbines will be curtailed.

C. *Components*

All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards (e.g. ANSI and International Electrical Commission).

All components and parts of the WECS shall be manufactured and assembled in the United States of America.

D. *Color*

Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color.

E. *Compliance with the Federal Aviation Administration*

The Applicant for the WECS shall comply with all applicable FAA requirements and shall provide documentation of compliance to the Christian County Zoning Administrator.

F. *Warnings*

1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
2. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.
3. Upon completion of the construction of an approved WECS Project, a reasonable visible sign, to warn people to not approach a turbine while operating must be placed at the entrance of each access road.
4. Upon completion of the construction of an approved WECS Project, a sign that provides emergency contact information shall be posted on or near the operations and maintenance building.
5. The signs in subparagraphs (F)(4) and (5) above shall be made with letters and numbers at least 3 inches in height and shall include the 911 address and an emergency phone number of the Operator which shall be answered 24 hours a day by a live operator. A non-emergency phone number for the Operator shall also be displayed. These phone numbers shall remain active with all calls being

recorded for verification purposes and with comments and complaints logged and reported to the County Zoning Administrator on a monthly basis. The recorded calls shall be maintained for at least 12 months.

G. *Climb Prevention*

1. All WECS Towers must be unclimbable by design or protected by anti-climbing devices such as:
 - a. Fences with locking portals at least six feet high; or
 - b. Anti-climbing devices 12 feet vertically from the base of the WECS Tower.

H. *Setbacks*

1. All WECS Towers shall be set back at least five times the WECS Tower height or 3250 feet, whichever is greater, from any Primary Structure. The distance for the above setback shall be measured from the point of the Primary Structure foundation closest to the WECS Tower to the center of the WECS Tower foundation. The owner of the Primary Structure may waive this setback requirement; but in no case shall a WECS Tower be located closer to a Primary Structure than 1.10 times the WECS Tower Height. All WECS Towers shall have a setback of 2000 feet from all residential districts in both incorporated or unincorporated areas.
2. All WECS Towers shall be set back a distance of at least three times the WECS Tower Height or 1640 feet, whichever is greater, from public roads, third party transmission lines, and communication towers. Any waiver of any of the above setback requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property. The County Board may waive this setback requirement.
3. All WECS Towers shall be set back a distance of at least 1640 feet or three times the WECS Tower Height, whichever is greater, from adjacent property lines. The affected adjacent property owner may waive this setback requirement.
4. An incorporated village or municipality must approve of the location of any WECS Tower to be located within 1.5 miles of the corporate limits of such incorporated village or municipality.
5. No part of a WECS Tower or foundation shall encroach on a public or private sewage disposal (septic) system.
6. All WECS Towers shall be set back on the sides a safe distance from private

air strip as measured from the center line of the air strip and 5000 feet as measured from the end of a private air strip, in the landing and takeoff area. Owners of the air strip may waive this requirement in writing as part of the Application or as an exhibit made part of the Zoning Board of Appeals hearing pertaining to the specific WECS Project.

7. All WECS Towers shall be one mile and a half from any school property line.

I. *Compliance with Additional Regulations*

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

J. *Use of Public Roads*

1. An Applicant, Owner, or Operation proposing to use county or township road(s), for the purpose of transporting 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 and easements for placement of cables on or under rights of way from relevant government agencies prior to construction.
2. To the extent an Applicant, Owner, or Operator must obtain a weight or size permit from the county and township, the Applicant, Owner or Operator shall:
 - a. Conduct an independent pre-construction baseline survey to determine existing road conditions for assessing potential future damage, and the need for pre-construction modifications and improvements on existing roadways;
 - b. Provide an approved agreement from all impacted Road Commissioners with the approval of the County Highway Engineer prior to the Applicant filing the SUP.
 - c. Secure Financial Assurance, in an amount agreed to by all Township Road Commissioners and County Highway Engineers, which shall be contained in a road use agreement which must be entered into and provided to the County Zoning Administrator prior to the issuance of any building permit.

K. *Drainage Districts*

1. An Applicant, Owner, or Operation proposing to interfere with District Drainage, for the purposes of installing WECS or Substation parts and/or equipment during construction, operation, or maintenance of the WECS(s) or Substation(s) shall;
 - a. Identify all impacted tiles; and
 - b. Share all applicable weight and size permits and easements for placement of cables on or under rights of way with all Drainage District Commissioners prior to construction.
2. To the extent an Applicant, Owner, or Operator must obtain a weight or size permit from the county and township, the Applicant, Owner or Operator shall:
 - a. Conduct an independent pre-construction baseline survey, approved by Drainage District Commissioners, to determine existing tile for assessing potential future damage, and the need for pre-construction modifications and improvements;
 - b. Provide an approved agreement from all impacted Drainage District Commissioners with the approval of the County Highway Engineer prior to the applicant filing the SUP; and
 - c. Secure Financial Assurance, in an amount agreed to by all Drainage District Commissioners as well as the County Highway Engineers, which shall be contained in a Drainage use agreement which must be entered into and provided to the County Zoning Administrator prior to the issuance of any building permit.

