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Fountain County

Zoning Ordinance

Fountain County Code

Adopted: 21 October, 2019
Amended: 19 July 2021

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ARTICLE 1 – BASIC PROVISIONS

- 1.01 TITLE:** The official title of this Ordinance is: “Zoning Ordinance of Fountain County, Indiana.”
- 1.02 AUTHORITY:** This Ordinance is adopted pursuant to the Indiana Code 36-7 et seq., and all acts supplemental and amendatory thereto.
- 1.03 COMPLIANCE:** No structure shall be located, erected, constructed, reconstructed, moved, converted, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Ordinance and after the lawful issuance of the permits required by the Ordinance.
- 1.04 SEVERABILITY:** If any provision of this Ordinance or the application of any provision to particular circumstances is held invalid, the remainder of the Ordinance or the application of such provision to other circumstances shall not be affected.
- 1.05 JURISDICTION AREA:** This Ordinance shall apply to all unincorporated land within Fountain County.
- 1.06 APPLICATION:** It is not intended by this Ordinance to interfere with, abrogate or amend any existing easements, covenants, or other agreements between parties, nor is it intended by this Ordinance to repeal, abrogate, annul or in any way interfere with any existing provisions of laws or ordinances, or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of buildings or premises provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than is imposed or required by such existing provisions of law or by such rules, regulations, agreements, covenants, or permits, the provisions of this Ordinance shall control; but where such private covenants, permits, agreements, rules or regulations impose a greater restriction than is imposed by this Ordinance, the greater restriction shall control.

ARTICLE 2 – DISTRICT REGULATIONS

- 2.01 ZONE MAPS:** A “Zone Map” of Fountain County in Fountain County is hereby adopted as a part of this Ordinance. The Zone Map shall be kept on file and available for examination at the Office of the Board of Zoning Appeals.
- 2.02 ZONING DISTRICTS:** The entire unincorporated area of Fountain County is divided into the districts stated in this Ordinance as shown by the district boundaries on the Zone Maps. The districts are as follows:

- “A” Agricultural
- “B” Business
- “I” Industrial
- “L” Landfill
- “R” Residential

according to definitions in this Ordinance. Permitted uses as defined under this Section shall be subject to all the conditions and restrictions set out in this Ordinance and all provisions thereunder. Uses allowed by special exception are allowed only with the approval of the Board of Zoning Appeal in those districts provided for in the Use Table (Table A).

**I, INDUSTRIAL DISTRICT
PERMITTED USES**

- | | |
|---|-------------------------------------|
| 1. Airports | 16. Recycling Centers |
| 2. Asphalt Mixing Plants | 17. Recycling Collection Points |
| 3. Automobile Sales, Service, & Repair | 18. Research & Testing Laboratories |
| 4. Automobile & Truck Body Shop | 19. Service Stations |
| 5. Bulk Fuel Storage | 20. Stockyards & Slaughterhouses |
| 6. Concrete Mixing Plants | 21. Supply Yards |
| 7. Convenience Stores | 22. Tanks, Bulk Storage |
| 8. Essential Services | 23. Telecommunications Facilities |
| 9. Farm Equip. Sales, Service, & Repair | 24. Truck & Railroad Terminals |
| 10. Fertilizer Plants | 25. U-Store Warehouses |
| 11. General Manufacturing | 26. Warehouses |
| 12. Grain Elevators & Feed Mills | 27. Water & Sewage Treatment Plants |
| 13. Machine and Welding Shops | 28. Wholesale Business |
| 14. Mineral Excavation | 29. Micro Wind System or tower |
| | 30. Commercial Solar Energy System |

**I, INDUSTRIAL DISTRICT
SPECIAL EXCEPTION USES**

1. Wind Turbines
2. WECS
3. Waste Transfer Station
4. Meteorological Testing Towers more than 120 feet in height

**L, LANDFILL DISTRICT
PERMITTED USES**

- | | |
|---------------------------------|----------------------|
| 1. Recycling Centers | 3. Sanitary Landfill |
| 2. Recycling Collection Points\ | |

