

SECTION 1.0 INTRODUCTION

1.1 Title.

This Ordinance shall be known, cited and referred to as:

**NEWMAN TOWNSHIP ZONING ORDINANCE, DOUGLAS COUNTY,
ILLINOIS.**

1.2 Authority.

Newman Township, pursuant to 60 ILCS 1 / Article 110, Township Zoning of the Illinois Compiled Statutes, hereby enacts a Zoning Ordinance to read as follows:

1.3 Purposes.

The purpose of this Ordinance is to promote the public health, safety, comfort and general welfare of the people of Newman Township, conserving the values of property throughout the Township.

1.4 Intent.

It is the general intent of the Ordinance to regulate and restrict the use of all structures, lands, and water; to preserve agriculture as a viable, long-term land use within the community; to conserve property values and to protect the character and stability of residential and business uses.

1.5 Abrogation and Greater Restrictions.

It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws.

1.6 Separability.

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If any application of this Ordinance to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.

1.7 Effective Date.

This Ordinance shall be effective after a public hearing, adoption by the Township Board and posting as provided by law. Changes or amendments to the text of this Ordinance or the "Official Zoning Map" shall be effective after the provisions of 60 ILCS 1/ Article 110 have been complied with and the change or amendment has been posted by law.

SECTION 2.0

2.1 General.

DEFINITIONS

For the purpose of this Ordinance, words used in the present tense shall include the future; words used in the singular shall include the plural number, and the plural the singular.

The word "shall" is mandatory and not discretionary.

The word "may" is permissive.

The word "lot" shall, include the words "piece," "parcel," and "plats," the word "building" includes all other structures of every kind regardless of similarity to buildings;

and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for".

All "measured distances" shall be to the nearest "integral foot." If a fraction is one-half foot or less, the next "integral foot" below shall be taken.

Any words not herein defined shall be construed as defined in other respective state, county and township codes.

2.2 Words Defined.

Certain words and terms in this Ordinance are to be interpreted as defined herein:

1. **ACCESSORY USE OR BUILDING** - a use or detached structure subordinate to the principal use of a structure, land or water and located on the same lot or parcel serving a purpose customarily incidental to the main use of the principal permitted use or structure.

2. **ADJACENT** - means adjoining, bordering, touching or contiguous. If two lots are separated by a street, public alley or public walk they shall not be deemed adjacent.

3. **AGRICULTURE** - is the use of land for agricultural purposes, including soil tillage or the production of crops, dairying, pasturage, agriculture,

horticulture, floriculture, viticulture, animal and poultry husbandry, insect raising and the necessary accessory uses for parking, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the primary agricultural activities occurring thereon.

4. **BUILDING** - any structure build, used, designed or intended for the support, shelter, protection, or enclosure of persons, animals, or property of any kind, and which is permanently affixed to the land.

5. **BUILDING HEIGHT** - the vertical distance from the top of the building roof to the top of the basement or to the foundation whichever is less.

6. **COMMERCIAL FEEDLOTS** - an agricultural enterprise where livestock are purchased, raised and then sold to a buyer, feedlot or slaughterhouse.

7. **CONDITIONAL USE** - "Conditional Use" means a use which, because of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district. After use consideration, as provided. for in this ordinance, of the impact of such use upon neighboring land and of the public need for the particular use at a particular location, such use upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be granted.

8. **CONFORMING USE** - means any use of a building or land which conforms with the use regulations of the district in which the building or land is situated. If the use is a permitted use but does not conform with the intensity of use regulations of the district in which it is situated then the use shall not be deemed a conforming use.

9. **DISTRICT** - means the a territory delineated on the Zoning Map of Newman Township, Douglas County, Illinois, for which the regulations and restrictions of this ordinance governing the use of land and buildings, the height of buildings, the size and location of yards, the intensity of use of land and buildings, and the off-street parking facilities are uniform.

10. **DWELLING** - a building, or portion thereof, excluding a mobile home, designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings and multiple-family dwellings, but not including hotels and motels.

11. **FAMILY** - means a group of persons closely related by blood, marriage or adoption living together as a family unit. The term also includes (1) an individual living alone in a dwelling or apartment, and (2) a group of not more than six (6) persons who may not be related but who are living together as a single household. Domestic servants and gratuitous guests residing with a family shall be considered to be members of the family.