L *Height and Structure*

1. Neither the WECS Tower Height nor other WECS facilities shall exceed 450 feet. A WECS and transmissions pole shall be constructed with a tubular tower or monopole structure, not a lattice tower.

M *Lighting*

A lighting plan for each WECS and WECS Substation shall be approved by the Zoning Board of Appeals. Such plan must describe all lighting that will be used, including any lighting that may be required by the FAA. Such a plan shall include but is not limited to the planned number and location of lights, light color and where any lights will be flashing. Strobe lights are discouraged and if they are required by the FAA they must be shielded from the ground. The lighting should be planned and developed in such a way to minimize the visual impact of the structures. A consideration of synchronized lighting shall also be part of any lighting plan. A lighting plan for the WECS Substation shall also be provided.

This WECS Substation lighting plan shall include plans as to how glare for these lights are being controlled.

In addition, the applicant shall be required use a preapproved Aircraft Lighting Mitigation System. The applicant must provide proof of filing the Aircraft Lighting Mitigation System with the FAA to reduce the impacts of nighttime lighting on county residents and wildlife prior to filing the SUP. The location of WECS components shall be modified or adjusted as necessary for an application to be accepted by the FAA.

N. . *Amendments*

If the Applicant or Operator proposes to make a change in the Project, including moving a turbine siting more than 25 feet, then the Applicant or Operator, through the use of a qualified professional, shall appropriately demonstrate compliance with all the requirements of this ordinance at a hearing to amend the special use.

O. . *Financial Assurance*

Prior to the issuance of building permits, financial assurance shall be provided to ensure that the project can be developed as proposed.

VII. OPERATION

A. *Maintenance*

1. The Owner or Operator of the WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County reasonable requests.
2. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Section VI(A)(1) of this Ordinance. Like-kind replacements of WECS Towers shall not require re-certification but shall require written approval of the County Zoning Administrator. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with a relevant third-party certifying entity identified in Section VI(A)(1) of this Ordinance and a professional engineer determined by the County Zoning Administrator to determine whether the physical modification requires re-certification. The cost of the third-party certifying entity and professional engineer shall be paid by the Owner or Operator.
3. Any replacement of equipment that is not a like-kind replacement shall

require an amendment to the special use.

B. *Interference*

1. The Applicant shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the project summary and site plan, as set forth in Section V.B.1. and V.B.3. of this Ordinance. To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s), the Applicant shall take reasonable measures to mitigate such anticipated interference. If, after construction of the WECS, the Owner or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall rectify the issue within 30 days.
2. If, after construction of the WECS, the Owner or Operator receives a written complaint related to interference with local broadcast residential television via public broadcast and or dish, RTK Ag Correction Signal, Machine to Machine sync communication, wireless data transfer communication, phone, internet, business ban radio, the Owner or Operator shall rectify the issue within 30 days.

C. *Coordination with Local Fire Department*

1. The Applicant, Owner or Operator shall submit to each local fire department or district whose jurisdiction is included in whole or in part within the WECS project, a copy of the site plan. In addition to the site plan, a plan pertaining to the planning, response, recovery and mitigation of any natural or man-made hazard that may affect the WECS development.
2. Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire department's emergency response plan.
3. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

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.

E. *Mitigation of Shadow Flicker*

1. The Applicant shall conduct an analysis on the potential shadow flicker onto adjacent properties as part of the siting application approval process. The analysis shall identify the locations of the shadow flicker and the expected durations of the flicker over the course of a year.
2. Shadow flicker shall not be allowed on a Primary Structure. An owner of a Primary Structure can have the option to waive this requirement.

VIII. NOISE LEVELS

At a minimum, noise levels from each WECS or WECS Project shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. The Applicant, through the use of a qualified professional, as part of the siting approval application process, shall appropriately demonstrate compliance with the above noise requirements and provide contour maps at intervals of not greater than 5 feet. The noise levels set forth in the IPCB regulations shall be modeled at the edge of the particular use for each property. No portion of the property shall exceed the noise levels set by the IPCB. For single use properties, the noise levels should be measured at the property lines. To the extent any property multiple uses or classifications, all of the land utilized for a particular use must not exceed the IPCB noise regulations for that classification of use. For example, for parcels with both an agricultural and residential use, the Applicant must establish that all of the area(s) of the receiving land/property used for Class A purposes does not receive noise which exceeds the Class A limits and must establish that all of the area(s) of the receiving land/property used for Class C purposes does not receive noise which exceeds the Class C limits. The owner of the receiving land may waive compliance with the IPCB regulations for the owner's property.

Notwithstanding the above, the sound levels on any property shall not exceed 39 dBa.

The WECS Project will maintain compliance with the applicable IPCB regulations and this Ordinance throughout the entire operational period of the WECS Project. If at any time throughout the life of the WECS Project, the noise levels are found to not be in compliance with this section, the Applicant will immediately shut off enough turbines to ensure that the noise levels are within acceptable levels until a solution to the noise level violation is found and

approved by the County after a hearing at the Zoning Board of Appeals.