**R, RESIDENTIAL DISTRICTS
PERMITTED USES**

- | | |
|------------------------------|---------------------------------|
| 1. Accessory Uses | 10. Manufactured/Mobile Homes |
| 2. Bed & Breakfast | 11. Multi-family Dwellings |
| 3. Churches | 12. Nursery Schools |
| 4. Condominiums | 13. Nursing Homes/Asst living |
| 5. Essential Services | 14. Public Parks & Playgrounds |
| 6. Funeral Homes | 15. Public & Parochial Schools |
| 7. Home Occupations/Day Care | 16. Recycling Collection Points |
| 8. Garden Homes | 17. Residential Subdivisions |
| 9. Duplexes | 18. Single-Family Dwellings |

Advisory Plan Commission. The Plan Commission has the authority to conduct public hearings and make recommendations to the Fountain County Board of Commissioners regarding the adoption and amendment of the Comprehensive Plan, applications for amendments to the zoning maps (rezones), applications for adoption or amendment of a Landfill district ordinance, amendments to the Subdivision Control Ordinance, and the adoption and amendment of this Zoning Ordinance. The Plan Commission also has the authority to grant waivers from the requirements of the Subdivision Control Ordinance if such waivers are specifically authorized in the Subdivision Control Ordinance. The Plan Commission also has the authority to conduct public hearings and make determinations and decisions regarding plats, replats, amendments, and vacations of plats and other matters as provided for in the Fountain County Subdivision Control Ordinance. The adoption of this Ordinance supplements the ordinances previously adopted by the Board of County Commissioners relating to the Plan Commission.

3.02 DUTIES AND POWERS: The Plan Commission will have all of the authority, powers, duties and responsibilities provided by this Ordinance and Indiana Law, including but not limited to, Indiana Code §36-7-4-200 series, 36-7-4-300 series, 36-7-4-400 series, and 36-7-4-600 series.

3.03 COMPOSITION: The Plan Commission consists of nine (9) members, appointed as follows:

- A. One member appointed by the Board of County Commissioners from its membership;
- B. One member appointed by the County Council from its membership;
- C. The County Surveyor or the Surveyor's designee;
- D. The County Extension Educator;
- E. Five citizen members appointed by the Board of County Commissioners. Of these citizen members, not more than three may be from the same political party. Each of these five citizen members must be either a resident of the unincorporated area of the County or a resident of the County who is also the owner of real property located in whole or in part in the unincorporated area of the County. However, at least three of these citizen members must reside in the unincorporated area of the County.

3.04 CITIZEN MEMBER ELIGIBILITY: Each citizen member of the Plan Commission will be appointed because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural, and industrial problems of the area, and the member's interest in the development and integration of the area. A citizen member may not hold an elective office, as defined by Indiana Code §3-5-2-17, or any other appointed office in municipal, county, or state government, except for membership on the Board of Zoning Appeals as required by Indiana Code §36-7-4-902

ARTICLE 4 – BOARD OF ZONING APPEALS

4.01 COMPOSITION: There is created and established the Advisory Board of Zoning Appeals to be known as the Fountain County Board of Zoning Appeals, which shall have the duties and powers as established by Indiana Code 36-7-4-900 et seq. The Fountain County Board of Zoning Appeals shall consist of five members, appointed as follows:

- (1) Three citizen members appointed by the County Commissioners, of whom one must be a member of the plan commission and two must not be members of the plan commission;
- (2) One citizen member appointed by the County Council, who must not be a member of the plan commission.
- (3) One member appointed by the plan commission from the plan commission's membership, who must be a county agricultural agent or a citizen member of the plan commission other than the member appointed under subdivision (1).

4.02 ELIGIBILITY: None of the members of the Board of Zoning Appeals may hold elective office or any other appointed office, except as permitted by Indiana Code §367-4-902, in a municipal, county or state government. A member of the Board of Zoning Appeals must be either a resident of the unincorporated area of the County or be a resident of the County and also an owner of real property located in whole or in part in the unincorporated area of the County. However, at least a majority of the total number of citizen members must be residents of the unincorporated area of the County.

4.03 TERMS: The initial members of the Board of Zoning Appeals will have the following terms:

- A. The member appointed by the Plan Commission under 4.01(3) will have a term of one year;
- B. The citizen members appointed by the Board of County Commissioners under 4.01(1) will have terms of 2 years, 3 years and 4 years, as designated by the Board of County Commissioners at the time of the initial appointments; and
- C. The citizen member appointed by the County Council under 4.01(2) will have a term of four years.