12. **FARM** - any parcel or tract of land which is used for gain in the raising or agricultural crops, livestock, poultry and/or the production of dairy products. Any tract on which the principal use is the raising of fur bearing animals, such as mink, muskrats, rabbits, etc. shall not be considered a farm. A commercial feedlot shall not be considered a farm. Residential structures occupied by persons engaged in farming are included in the term "farming".

13. **FLOOR AREA** – the area within the exterior walls of a building which is usable as living quarters.

14. **FRONTAGE** – the side of a lot abutting a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

15. **FRONT YARD** - that are between the principal permitted use or building and the public or private road which provides access, and is usually measured from that side of the home facing the road to the nearest point of the road right-of-way.

16. **GARAGE, PRIVATE** - an accessory structure to the main building which provides for the storage of motor vehicles.

17. **GARAGE, PUBLIC AND STORAGE** - any building or premises, other than a private garage, where motor driven vehicles are equipped, repaired, serviced, hired, sold or stored.

18. **KENNELS** - any dwelling unit or nonresidential building, structure, parcel of land or portion thereof in which dogs including puppies are maintained and boarded for the purpose of breeding, showing and occasional sale.

19. **LANDFILL** – A facility permitted by the Illinois Environmental Protection Agency for the disposal of waste on land meeting the requirements of the Resource Conversation and Recovery Act, Public Law 94-580, and regulations

thereunder and compliance with the applicable regulations of the Illinois Pollution Control Board.

20. **LAWFUL USE** - means any use of a building or land which either conforms with the applicable use regulations or fails to conform with those regulations but qualifies as is permitted to continue to exist as a nonconforming use under the provisions of this ordinance.

21. **LOT OF RECORD** - a lot which is part of a subdivision, the plat of which has been recorded in the Recorders Office of Douglas County, Illinois.

22. **MOBILE HOME** (aka. house trailer) - any vehicle or structure which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped, used or intended to be used primarily for human habitation, including any addition, attachments, annexes, foundations and appurtenances thereto. Mobile homes placed on a permanent foundation and/or basements are treated as a single family dwelling unit.

23. **MOBILE HOME PARKS** - any site, parcel or tract of land 20 acres or more designed, maintained, intended or developed with facilities for locating two (2) or more mobile homes. It shall not include a sales lot in which automobiles or unoccupied mobile home units are parked for the purposes of inspection or sale.

24. **NON-CONFORMING STRUCTURE** - a structure which does not conform to the regulations of the zoning district in which it is located with respect to its size, construction or location on a parcel of land.

25. **NON-CONFORMING USE** - any use of land or building which does not conform at the time of the adoption of this zoning ordinance to the use requirements for the zoning district in which it is situated.

26. **OFFICE** - means a room or suite of rooms used for the practice of a profession or for the conduct of a business which does not involve the sale of goods from the premises. The term does not include a personal service shop. If goods or merchandise are sold for delivery on or from the premises otherwise than as incidental to the principal office use, then the premises shall be considered to be a store rather than an office.

27. **PERMITTED USE** - uses listed under this heading are permitted as of right. This means that an applicant for a building permit must be given a permit

if they meet the other requirements of the ordinance, e.g., yards, setbacks and so forth.

28. **PRINCIPAL BUILDING** - the building of primary importance or permitted use on a parcel of land, in contrast to those which are accessory of secondary importance.

29. **SALVAGE YARD** – a lot, land or structure used primarily for the collecting, dismantling, storage and salvaging of machinery or vehicles that are not in operating condition, or for the sale of parts thereof. Unless conducted entirely within enclosed buildings, this also includes a lot or land where waste or scrap materials of any type, including but not limited to scrap iron and other metals, paper, rags, rubber ties, and bottles are bought, sold, exchanged, stored, disassembled or handled. Typical uses include automobile salvage yards and junk yards.

30. **SETBACK** - minimum horizontal distance between a building or structure and the property line.

31. **SOLAR POWER GENERATING FACILITY** – All necessary devices that together convert solar energy into electricity, including but not limited to solar photovoltaic (PV) panes, inverters, transformers, racking, cables and junction boxes and other equipment and infrastructure required to produce electricity and comply with State of Illinois requirements.