An owner of a property exceeding the limits set forth in this Section may waive those requirements.

IX. 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 WECS(s) will have a substantial adverse impact on birds.

X. PUBLIC PARTICIPATION AND PRE-APPLICATION

Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation. At least 90 days prior to the submission of any WECS Application, the Applicant shall make a reasonable effort to inform members of the public of the proposed project and provide a copy of the Application online. Mailings and notices of public community meetings or open houses shall be sent out to landowners and residences within the footprint and to landowners and residences within 1.5 miles of the proposed outside boundary of the project. These mailings should make reference to where additional information can be obtained regarding the proposed project, including a copy of the Application. Advertisements in local newspapers and at least one community meeting are also required.

XI. LIABILITY INSURANCE

The Owner or Operator of the WECS shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$5,000,000.00 per occurrence and \$10,000,000.00 in the aggregate, with an annual certificate of insurance being provided to the County regional planning commission office, with the County being added as an additional insured with the designation of primary and non-contributory.

XII. DECOMMISSIONING PLAN

As part of the Application, the Applicant must submit a Decommissioning Plan to ensure that the WECS Project is properly decommissioned. The County shall have an independent engineer to prepare its own estimate of costs for decommissioning, which estimate shall be paid for by the Applicant. The Decommissioning Plan shall include:

- A.** Provisions describing the triggering events for decommissioning all or part of the WECS Project, which shall include, at a minimum, the provisions for the termination of the special use. Further, individual wind turbines and other components of the WECS shall be decommissioned within 30 days if such

wind turbine or component thereof ceases to be functional for more than six consecutive months and the Operator has not shown to the County Zoning Administrator that it is diligently repairing such wind turbines or component. In the event that a wind turbine or component ceases to be functional for more than 365 days, it shall be decommissioned within 30 days thereafter;

- B. Provisions for the removal of structures, debris and cabling, including those below the soil surface;
- C. Provisions for the complete restoration of the soil and vegetation;
- D. An estimate of the decommissioning costs certified by a Professional Engineer to be updated every three years or more frequently if requested by the County Zoning Administrator, which update shall include an analysis of the salvage value of the improvements. The Owner or Operator shall provide the County Zoning Administrator with each updated estimate, which will be subject to review and approval or adjustment by the County Board. If the County Board determines that the amount of security must be increased due to changes in the estimated decommissioning costs, the Owner or Operator shall post additional security within thirty (30) days of the Owner or Operator receiving written notification from the County. The County Board or the County Zoning Administrator may request an independent third-party verification of the decommissioning costs at any time. The costs for this verification shall be reimbursed by the Owner/Operator;
- E. Financial Assurance, secured by the Owner or Operator, for the purpose of adequately performing decommissioning, in an amount equal to the Professional Engineer's certified estimate of the decommissioning costs. The terms of the financial assurance shall contain a provision that the financial assurance may not be cancelled or allowed to expire until at least sixty (60) days written notice has been given to the County. If replacement financial assurance is not provided within seven (7) days thereof, then the County shall have the absolute right to draw upon the financial assurance until such financial assurance is replaced;
- F. Identification of and procedures for County access to Financial Assurances;
- G. A provision that the terms of the Decommissioning Plan shall be binding upon the Owner or Operator and any of their successors, assigns, or heirs; and
- H. A provision that the County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

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

If the County determines in its sole discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the County shall have the right to rescind the permit for the WECS Project, take the actions allowed in the County Ordinance or take any other action permitted by law or in equity.**XIV.**

CITIZEN COMPLAINT PROCEDURES

- A.** If a Christian County resident or property owner (the "Complainant") believes that a WECS project is operating in violation of any provision of this Ordinance, the Complainant shall be entitled to file a written complaint with the County Zoning Administrator (the Complaint").
- B.** Within thirty (30) days of the receipt of the Complaint, the County Zoning Administrator shall investigate the Complaint and determine whether there is cause to believe the Complaint may have merit and issue a written opinion to the Operator and the Complainant advising of his or her findings.
- C.** If the County Zoning Administrator makes a determination that there is no cause to find that the Complaint may have merit, the Complainant shall have thirty (30) days after receipt of such written opinion to file a written appeal of the decision of the County Zoning Administrator to the County Board by serving said written appeal upon the County Zoning Administrator. The County Board shall make a determination as to whether to uphold or overturn the decision of the County Zoning Administrator in open session at a regular County Board Meeting within sixty (60) days of said appeal.
- D.** If either the County Zoning Administrator or the County Board makes a finding that there is cause to believe that the Complaint may have merit, the County shall perform an investigation of said

Complaint, and the Operator shall pay for any and all costs to perform the investigation, including paying for the hiring of any experts or consultants that the County deems necessary to assist with said investigation. The results and underlying documents and data created or found in any investigation shall be provided to both the Complainant and the Operator.

- E. If, after the investigation, the County believes that a violation of its Ordinance has occurred, the County shall proceed with the procedures available to it under the Remedies Section of this Ordinance.