Each term expires on the first Monday of January of the first, second, third or fourth year, respectfully, after the year of the member's appointment. When the initial term of office expires, each new member will have a term of four years.

4.04 VACANCIES: If a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority will appoint a member for the unexpired term of the vacating member.

voluntary commitments. A variance of use may be approved by the Board if the Board finds as follows:

- A. The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- C. The need for the variance arises from some condition peculiar to the property involved;
- D. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
- E. The approval does not interfere substantially with the Comprehensive Plan.

In deciding whether to grant a variance, the Board of Zoning Appeals may exercise its discretion.

4.11 VARIANCE FROM DEVELOPMENT STANDARDS: The Board of Zoning Appeals has the authority to approve or deny applications for variances from the development standard of the Zoning Ordinance. In approving a variance from development standards, the Board may impose reasonable conditions and voluntary commitments. A variance from the development standards may be approved by the Board if the Board finds as follows:

- A. The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- C. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

In deciding whether to grant a variance, the Board of Zoning Appeals may exercise its discretion.

4.12 SPECIAL EXCEPTIONS: The Board of Zoning Appeals has the authority to approve or deny applications for special exceptions. Special exceptions are those uses that, because of their unique characteristics and potentially adverse impact upon the immediate area, as well as the unincorporated area of the County as a whole, require a greater degree of scrutiny and review of site characteristics and impacts to determine their suitability in a given location. Therefore, the determination of a special exception is contingent upon the request meeting a set of development standards. The Board may approve a special exception with supplemental conditions or deny the request. Only the owner of real property may file an application for a special exception. The Board may approve a special exception only if it finds:

automatically expire if the special exception is discontinued or abandoned for a period of twelve months. The approval of a special exception does not authorize development, construction, reconstruction, alteration or moving of any building or structure. Rather, the grant merely authorizes the preparation, filing and processing of applications for such permits or approvals as may be required by the rules, regulations and ordinances of the County. In deciding a special exception, the Board of Zoning Appeals must grant the special exception if the applicant satisfies the seven (7) criteria contained in this section. When granting a special exception, however, the Board of Zoning Appeals may impose conditions which are appropriate under the circumstances of the case.

- 4.13 NON-CONFORMING USES:** Any legal non-conforming use created by the adoption of this Zoning Ordinance may not be enlarged or expanded without the approval of the Fountain County Board of Zoning Appeals.
- 4.14 NOTICE:** Whenever a public hearing is required, the Board of Zoning Appeals will fix a reasonable time for the hearing and publish notice in accordance with Indiana Code §5-3-1-2 and Indiana Code §5-3-1-4. In addition, the Board will provide notice to interested parties by mailing a notice of the public hearing to such parties at least 14 days prior to the public hearing. The applicant will pay for the cost of providing notice, including the cost of publishing notice and mailing notice to interested persons. The Board will, by rule, determine who are interested parties, how notice is to be provided to them and who is required to provide the notice.
- 4.15 PROHIBITED CONTACT:** No person may communicate with any member of the Board of Appeals before the hearing with the intent to influence the member's action on a matter pending before the Board.

ARTICLE 5 – ADMINISTRATION AND ENFORCEMENT

- 5.01 ADMINISTRATION RESPONSIBILITY:** The Fountain County Advisory Plan Commission and designated staff shall establish the procedure and responsibilities for the administration and enforcement of this Ordinance.
- 5.02 PERMITS:** No permit shall be issued unless the proposed structure or use of structure or land is in complete conformity with the provisions of the Fountain County Zoning Ordinance, Subdivision Control Ordinance and other rules, regulations and ordinances of the County.
- A. Except as provided in this Ordinance, an improvement location permit shall be obtained before any structure in the Business, Residential, Landfill, and Industrial zoning districts may be constructed.
 - B. If a septic permit is required, then said permit, issued by the Fountain County Department of Health, should be presented to the appropriate staff prior to an issuance of an Improvement Location Permit.