32. **STANDARDS** - the setbacks, using vision corner, sideline requirements, height limitations, square footage requirements and other specifications as required by this Ordinance.

33. **STOCKFARM** - an agricultural operation, usually non-dairying in nature where livestock are raised to the required age or weight for slaughterhouse purposes or for sale to commercial feedlots.

34. **STRUCTURE** - anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having permanent location on the ground.

35. **USE, PRINCIPAL** - the main use of land or buildings as distinguished from a subordinate or accessory use. A "principal use" may be "permitted," "conditional" or "non-conforming."

36. **VARIANCE** - is authority granted to the owner to use his property in a manner which is prohibited by the Zoning Ordinance. A departure from the terms of the Zoning Ordinance where it is shown that unique physical circumstances applying to a land parcel causes a hardship to the owner, and that the condition permitted by the departure shall be in fundamental harmony with surrounding uses.

(a) **Area Variance:** is one which does not involve a use which is prohibited by the Zoning Ordinance. Area variances involve matters such as setback lines, frontage requirements, height limitations, lot-size restrictions, density, density regulations, and yard requirements.

(b) **Use Variance:** is one which permits a use of land other than which is prescribed by the Zoning Ordinance. It is primarily a grant to erect, alter or use a structure for a permitted use in a manner other than that prescribed by the Ordinance. Use variances shall not be granted under this Ordinance. Changes in use will require a zoning change to a district where the proposed use is permitted in accordance with the requirements and procedures set forth in this Ordinance.

37. **WIND ENERGY CONVERSION SYSTEMS** – “Wind Energy Conversion System” (“WECS”) means all necessary facilities that together convert wind energy into electricity and deliver that electricity to a utility’s transmission lines, including, but not limited to, the rotor, nacelle, generator, WECS Tower, electric components, WECS foundation, transformer electric cabling from the WECS Tower to the substation(s) / switchyard(s), communications facilities, transmission lines, poles, and/or towers, operations and maintenance building, and other related devices, facilities, and equipment.

SECTION 3.0 GENERAL PROVISIONS

3.1 Jurisdiction.

The jurisdiction of this Ordinance shall include all lands and waters within Newman Township.

3.2 Building and Use Restrictions.

1. The use of buildings hereafter erected, enlarged, converted, and structurally altered, rebuilt or moved, and existing land shall be used only for purposes as specified in this Ordinance. Furthermore, land and building uses shall be in compliance with the regulations as established herein for the district.

2. All principal structures shall be located on a lot, and only one principal structure shall be located, erected or moved onto a lot.

3. Permitted Accessory Uses, and Conditional uses are limited to the uses indicated.

4. Conditional Uses and their accessory uses are considered as special uses requiring review, public meeting, and approval by the Township Zoning Board of Appeals.

5. No lot area shall be reduced so that the yards and open spaces are smaller than is required by this Ordinance.

6. Where the Township Zoning Administrator has issued a Building Permit pursuant to the provisions of this Ordinance, such permit shall become null and void unless work thereon is substantially underway within six (6) months of the date of the issuance of such permit.

7. Where a building permit for a building or structure has been issued in accordance with the law prior to the effective date of this Ordinance, and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion, the said building or structure may be completed in accordance with their approved plans.

3.3 Area Regulations

Lot sizes shall comply with the required regulations of the established zoning district.

3.4 Height Regulations.

1. Except as otherwise provided in this Ordinance, the height of any building hereafter erected, converted, enlarged or structurally altered shall be in compliance with the regulations established herein for the district in which the building is located.

2. Accessory farm buildings, monuments, silos, tanks, water towers, spires, wireless television or broadcasting towers, masts or aerials, telephone, telegraph and power transmission poles and lines, microwave radio relay structures and necessary mechanical appurtenances are hereby exempted from the height regulations of this Ordinance provided that all front, side, and rear yards required are each increased at least one (1) foot for each foot of structure height.

3. All other non-residential structures and public and quasi-public buildings may be erected to a height not exceeding 60 feet, provided the front, side and rear yards required in the district are each increased at least one (1) foot for each foot of additional building height.

4. Residences may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by one (1) foot for each foot by which such building exceeds the height limit of the district in which it is located.