XV. WAIVER

Any waiver of a requirement in the Ordinance must be waived in writing by the property owner making such waiver and the waiver must be notarized and submitted by the Applicant of proof of its Application filed with the County Zoning Administrator. The waiver shall be in the form attached hereto as Exhibit "A".

XVI. FEE SCHEDULE

- A. Upon submittal of the Application for a wind energy conversion system special use, Applicant shall submit a certified check to Christian County in the amount of \$50,000. This amount shall be placed in a guaranteed money market account that will be used to cover the County's cost, including attorney's fees incurred during the special use application review process, public hearing(s) and any appeals or subsequent litigation. Should the actual costs to the County exceed \$50,000, the Applicant shall be responsible for those costs and shall remit additional funds within 15 days of the notice from the County. An amount remaining in the account after the County renders its decision and all bills and invoices have been paid, shall be refunded to the Applicant. The Applicant shall file ten paper copies of the WECS special use application upon submittal of the WECS special use application fee. A minimum of one copy shall be filed in electronic format.
- B. The building permit fee for each new "Wind Energy Conversion System (WECS) Tower", including the infrastructure that the tower supports shall be \$5000. Fee for any major improvements to an existing WECS Tower, including the infrastructure for the tower support shall be \$2500.

BE IT FINALLY ORDAINED, that the Board reserves the express right to change, modify or terminate these regulations and procedures at any time, in whole or in part, for any reason, with or without prior notice upon its own unilateral act.

APPROVED AND ADOPTED by the County Board of Christian County, Illinois, this _____ day of _____.

Christian County Board Chairman

ATTEST:

Christian County Clerk

EXHIBIT "A" WAIVER

The undersigned owns property with PIN _____ (the "Subject Property") and hereby waives the requirements of the Christian County WECS Ordinance as it relates to the following (check all that apply):

_____ Noise Levels

_____ Shadow Flicker

_____ Setbacks

By:
Date: _____

By:
Date: _____

By:
Date: _____

Subscribed and Sworn to before me
this ___ day of _____, 2020

Notary Public

CHRISTIAN COUNTY ORDINANCE
REGULATING THE SITING OF WIND ENERGY
CONVERSION SYSTEMS
ORDINANCE NO. 02008 ZN 004

- INTRODUCTION
 - A. TITLE
 - B. PURPOSE
- II. DEFINITIONS
- III. APPLICABILITY
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- V. SITING APPROVAL APPLICATION
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 - A. DESIGN SAFETY CERTIFICATION
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- VII. OPERATION
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 - D. MATERIALS HANDLING, STORAGE AND DISPOSAL
- VIII. NOISE LEVELS
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- X. PUBLIC PARTICIPATION
- XI. LIABILITY INSURANCE
- XII. DECOMMISSION PLAN
- XIII. REMEDIES
- XIV. FEE SCHEDULE
 - A. SITING FEE
 - B. BUILDING PERMIT FEE

FINAL

I. INTRODUCTION

A. *Title*

This Ordinance shall be known, cited and referred to as the Christian County Wind Energy Siting Ordinance.

B. *Purpose*

This Ordinance is adopted for the following purposes:

1. To assure that any development and production of wind-generated electricity in Christian County is safe and effective;
2. To facilitate economic opportunities for local residents;
3. To promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources.
4. WECS Project shall be a special use in the Agriculture zoning district on single or contiguous parcels of land totaling forty (40) acres or more in size.

II. DEFINITIONS

- A. "Applicant" means the entity or persons who submits to the County pursuant to Section V of this Ordinance, an application for the siting of any WECS or Substation.
- B. "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.
- C. "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.
- D. "Owner" means the entity or entities with an equity interest in the WECS(s), including the respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless the property owner has an equity interest in the WECS); or (ii) 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.

- E. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- F. "Primary Structure" means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, schools, hospitals, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.
- G. "Substation" means that apparatus that connects the electrical collection system of the WECS (s) and increases the voltage for connection with the utility's transmission lines.
- H. "Wind Energy Conversion System" ("WECS") means all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower to the Substation(s).
- I. "WECS Project" means the collection of WECS(s) and Substations as specified in the siting approval application pursuant to Section V of this Ordinance. WECS Project shall be a special use in the Agriculture zoning district on single or contiguous parcels of land totaling forty (40) acres or more in size.
- J. "WECS Tower" means the support structure to which the nacelle and rotor are attached.
- K. "WECS Tower Height" means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.

III. APPLICABILITY

This Ordinance governs the siting of WECS(s) and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of WECS(s) with an aggregate generating capacity of 3MW or less who locate the WECS(s) on their own property are not subject to this Ordinance.

IV. PROHIBITION

No WECS or Substation governed by Section III of this Ordinance shall be constructed, erected, installed or located within Christian County unless prior siting approval has been obtained for each individual WECS and Substation pursuant to this Ordinance.