- 5.03 FEES:** All fees and assessments allowable by State Statute or this Ordinance for permits shall be promulgated by the Fountain County Advisory Plan Commission. The Fountain County Advisory Plan Commission may modify the fees and assessments at any time.
- 5.04 VIOLATIONS AND PENALTIES:** Any structure or use that violates this Ordinance shall be deemed to be a common nuisance and the owner of the structure or land shall be liable for maintaining a common nuisance. Any person or legal entity that is found by a Court of competent jurisdiction to have violated any provision of this Ordinance may be fined not more than Two Thousand Five Hundred Dollars (\$2,500.00) per offense, plus costs, and attorney fees where the action is not brought pursuant to I.C. 36-7-4-1013, and have judgment entered accordingly. Each day that a violation exists is a separate violation. The Plan Commission, Board of Zoning Appeals, or appropriate staff may request the County Attorney to prosecute any violations, and the enforcing authority may also request injunctive relief in order to prevent a violation of this Ordinance.

ARTICLE 6 – WIND TURBINES & WIND ENERGY CONVERSION SYSTEMS

6.01 PURPOSE AND SCOPE: This article establishes general guidelines for the siting and use of wind turbine generators, meteorological (MET) testing towers and related devices and structures. This article is intended to:

- A. Protect residential areas from any potentially adverse visual or noise impacts of wind turbine generators or related devices and structures.
- B. Provide for a land use that will provide an energy source with low associated environmental impacts and protect the health, safety, and welfare of Fountain County residents.
- C. Provide for the removal of abandoned or noncompliant wind turbine generator towers, meteorological (MET) towers, or related devices and structures.
- D. Allow restricted use of wind turbine generator towers and meteorological towers of limited height.

6.02 APPLICABILITY

- A. Micro Wind System towers and meteorological testing towers less than 120 feet in height shall be permitted as listed under Table A and are subject to the standards of section 6.03. These towers are not, however, subject to Section 6.04 & 6.06. Portions of sections 6.03 & 6.05 may be waived for micro wind systems when deemed appropriate by the Board of Zoning Appeals.
- B. All Wind Farms, Large Wind Turbines, and WECS, and all related devices and structures are only allowed if a special exception is granted by the Board of Zoning Appeals, as provided for in Article 4, are subject to all of the standards and requirements of this Article and only allowed in Industrial Districts. Meteorological testing towers (MET) towers 120' feet in height to 325 feet, and all related devices and structures for the above shall only be allowed as a special

of the foundation at the base of the WECS to the closest Corporate Limit boundary line or school property, respectively.

- C. **Minimum Rotor Wind Vane or Blade Clearance.** The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than 50 feet or 1/3 of the tower height whichever is greater.
- D. **Maximum Noise Levels.** Any proposed wind turbine generator shall produce sound levels that are no more than 32 decibels as measured on the dB(A) scale at the property lines of the site in question. For all towers other than micro wind systems the following shall be provided:
 - 1. A noise study by a licensed acoustician chosen by the Fountain County Board of Zoning Appeals and paid for by the wind developer shall be submitted with any application for a wind turbine generator tower. Said study shall be prepared by a qualified professional acoustician with no less than three years of experience conducting WECS and community noise sound studies and shall include the following, at a minimum:
 - a. A description and map of the project's noise producing features, including the range of noise levels expected, and the basis of the expectation;
 - b. A survey and report prepared by a qualified acoustician with no less than three years of experience conducting WECS community noise sound studies and wind development that analyzes the preexisting ambient noise (including seasonal variation) and the potentially affected residences, schools, public buildings or other noise sensitive land uses located within 2 miles of the proposed project site. Study shall include decibels for both A and C weighted scales.
 - c. A description and map of the cumulative noise impacts and any problem areas identified.
 - d. A description of the project's proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive land uses.
- E. **Maximum Vibrations.** Any proposed wind turbine generator shall not produce vibrations humanly perceptible beyond the property on which it is located or cause vibration that could be detected in nearby structures or damage underground wells.
- F. **Electrical Components.**
 - 1. All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards.