3.5 Front, Side and Rear Yard Regulations

1. The required street or yard setback, may be decreased in any district to the average front yard setbacks of the abutting residences on each side but shall in no case be less than 10 feet.

2. The ordinary projection of sills, cornices, facias, moldings and planciers, chimneys, flues and ornamental features, when such projection is less than 24 inches.

3.6 Minimum Lot Frontage

All lots shall abut upon a public street, and each lot shall have a minimum frontage of 70 feet.

3.7 Setback Requirements from Roads

There shall be a minimum building setback of 150 feet from the center line of township roads. All other building setbacks on County, State and Federal roadways shall adhere to the requirements set forth in the applicable regulations.

3.8 Enforcement and Penalties

1. Complaints Regarding Violations - Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Township Zoning Administrator. He/she shall record properly such complaint, and promptly investigate, and take action thereon as provided by this ordinance. The Township Zoning Administrator may also investigate violations on his/her own initiative.

2. Penalties for Violations - Any person who violated this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, forfeit not less than \$25.00 and no more than \$500 or in lieu of payment thereof be imprisoned for not more than 30 days, and in addition, shall pay all costs and expenses involved in the case, including reasonable attorney's fee incurred by the Township for enforcement of this ordinance. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent Newman Township from taking such other lawful action as is necessary to prevent or remedy any violation.

3. Abatement of Violation - Any person, firm, or corporation who violates, disobeys, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall, upon conviction, remove the building, structure or part hereof or discontinue the use thereof which violated the terms of this ordinance. Such removal may be performed by a Township agency or by contract arrangements with private persons and the cost of such removal shall become a lien upon the property, collectible as are other taxes.

3.9 Parking Surfaces. Accesses. Design and Location

Whenever parking is required by this ordinance, each space shall be at least eight feet three inches in width and at least 20 feet in length, exclusive of driveways, and shall be connected with a street or public alley by a driveway affording adequate ingress and egress. A parking space may be either open or enclosed. Parking spaces and driveways shall be paved or surfaced with an all-weather material consisting of least six inches of compacted gravel or crushed stone, or 4 inches of blacktop.

SECTION 4.0 ZONING DISTRICT

4.1 Establishment of District

For the purpose of this Ordinance, Newman Township, Douglas County, Illinois is hereby divided into the following zoning district:

- A Agricultural District

4.2 Zoning Map.

The location and boundaries of the district established by this Ordinance are set forth on the zoning map entitled "Zoning Map for Newman Township, Douglas County, Illinois" which is incorporated herein and hereby made a part of this Ordinance. The said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Ordinance as though fully set forth and described herein. The original of this map shall be signed and dated by the Township Clerk, shall be filed as part of this ordinance and shall be kept by the Township Clerk including all amendments to district boundaries.

4.3 Interpretation of District Boundaries.

The following rules shall apply with respect to the boundaries of any district as shown on the Zoning Map.

1. District boundary lines are the center lines of highways, streets, alleys, and pavements; or right-of-way lines of railroads and expressways; or section, division of section, tract and lot lines; or such lines extended, unless otherwise indicated.
2. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
3. No building or other structure shall hereafter be erected or altered;
 - a) to exceed the height or bulk;
 - b) to occupy a greater percentage of lot area;

c) to have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required, or in any other manner contrary to the provisions of this Ordinance.

4. All principal structures shall be located on a lot; and only one principal structure shall be located, erected or moved onto a lot.

5. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

6. In any district, a single-family dwelling and customary accessory buildings may be erected on any single substandard lot of record at the effective date of adoption of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the respective zoning district, provided there is sufficient area to accommodate an on-site sewage disposal system and the principal structure meets all applicable setback requirements set forth by this ordinance for the zoning district.

7. Uses adjacent to the (A) Agricultural District are to recognize that agriculture is a necessary use and should be encouraged and there are certain environmental conditions that take place as a normal part of farm operation.

8. Criteria used in reviewing this situation shall consider which land use has existed for the longest period of time, and what land use existed at the time the adjacent land use was created.

4.4 Exclusion

The City of Newman has exercised its right to zone and control one and one-half miles beyond their corporate limits which does lie within Newman Township. The City of Newman shall continue to exercise its statutory rights to said area and the same shall not be affected by this ordinance.