V. SITING APPROVAL APPLICATION

- A. To obtain siting approval, the Applicant must first submit a siting approval application to the County.
- B. The siting approval application shall contain or be accompanied by the following information:
1. A WECS Project summary, including, to the extent available:
 - (1) a general description of the project, including its approximate name plate generating capacity; the **actual** equipment manufacturer(s), type(s) of WECS(s), number of WECS(s), and name plate generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS(s) rotor(s); the general location of the project; and
 - (2) a description of the Applicant, Owner and Operator, including their respective business structures;
 2. ~~The name(s), address(es), and phone numbers(s) of the Applicant(s), Owner and Operator, and all property owner(s), if known~~The names, addresses, and phone numbers of the Applicants, Owner, Operator, Lessees of record and all property owners; and as to whether the petitioner or Applicant is acting for himself or herself or as an agent, alter ego, or representative of a principal and the name and address of the principal; whether the petitioner or Applicant is a corporation and of all stockholders or shareholders owning any interest in excess of 20% of all of the outstanding stock or shares of the corporation; whether the petitioner or Applicant, or his or her principal, is a business or entity doing business under an assumed name, and if so, the name and residence of all actual owners of the business or entity; whether petitioner or Applicant, or his or her principal, is a partnership, joint venture, syndicate, or an unincorporated voluntary association, and if so, the names and addresses of all partners or members of the partnership, joint venture, syndicate, or unincorporated voluntary association. Where the property owner has entered into a contract for the use of the property sought to be affected, the property owner and the user of the property shall be co-Applicants and provide the above information, along with a letter of authorization signed by the property owner, allowing the petitioner to represent the property owner's interest;
 3. A **final** site plan for the installation of WECS(s) showing the planned location of each WECS Tower, guy lines and anchor bases (if any). Primary Structure(s), property lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, **s**Substation(s), electrical cabling from the WECS Tower to the Substation(s), ancillary equipment, third party transmission lines,

~~and~~ layout of all structures within the geographical boundaries of any applicable setback and the location of any construction staging areas, including concrete batch plants;

4. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance; ~~and~~
5. Any other information normally required by the County as part of its Zoning Ordinance.;
6. Sufficient documentation that the Applicant, Owner, company and parent company/companies are viable and have the capability to complete the WECS Project as proposed;
7. If the Applicant intends to offer a Good Neighbor Plan or Property Value Guarantee Plan, a copy of such plan shall be included with the siting approval application at the time the application is submitted; and;
- 5.8. Executed interconnection agreements.

C. The Applicant shall immediately notify Christian County of any changes to the information provided in Section V.B. above that occur while the siting approval application is pending.

VI. DESIGN AND INSTALLATION

A. *Design Safety Certification*

1. WECS(s) 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. *Controls and Brakes*

1. All WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical

brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

2. All WECS shall be curtailed in the case of incimate weather. If a warning is issued for Christian, Montgomery, Sangamon, Macon, or Shelby Counties, turbines will be curtailed.

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C. *Electrical Components*

All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards (e.g. ANSI and International Electrical Commission).

All components and parts of the WECS shall be manufactured and assembled in the United States of America.

D. *Color*

Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color.

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E. *Compliance with the Federal Aviation Administration*

The Applicant for the WECS shall comply with all applicable FAA requirements and shall provide documentation of compliance to the Christian County Zoning Administrator.

F. *Warnings*

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1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
2. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.
3. Upon completion of the construction of an approved WECS Project, a reasonable visible sign, to warn people to not approach a turbine while operating must be placed at the entrance of each access road.
4. Upon completion of the construction of an approved WECS Project, a sign that provides emergency contact information shall be posted on or near the operations and maintenance building.
- 2.5. The signs in subparagraphs (F)(4) and (5) above shall be made with letters and numbers at least 3 inches in height and shall include the 911 address and an

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emergency phone number of the Operator which shall be answered 24 hours a day by a live operator. A non-emergency phone number for the Operator shall also be displayed. These phone numbers shall remain active with all calls being recorded for verification purposes and with comments and complaints logged and reported to the County Zoning Administrator on a monthly basis. The recorded calls shall be maintained for at least 12 months.

G. Climb Prevention

1. All ~~W~~WECS Towers must be unclimbable by design or protected by anti-climbing devices such as:
 - a. Fences with locking portals at least six feet high; or
 - b. Anti-climbing devices 12 feet vertically from the base of the WECS Tower.

H. Setbacks

1. All WECS Towers shall be set back at least five times the WECS Tower height or 3250 feet, whichever is greater, from any Primary Structure. The distance for the above setback shall be measured from the point of the Primary Structure foundation closest to the WECS Tower to the center of the WECS Tower foundation. The owner of the Primary Structure may waive this setback requirement; but in no case shall a WECS Tower be located closer to a Primary Structure than 1.10 times the WECS Tower Height. All WECS Towers shall have a setback of 2000 feet from all residential districts in both incorporated or unincorporated areas.
2. All WECS Towers shall be set back a distance of at least three times the WECS Tower Height or 1640 feet, whichever is greater, from public roads, third party transmission lines, and communication towers. Any waiver of any of the above setback requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property. The County Board may waive this setback requirement.
3. All WECS Towers shall be set back a distance of at least 1640 feet or three times the WECS Tower Height, whichever is greater, from adjacent property lines. The affected adjacent property owner may waive this setback requirement.
4. An incorporated village or municipality must approve of the location of any WECS Tower to be located within 1.5 miles of the corporate limits of such incorporated village or municipality.
5. No part of a WECS Tower or foundation shall encroach on a public or private

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sewage disposal (septic) system.