- (iii) Each wind turbine generator tower and meteorological tower may be a monopole, monotube or lattice style construction and shall be self-supporting. Towers shall not include guy wires.
- J. **Signs.** A sign no more than 4 square feet in area displaying an address and telephone number for emergency calls and informational inquiries shall be posted at the wind turbine generator or meteorological testing tower erected prior to a wind turbine generator. No wind turbine generator tower or MET tower or site shall include an advertising sign.
- K. **Not Essential Services.** Wind turbine generators and meteorological testing towers shall be regulated and permitted pursuant to this Article of the Zoning Ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- L. **Removal of Abandoned or Unsafe Wind Turbine Generators or Meteorological Testing Towers.**
 - 1. Any wind turbine generator or meteorological testing tower that is not operated for a continuous period of 6 months shall be considered abandoned.
 - 2. Any tower found to be unsafe or not in compliance with the special exception conditions related to noise or shadow flicker placed upon it by the Board of Zoning Appeals (BZA) or this Ordinance, shall be found to be in violation of the special exception approval.
 - 3. The owner of any wind turbine generator tower or meteorological testing tower that is abandoned or in violation of the special exception approval shall remove the same within twelve (12) months of receipt of notice of such abandonment or violation.
 - 4. In addition to removing the wind turbine generator, or meteorological testing tower, the owner shall restore the site to its condition prior to location of the wind turbine generator or meteorological testing tower (excluding replanting of original vegetation and trees), subject to reasonable wear and tear and shall stabilize soils through use of ground cover. All concrete and rebar must be removed from the soil.
 - 5. Failure to remove an abandoned wind turbine generator or meteorological testing tower within the twelve (12) month period provided in this subsection shall be grounds for the County or its designated representative to pursue the violation as prescribed under this Ordinance.
 - 6. A decommissioning plan approved by the Fountain County Plan Commission and County Commissioners providing for the method and payment of the anticipated cost of removing a WECS at the end of its

from the estimated cost of removal and restoration.

- (iv) **Abandonment Verification** under penalties for perjury, that all easements and/or leases for the WECS contain terms that provide financial assurances to the property owners to ensure that the WECS are properly decommissioned within one (1) year of the expiration of its serviceable life or in the event of its discontinuance or abandonment.

- M. **Climb Prevention.** All Tower designs must include features to deter climbing or be protected by anti-climbing devices, when applicable, such as:
 - 1. Fences with locking portals at least six feet high; or
 - 2. Anti-climbing devices 15 feet vertically from the base of the tower.
 - 3. Locked tower doors.
- N. **Waste Management.** All solid waste whether generated from supplies, equipment, parts, packaging, or operation or maintenance of the facility, including old parts and equipment, shall be removed from the site in a timely manner consistent with industry standards. All HAZARDOUS WASTE generated by the operation and maintenance of the facility, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state and federal rules and regulations.
- O. **Utility Interconnection.** The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility's then-current service regulations applicable to WECS.
- P. **Warnings.** A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
- Q. **Drainage Repair.** All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS, must be completely repaired to near original condition, and so as not to impede the natural flow of water. All repairs must be completed within a reasonable amount of time agreed upon by the Fountain County Surveyor.
- R. **Use of Roads.** An Applicant, Owner, or Operator proposing to use any county 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 prior to construction: Identify all such public roads and services;
 - 1. Roads

expenses associated with the inspections shall be at the expense of the developer. Any damage caused by vibration or the operations of WECS or their construction shall be repaired at the expense of the developer and construction companies and these companies are required to provide commercial water tanks and water to affected homes until an investigation is complete and problems, if caused by WECS construction or operation, are mitigated.

U. **Height.** The following height limitations apply to this Article:

Use	Height Limitation
Micro Wind System tower	120 feet
MET tower	325 feet
Wind Farms, Wind Turbines, WECS	600 feet

V. **Fire Prevention and Emergency Response Plan and Requirements.**

1. Description of the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police or other emergency responders.
2. Designation of the specific agencies that would respond to potential fire or other emergencies.
3. Description of all emergency response training and equipment needed to respond to a fire or other emergency including an assessment of the training

W. The site plan and other documents shall illustrate and describe mitigation measures to minimize potential impacts on the natural environment including, but not limited to wetlands, avian and wildlife (migratory bird patterns and bat population effects), other fragile ecosystems, historical/cultural sites and antiquities.

X. **Shadow Flicker.** At no time shall a wind turbine’s tower, nacelle, or blades create shadow flicker on any non-participating landowner’s residential property. For the purpose of this section a nonparticipating landowner shall be defined as a landowner on which a tower does not physically sit.