4.5 AGRICULTURAL DISTRICT (A)

1. Purpose and Intent of the Agricultural District (A)

The purpose of the A District is to: (1) preserve productive agricultural land for food and fiber production; (2) preserve productive farms by preventing land use conflicts between incompatible uses and controlling public services; (3) maintain a variable agricultural base to support agricultural processing and service industries; (4) prevent conflicts between incompatible uses; and (5) reduce costs of providing services to scattered, non-farm uses. The A District is generally intended to apply to lands in productive farm operations including: (1) lands historically exhibiting high crop yield or capable of such yields; (2) lands which have been demonstrated to be productive for dairying, livestock raising, and grazing; (3) other lands which are integral parts of each farm operations. As a matter of policy, it is hereby determined that the highest and best use of these lands is agricultural.

2. Permitted Uses

The following uses are permitted in this district:

A). Agricultural, dairying, floriculture, forestry general farming, grazing, greenhouses, hatcheries, horticulture, livestock raising, nurseries, orchards, paddocks, pasturage, poultry raising, truck farming, trucking, game farms, wildlife sanctuaries, game preserves and other related agricultural pursuits.

B). Roadside stands provided the structure does not cover more than 300 square feet in ground area and does not exceed 10 feet in height.

C). Additional non-residential farm structures necessary for the continuance of the farm operation.

D). Home offices.

E). All uses listed as conditional uses in the (A) Agricultural District which existed in Newman Township at the time of adoption of these Ordinance are hereby grandfathered and are treated as permitted uses.

F.) Railroad spur lines and right-of-ways

G.) Electric transmission lines

3. Conditional Uses

A conditional use in this district is to permit the following uses only after public hearing and approval of the Township Zoning Board of Appeals:

A). Riding academies, stables and other similar pursuits.

B). Schools, hospitals, sanitariums, churches and other religious institutions.

C). All airfields, airports and heliports.

D). Cemeteries and public parks.

E). Quarries, sand and gravel pits incidental to the farm operation.

F). Supportive agri-business activities to include grain elevators; seed, fertilizer, and farm chemical sales; commercial stockyards and feedlots; feed mills; and similar agricultural activities. No grain elevator shall be built or located within 300 feet of an existing dwelling unit.

G). Farm dwellings and related farm structures existing at the time of adoption of this Ordinance may be separated from the farm plot provided that the parcel created conforms with all setback regulations set forth in the Rural Residential Developments as provided herein.

H). Gas, electric and telephone switching/transmission stations; water and waste disposal structures and facilities.

I). Kennels

J) Wind Energy Conversion Systems. Siting of Wind Energy conversion systems (“WECS”) in Newman Township.

I PURPOSE

- A. To assure that any development and production of wind-generated electricity in Newman Township is safe and effective;
- B. To assure the protection of health, safety, welfare, and property values for all Newman Township residents and land owners.
- C. To facilitate economic opportunities for local residents;
- D. To promote the supply of wind energy in support of Illinois' Statutory goal of increasing energy production from renewable energy sources.

II DEFINITIONS

“Anemometer Tower” is an instrument for measuring and recording wind speed attached to a structure, including all guy wires and accessory facilities, that is 50 (fifty) feet in height above the ground or higher, not otherwise regulated by state or federal law.

“Applicant” means the entity or person who submits to Newman Township, pursuant to Section V of this Ordinance, an application for the siting of any WECS or Substation.

“Financial Assurance” means bond or letter of credit.

“Footprint Boundary” means the final map submitted by the Applicant for a building permits to enable the Zoning Administrator to determine the location of properties subject to the “Real Property Value Protection Plan” at Article X hereof. Actual boundary line to be determined by drawing a circular line 1500 feet away from all outlying turbines.

“Licensed Illinois Professional Engineer” means a qualified individual who is licensed as a professional engineer in Illinois.

“L.A.” refers to “Local Authority”.

“Meteorological Tower (MET)” is a tower which has equipment attached to it designed to assess wind and other atmospheric data and accessories, equipment and buildings.

“Operator” means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.

“Owner” means the entity or entities with an equity interest in the WECS(s), including their respective successors and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless 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.

“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, hospitals, churches, schools and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages and barns.

“Right of Way” (R.O.W.) is a strip of land dedicated or used by the public for vehicular traffic and/or storm water, surface water, or ground water drainage.