6. All WECS Towers shall be set back on the sides a safe distance from private air strip as measured from the center line of the air strip and 5000 feet as measured from the end of a private air strip, in the landing and takeoff area. Owners of the air strip may waive this requirement in writing as part of the Application or as an exhibit made part of the Zoning Board of Appeals hearing pertaining to the specific WECS Project.

3.7. All WECS Towers shall be one mile and a half from any school property line.

I. *Compliance with Additional Regulations*

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

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J. *Use of Public Roads*

1. An Applicant, Owner, or Operation proposing to use county or township road(s), for the purpose of transporting WECS or Substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) or Substation(s) shall;

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a. Identify all such public roads; and

b. Obtain applicable weight and size permits and easements for placement of cables on or under rights of way from relevant government agencies prior to construction.

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2. To the extent an Applicant, Owner, or Operator must obtain a weight or size permit from the county and township, the Applicant, Owner or Operator shall:

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a. Conduct an independent pre-construction baseline survey to determine existing road conditions for assessing potential future damage, and the need for pre-construction modifications and improvements on existing roadways;

a.b. Provide an approved agreement from all impacted Road Commissioners with the approval of the County Highway Engineer prior to the Applicant filing the SUP.

b.c. Secure Financial Assurance, in an amount agreed to by all Township Road Commissioners and County Highway Engineers, which shall be contained in a road use agreement which the parties must be entered into and provided to the County Zoning Administrator

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where any lights will be flashing. Strobe lights are discouraged and if they are required by the FAA they must be shielded from the ground. The lighting should be planned and developed in such a way to minimize the visual impact of the structures. A consideration of synchronized lighting shall also be part of any lighting plan. A lighting plan for the WECS Substation shall also be provided. This WECS Substation lighting plan shall include plans as to how glare for these lights are being controlled.

In addition, the applicant shall be required use a preapproved Aircraft Lighting Mitigation System. The applicant must provide proof of filing the Aircraft Lighting Mitigation System with the FAA to reduce the impacts of nighttime lighting on county residents and wildlife prior to filing the SUP. The location of WECS components shall be modified or adjusted as necessary for an application to be accepted by the FAA.

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N. M. Amendments

If the Applicant or Operator proposes to make a change in the Project, including moving a turbine siting more than 25 feet, then the Applicant or Operator, through the use of a qualified professional, shall appropriately demonstrate compliance with all the requirements of this ordinance at a hearing to amend the special use.

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O. N. Financial Assurance

Prior to the issuance of building permits, financial assurance shall be provided to ensure that the project can be developed as proposed.

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VII. OPERATION

A. Maintenance

1. The Owner or Operator of the WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County reasonable requests.
2. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Section VI(A)(1) of this Ordinance. Like-kind replacements of WECS Towers shall not require re-certification but shall require written approval of the County Zoning Administrator. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with a relevant third-party certifying entity identified in Section VI(A)(1) of this Ordinance and a professional engineer determined by the County Zoning Administrator to determine whether the

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physical modification requires re-certification. The cost of the third-party certifying entity and professional engineer shall be paid by the Owner or Operator.

3. Any replacement of equipment that is not a like-kind replacement shall require an amendment to the special use.

B. Interference

1. The Applicant shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the project summary and site plan, as set forth in Section V.B.1. and V.B.3. of this Ordinance. To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s), the Applicant shall take reasonable measures to mitigate such anticipated interference. If, after construction of the WECS, the Owner or Operator receives a written complaint related to the above-mentioned interference, the Owner or Operator shall ~~respond to the complaint~~rectify the issue within 30 days.
2. If, after construction of the WECS, the Owner or Operator receives a written complaint related to interference with local broadcast residential television via public broadcast and or dish, RTK Ag Correction Signal, Machine to Machine sync communication, wireless data transfer communication, phone, internet, business ban radio, the Owner or Operator shall ~~respond to the complaint~~rectify the issue within 30 days.

C. Coordination with Local Fire Department

1. The Applicant, Owner or Operator shall submit to ~~the each~~ local fire department or district whose jurisdiction is included in whole or in part within the WECS project, a copy of the site plan. In addition to the site plan, a plan pertaining to the planning, response, recovery and mitigation of any natural or man-made hazard that may affect the WECS development.
2. Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire department's emergency response plan.
3. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

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.

E. Mitigation of Shadow Flicker

1. The Applicant shall conduct an analysis on the potential shadow flicker onto adjacent properties as part of the siting application approval process. The analysis shall identify the locations of the shadow flicker and the expected durations of the flicker over the course of a year.
2. Shadow flicker shall not be allowed on a Primary Structure. An owner of a Primary Structure can have the option to waive this requirement.