Y. **Property Value Guarantee** will be offered by the wind developer to all residents and landowners within two miles of a wind turbine. Fair market value will be established by, at minimum, two reputable appraisers of the Fountain County Plan Commission’s choice to establish baseline data for property values at the wind developer’s expense. If the property value of a home decreases and a home or landowner is unable to sell his property after the wind turbines are erected, the developer will pay that landowner the difference or buy the property at the baseline fair market value determined prior to construction of the wind project.

- (i) A WECS Project summary, including, to the extent available: (1) Each turbine's point location, including its name plate generating capacity; the make and model of the WECS that will be installed; the maximum height of the WECS Tower(s) measured from the base to the tip of the blade in vertical position and diameter of the WECS(s) rotor(s); and (2) a description of the Applicant, Owner, and Operator, including their respective business structures.
- (ii) The name(s), address (es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) with WECS or associated utility lines on their properties. All leases for properties with WECS must be filed in the Fountain County Recorder's Office within 45 days of the contract being signed agreeing to a wind lease or said contract is null and void in Fountain County.
- (iii) A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed project site with contours of not more than five-foot intervals.
- (iv) A site plan at an appropriate scale showing (standard sheet of 36 inches by 24 inches and individual tower site not greater than 1-inch equals 20 feet): the proposed location of the wind energy facility (including planned locations of each WECS Tower; WECS access roads; Substations; electrical cabling; and ancillary equipment). In addition, the site plan shall show: Primary Structures within one mile of any WECS; property lines, including identification of adjoining properties; setback lines; public roads; location of all above-ground utility lines within a distance of two (2) times the WECS Tower Height of any WECS Tower; recognized historic or heritage sites as noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources; and any wetlands based upon a delineation prepared in accordance with the applicable U. S. Army Corps of Engineer requirements and guidelines.
- (v) Location of all existing underground utility lines associated with the WECS site.
- (vi) All required hearing filing fees as prescribed by this ordinance.

2. The Application for Improvement Location Permit

- (xii) A fire protection plan for construction and operation of the Facility.
 - (xiii) Any other item reasonably requested.
 - (xiv) A drainage plan for construction and operation.
 - (xv) An erosion control plan in compliance with all other local, state, and federal regulations.
- C. Each WECS Tower and MET tower shall require an Improvement Location Permit.

6.05 OPERATION

- A. Interference. If, after construction of the WECS, a written complaint is made related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the Owner or operators shall be notified in writing and the Owner or Operator shall take reasonable steps to respond to minimize the complaint. Applicant, owner and/or operator shall take such actions as may be required to mitigate interference with electromagnetic communications, such as public safety communications, emergency medical communications, emergency management communications, radio, telephone, microwaves, GPS for agricultural use, military defense radar or television signals caused by any WECS. In addition, the applicant, owner and/or operator shall comply with the following:
1. Failure to remedy a complaint - If the Board of Zoning Appeals determines that an owner or operator has unreasonably failed to remedy verified interference with the broadcast of residential television, telecommunication, communication or microwave transmissions within ninety (90) days after owner or operator received a written complaint related thereto, the Board of Zoning Appeals may take appropriate action to rescind the permit or approval associated to the WECS in question. This does not apply to interference with private telecommunications systems.
- B. **Coordination with Local Fire Department**
1. The WECS applicant, owner or operator shall submit to all providers of emergency services serving the WECS Project area a copy of the as-built site map in digital format, if requested.
 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.

electrical energy or thermal power, and supply electrical or thermal power, primarily or solely to sell the electricity at wholesale for use in locations other than where it is generated, and consisting of one or more ground-mounted, solar arrays or modules, or solar related equipment including but not limited to collection and feeder lines, substations, ancillary buildings, accessory equipment and other facilities or devices utilized in a solar electricity generation system.

- D. **COMMISSION OR PLAN COMMISSION:** The Fountain County Advisory Plan Commission.
- E. **COMPREHENSIVE PLAN:** The most recent Comprehensive Plan of Fountain County on file with the Fountain County Recorder.
- F. **COUNTY COMMISSIONERS:** The legislative body of the county government.
- G. **CSES PERMIT:** The permit issued by the Zoning Administrator for operation of a Commercial Solar Energy System as described in Article 9 hereof.
- H. **DIRECTOR:** The Director of the Fountain County Advisory Plan Commission.
- I. **EASEMENT:** A right of use over the property of another.
- J. **ESSENTIAL SERVICES:** The erection, construction, alteration or maintenance by public utilities, legislative bodies, or municipal or other governmental agencies of underground or overhead gas, electrical, conduit, steam, water, sewage, drainage or other distribution systems, including, but not limited to poles, wires, mains, drains, sewers, pipes, signals, hydrants, public way signs, transmission equipment, towers, antennas, microwave disc, and any other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of service by such public utilities, legislative bodies, or municipal or other governmental agencies. This definition shall also include municipal buildings. This section and Essential Services shall not apply to Commercial Solar Energy Systems.
- K. **FRONT YARD:** The space not containing any structures or storage areas between a structure or storage area and a public way street, road, or right-of way.
- L. **FRONTAGE:** The width of a lot measured along a continuous and straight line connecting the side lot lines at a point where said side lot lines intersect the right-of-way line of a street, road, or highway from which such lot has legal access.
- M. **GARBAGE COLLECTOR:** A business operation owned by a legislative body or private entity to collect, but not dispose of, refuse, garbage, or trash whether by contract or private pay.
- N. **JUNK:** Scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or zinc, and all other scrap metals and their alloys, and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles and cans, or old used machinery, used tools, used

- Y. **PUBLIC WAY:** A Public Way includes any highway, street, avenue, road, boulevard, lane, court, alley, places, or any designed parcel used for public transportation.
- Z. **REAR YARD:** That area of a lot encompassing the space between the nearest foundation of a building to a rear lot line and the rear lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the rear lot line, which shall be that yard at the opposite end of the lot from the front yard.
- AA. **RECYCLING COLLECTION POINT:** A tract of land and/or structure that is used for the collection of recyclables on a periodic basis by a non-for-profit organization, a fraternal group, a school district or a church group.
- BB. **RECYCLING CENTER:** A structure used commercially for collecting, storing, or purchasing materials for recycling, such as, but not limited to, aluminum, copper, or brass.
- CC. **RIGHT-OF-WAY:** A strip of land occupied or intended to be occupied by a public way, pedestrian way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or sewer main, special landscaping, drainage swale, or for other special uses.
- DD. **SANITARY LANDFILL:** A parcel of land used for the disposal of accumulations of refuse or other discarded materials.
- EE. **SET BACK:** The distance between the right-of-way of a public way and a principal and/or accessory structure.
- FF. **SPOT ZONING:** The process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners. The extension or expansion of an adjacent area of a zoning classification shall not be construed as spot zoning.
- GG. **SUPPLY YARD:** A business establishment storing or offering for sale wholesale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. A supply yard does not include the wrecking, salvage, cannibalizing, dismantling, or storing of automobiles or similar vehicles.
- HH. **USE:** The purpose or activity for which the lot, parcel, tract, building, or structure thereon is designated, arranged, or intended, or for which it is occupied or maintained.
- II. **WATER & SEWAGE TREATMENT PLANT:** A building, structure or facility where water and/or sewage are treated and processed for the health and safety of the public by either a Legislative Body or private enterprise.

ADDITIONAL TERMS: Terms not specifically defined herein shall have the meanings set forth in by the interpretation of the Fountain County Board of Zoning Appeals.