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VIII. **NOISE LEVELS**

At a minimum, noise levels from each WECS or WECS Project shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. The Applicant, through the use of a qualified professional, as part of the siting approval application process, shall appropriately demonstrate compliance with the above noise requirements and provide contour maps at intervals of not greater than 5 feet. The noise levels set forth in the IPCB regulations shall be modeled at the edge of the particular use for each property. No portion of the property shall exceed the noise levels set by the IPCB. For single use properties, the noise levels should be measured at the property lines. To the extent any property multiple uses or classifications, all of the land utilized for a particular use must not exceed the IPCB noise regulations for that classification of use. For example, for parcels with both an agricultural and residential use, the Applicant must establish that all of the area(s) of the receiving land/property used for Class A purposes does not receive noise which exceeds the Class A limits and must establish that all of the area(s) of the receiving land/property used for Class C purposes does not receive noise which exceeds the Class C limits. The owner of the receiving land may waive compliance with the IPCB regulations for the owner's property.

Notwithstanding the above, the sound levels on any property shall not exceed 39 dBa.

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The WECS Project will maintain compliance with the applicable IPCB regulations and this Ordinance throughout the entire operational period of the WECS Project. If at any time throughout the life of the WECS Project, the noise levels are found to not be in compliance with this section, the Applicant will immediately shut off enough turbines to ensure that the noise levels are within acceptable levels until a solution to the noise level violation is found and approved by the County after a hearing at the Zoning Board of Appeals.

An owner of a property exceeding the limits set forth in this Section may waive those requirements.

IX. 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 WECS(s) will have a substantial adverse impact on birds.

X. PUBLIC PARTICIPATION AND PRE-APPLICATION

Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation. At least 90 days prior to the submission of any WECS Application, the Applicant shall make a reasonable effort to inform members of the public of the proposed project and provide a copy of the Application online. Mailings and notices of public community meetings or open houses shall be sent out to landowners and residences within the footprint and to landowners and residences within 1.5 miles of the proposed outside boundary of the project. These mailings should make reference to where additional information can be obtained regarding the proposed project, including a copy of the Application. Advertisements in local newspapers and at least one community meeting are also required.

XI. 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 ~~\$1 million~~ \$5,000,000.00 per occurrence and ~~\$1 million~~ \$10,000,000.00 in the aggregate, with an annual certificate of insurance being provided to the County regional planning commission office, with the County being added as an additional insured with the designation of primary and non-contributory.

XII. DECOMMISSIONING PLAN

~~Prior to receiving siting approval under this Ordinance, the County and As part of the Application, the Applicant, Owner, and/or Operator must formulate submit a Decommissioning Plan to ensure that the WECS Project is properly decommissioned.~~ The County shall have an independent engineer to prepare its

own estimate of costs for decommissioning, which estimate shall be paid for by the Applicant. The Decommissioning Plan shall include:

- A. Provisions describing the triggering events for decommissioning all or part of the WECS Project, which shall include, at a minimum, the provisions for the termination of the special use. Further, individual wind turbines and other components of the WECS shall be decommissioned within 30 days if such wind turbine or component thereof ceases to be functional for more than six consecutive months and the Operator has not shown to the County Zoning Administrator that it is diligently repairing such wind turbines or component. In the event that a wind turbine or component ceases to be functional for more than 365 days, it shall be decommissioned within 30 days thereafter;
- B. Provisions for the removal of structures, debris and cabling, including those below the soil surface;
- C. Provisions for the complete restoration of the soil and vegetation;
- D. An estimate of the decommissioning costs certified by a Professional Engineer to be updated every three years or more frequently if requested by the County Zoning Administrator, which update shall include an analysis of the salvage value of the improvements. The Owner or Operator shall provide the County Zoning Administrator with each updated estimate, which will be subject to review and approval or adjustment by the County Board. If the County Board determines that the amount of security must be increased due to changes in the estimated decommissioning costs, the Owner or Operator shall post additional security within thirty (30) days of the Owner or Operator receiving written notification from the County. The County Board or the County Zoning Administrator may request an independent third-party verification of the decommissioning costs at any time. The costs for this verification shall be reimbursed by the Owner/Operator;
- E. Financial Assurance, secured by the Owner or Operator, for the purpose of adequately performing decommissioning, in an amount equal to the Professional Engineer's certified estimate of the decommissioning costs. The terms of the financial assurance shall contain a provision that the financial assurance may not be cancelled or allowed to expire until at least sixty (60) days written notice has been given to the County. If replacement financial assurance is not provided within seven (7) days thereof, then the County shall have the absolute right to draw upon the financial assurance until such financial assurance is replaced;
- F. Identification of and procedures for County access to Financial Assurances;
- G. A provision that the terms of the Decommissioning Plan shall be binding upon the Owner or Operator and any of their successors, assigns, or heirs;

and

- H. A provision that the County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

XIII. 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 the Ordinance.
- B. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).
- C. ~~If the County determines in its sole discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County ordinance provisions addressing the resolution of such default(s) shall govern. All issues regarding the siting of wind energy conversion systems is governed by this ordinance and no other county ordinance applies. County shall have the right to rescind the permit for the WECS Project, take the actions allowed in the County Ordinance or take any other action permitted by law or in equity.~~