ARTICLE 9—SOLAR ENERGY SYSTEMS AND FACILITIES

- 9.01 Purpose.** The purpose of this Article is to plan for and regulate the use, improvement, and maintenance of real property and the location, condition, and maintenance of structures and other improvements as authorized by Indiana Code §36-7-2-2. The regulation of solar energy systems, solar farms and facilities and other solar energy devices is designed to protect the public health, welfare and safety. These regulations allow a Commercial Solar Energy System (CSES) as a permitted use in certain areas, and, therefore, do not have the effect of unreasonably restricting the use of such facilities other than for the preservation and protection of the public health and safety. It is the policy of Fountain County to promote and encourage the use of commercial solar energy systems and facilities, and these regulations are not intended to and do not have the effect of significantly increasing the cost of such systems, decreasing the efficiency of such systems, or impeding alternative systems of comparable cost and efficiency. Therefore, notwithstanding the provisions of Section 1.06 of this Ordinance, in the event of any conflict between Article 9 and existing provisions of laws or ordinances, or any rules, regulations or permits previously adopted or issued relating to the use of Fountain County real estate, buildings, structures or other improvements, the provisions of this Article 9 shall control.
- 9.02 Permitted Districts.** Commercial Solar Energy Systems are Permitted Uses in the Agriculture, Business and Industrial Zoning Districts.
- 9.03 Exemptions.** Solar devices which are part of the structure of a residence or business or part of the permitted yard of a residence or business and which are designed to provide electrical power, heating or cooling, or water heating only for the residence or business are exempt from this regulation.
- 9.04 Setbacks:** All ground-mounted solar panels or arrays installed as a part of a CSES must be at least thirty (30) feet from any property line, at least one hundred (100) feet from the center of any road, street, highway, alley or public way, and at least two hundred (200) feet from the property line of a non-participating landowner if adjoined by property that is zoned residential. No setback shall be required however between internal property lines of adjoining parcels participating in a CSES. Security fencing, access roads, and distribution poles and wires may be located within the set-backs but may not be located in a road right-of-way, unless otherwise approved as a part of the CSES Plan or CSES Permit and/or in the road plan described in Section 9.15.
- 9.05 Height Limitations:** Ground-mounted solar panels or arrays installed as a part of a CSES may not exceed twenty (20) feet in height as measured from the natural grade to the top of the panel or array when at its highest position.
- 9.06 CSES Permit.** Prior to constructing a CSES, an application for a CSES Permit must be filed with the Zoning Administrator by the property owners of the parcels within the

400+ to 500	\$200
500+ to 600	\$250
600+ to 700	\$300
700+ to 800	\$350
800+ to 900	\$400
900+ to 1,000	\$450
1,000+	\$500

- 9.11 Fencing:** Each CSES shall be surrounded by a security fence not less than seven (7) feet in height and not more than twelve (12) feet in height in order to prevent unauthorized access. All gates will be locked. The applicant will place a sign, not to exceed eight square feet in area, which contains the name and address of the operator and an emergency telephone contact number for the operator.
- 9.12 Exterior Lighting.** All exterior safety lighting installed as a part of a CSES will be developed in a manner which limits light trespass onto adjoining parcels and which is limited to the amount of light needed for maintenance, safety and security.
- 9.13 Legal Drains:** No CSES may encroach upon the seventy-five foot (75') easement of any legal drain or ditch without the express authorization of the Fountain County Drainage Board.
- 9.14 Private Drains:** No CSES may encroach upon any private drain or ditch without the express authorization to do so from the private landowner of the property upon which the private drain or ditch is situated. If the construction of the CSES requires the relocation of any private or mutual drain or ditch, such relocation must be approved by the parties to the private or mutual drain or ditch, performed at the expense of the CSES operator, and relocated in a manner so as not to materially impede the function of the drain or ditch. This obligation to refrain from encroaching upon any private or mutual drain or ditch continues and applies even if the encroachment is discovered after construction of the project.
- 9.15 Road Plan Approval:** The CSES Permit applicant will be allowed to use County roads to transport equipment, materials and supplies to the location for construction. Prior to constructing a CSES, a road plan for the CSES site shall be submitted to the Zoning Administrator. This plan must be approved by the Zoning Administrator and the County Highway Superintendent. The criteria for approval shall be compliance with this Section 9.15 of the Fountain County Zoning Ordinance. The applicant will be responsible for any road and ditch damage caused by the applicant during construction and operations. In order to ensure the applicant's financial responsibility, prior to construction of a CSES the applicant must provide to the County a bond, letter of credit or other surety in an amount determined by a third party Indiana-licensed engineer and reasonably approved by the County Engineer to be sufficient to cover the expense of remediation of damages. This bond, letter of credit or surety must be in a form reasonably acceptable to the Zoning Administrator and the Road Plan approval applicant. After construction of the project, the County Engineer will inspect the roads and ditches contained in the road use plan and

THIS IS THE LAST PAGE OF TEXT FOR THE FOUNTAIN COUNTY ZONING ORDINANCE.

“I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.”

Name: J. Kent Minnette

Prepared By: J. Kent Minnette