XIV. CITIZEN COMPLAINT PROCEDURES

- A. ~~If a Christian County resident or property owner (the "Complainant") believes that a WECS project is operating in violation of any provision of this Ordinance, the Complainant shall be entitled to file a written complaint with the County Zoning Administrator (the Complaint").~~
- B. ~~Within thirty (30) days of the receipt of the Complaint, the County Zoning Administrator shall investigate the Complaint and determine whether there is cause to believe the Complaint may have merit and issue a written opinion to the Operator and the Complainant advising of his or her findings.~~
- C. ~~If the County Zoning Administrator makes a determination that~~

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there is no cause to find that the Complaint may have merit, the Complainant shall have thirty (30) days after receipt of such written opinion to file a written appeal of the decision of the County Zoning Administrator to the County Board by serving said written appeal upon the County Zoning Administrator. The County Board shall make a determination as to whether to uphold or overturn the decision of the County Zoning Administrator in open session at a regular County Board Meeting within sixty (60) days of said appeal.

D. If either the County Zoning Administrator or the County Board makes a finding that there is cause to believe that the Complaint may have merit, the County shall perform an investigation of said Complaint, and the Operator shall pay for any and all costs to perform the investigation, including paying for the hiring of any experts or consultants that the County deems necessary to assist with said investigation. The results and underlying documents and data created or found in any investigation shall be provided to both the Complainant and the Operator.

E. If, after the investigation, the County believes that a violation of its Ordinance has occurred, the County shall proceed with the procedures available to it under the Remedies Section of this Ordinance.

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XV. WAIVER

Any waiver of a requirement in the Ordinance must be waived in writing by the property owner making such waiver and the waiver must be notarized and submitted by the Applicant of proof of its Application filed with the County Zoning Administrator. The waiver shall be in the form attached hereto as Exhibit "A".

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BE IT FINALLY ORDAINED, that the Board reserves the express right to change, modify or terminate these regulations and procedures at any time, in whole or in part, for any reason, with or without prior notice upon its own unilateral act.

APPROVED AND ADOPTED by the County Board of Christian County, Illinois, this 20th day of May, 2008.

~~JOhn CI Curtin, Chairman Christian~~
~~Christian~~ County Board ~~Chairman~~

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ATTEST:

~~Linda K. Curtin~~
Christian County Clerk

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EXHIBIT "A" WAIVER

The undersigned owns property with PIN _____ (the "Subject Property") and hereby waives the requirements of the Christian County WECS Ordinance as it relates to the following (check all that apply):

Noise Levels

Shadow Flicker

Setbacks

By:
Date:

By:
Date:

By:
Date:

Subscribed and Sworn to before me
this _____ day of _____, 2020

Notary Public

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----- Original Message -----

Subject: Protect Christian County Text Amendment

Date: 2020-06-09 18:05

From: Phil Luetkehans <pal@lbgalaw.com>

To: "BJacobi@okgc.com" <BJacobi@okgc.com>, "vince.harris@ctitech.com" <vince.harris@ctitech.com>

Mr. Jacobi and Mr. Harris,

I have been asked to provide a supplemental Interested Party statement to the Protect Christian County LLC's Text Amendment Application. I have been referred to the definition of Interested Party in the Articles of Rules and Procedures that was enacted earlier this year that defines Interested Parties as: "All persons and entities with a direct economic interest in the proposed action, but only where such interest is greater than that of the general public."

While I understand the use of this definition for a variation or zoning relief for a particular parcel, I do not believe it is a proper or appropriate standard under Illinois law for a Text Amendment. Text Amendments by their definition can economically affect many if not all of the parcels that are affected by it. By being residents of Christian County and living adjacent to or near areas where wind turbines may be proposed, my clients are economically affected by any changes to the Wind Energy Conversion Systems section of the Zoning Ordinance.

Further, the Attorney General's Office has opined that private citizens in Illinois may petition for text amendments "even if they do not have an ownership interest in the property affected." 1977 Op.Atty.Gen. No. S-1252. This position is consistent with the Counties Act which does not create any limitation on who may apply for a Text Amendment. 55 ILCS 5/5-12014. I am also not aware of any case limiting text amendments to Interested Parties having an interest greater than that of the general public. I would also note that Christian County is not home rule and, hence, does not have the right to pass policies in contravention of state statute.

Notwithstanding the above, per your request, I would supplement that section of our application to read as follows:

Protect Christian County, LLC has been formed and acts to educate the public and work with the Christian County Board and the public to strengthen ordinances that currently leave citizens vulnerable. Its members and managers have legal interests in property in Christian County that are adjacent to and near properties where wind energy conversion systems have been proposed and, hence, would be economically and otherwise affected by the ability to place wind turbines adjacent to or near their properties. Locating wind turbines adjacent to or near their properties would affect their health, safety and welfare due to their close proximity.

If you have any questions, wish to discuss this matter more thoroughly or need any further information, please do not hesitate to contact me.

Very truly yours,

Phil
PHILLIP A. LUETKEHANS
Principal

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