“Rotor Diameter” is the diameter of the circle created by rotating turbine blade tips.

“Shadow Flicker” is the phenomena that occurs when rotating wind turbine blades cast moving shadows upon stationary objects.

“Substation” means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility’s transmission lines.

“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).

“WECS Project” means the collection of WECSs and Substations as specified in the siting approval application pursuant to Section V. of this Ordinance.

“WECS Tower” means the support structure to which the nacelle and rotor are attached.

“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 WECSs and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of WECSs 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 MET tower, no WECS or Substation governed by Section III of this Ordinance shall be constructed, erected, installed, or located within Newman Township, unless prior siting approval has been obtained for each individual Met tower, WECS and Substation pursuant to this Ordinance.

V SITING APPROVAL APPLICATION

To obtain siting approval, the Applicant must first submit an application for a Conditional Use Permit as provided in Section VIII hereof and pay the required Permit Fees.

The siting approval application shall contain or be accompanied by the following information:

A. A WECS Project summary, including: (1) a general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), number of WECSs, 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; it being expressly allowed under any application by the Applicant to submit multiple WECS Project summaries which may vary in nameplate generating capacity and/or type of wind turbine generator used provided that each and every Project summary so submitted must still comply with these Ordinances and provided further that the Township in its sole discretion may approve any one or more of such summaries and that the Applicant may at its discretion move forward on any Township-approved Project summaries once the Applicant has finalized its supply agreements for wind turbine generators, substation transformers, and the like.

B. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), if known.

C. A site plan for the installation of WECS with a map 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, and layout of all structures within the geographical boundaries of any applicable setback;

D. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance; and

E. Any other information normally required by the Township as part of its Zoning Ordinance.

F. The Applicant shall notify Newman Township of any changes to the information provided in Section V.B. above that occur while the siting approval application is pending.

G. Upon payment of the required Permit Fees, the Zoning Administrator will review the application, get the necessary reviews by legal counsel and engineering consultants, publish the legal notices, hold the Zoning Board of Appeals Hearing, obtain and pay for the court stenographer, take it to the Zoning Board of Appeals for their review, and place it before the Township Board for final approval.

H. Following application approval the Applicant is eligible to apply for WECS building permits as provided in Section VII hereof.

I. Actual on site construction must commence within one year of application approval by the Township Board or permits will no longer be valid.

VI DESIGN AND INSTALLATION

A. Design Safety Certification. All Met Towers must be painted in seven, equal, alternating bands of aviation orange and white, beginning with orange at the top of the tower and ending with orange at the base. There shall be three (3) orange marker balls at least 36 inches in diameter on each quadrant of guy wires, one twenty feet from the ground level, one approximately half the way to the top, and one fifteen feet from the top. Towers shall be lighted with a strobe light during daylight hours and with a flashing red light during nighttime hours each of which is visible for a minimum of 2.5 miles. (3.75 km)

WECSs 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. For the avoidance of doubt, the provision of a design compliance certificate from any one of ANSI, UL, DNV or GL shall be deemed to satisfy this requirement.

Following the granting of siting approval(s) under this Ordinance, a Licensed Illinois 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; it being understood that an Applicant may submit different building permit applications hereunder in keeping with the project flexibility based on equipment type to be used allowed for in Section V.B.1 hereof, it being further understood that any and all such permit applications shall still be certified by a Licensed Illinois Professional Engineer as contemplated hereunder.

B. Controls and Brakes. 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 regulations shall not be considered a sufficient braking system for overspeed protection.

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, UL and International Electrical Commission). All electrical wire and lines connecting WECS to another WECS or substation must be installed no less than 4(four) feet deep. The owner/operator of the WECS Installation shall be a member of J.U.L.I.E and follow their rules and regulations. During the installation and before wires and lines are covered; there will be an inspection for compliance by an independent inspector chosen by the Township and paid for by the Owner/Operator.

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.

F. Warnings.

1. A 911 address sign which conforms to the specifications of the County Ordinance for size, color and reflectivity shall be placed and maintained by the owner/operator at the entrance to each WECS access road from a public road. A sign or posting no more than four (4) square feet in area shall be placed and maintained in conjunction with, but in a subordinate position of, that same 911 sign and shall provide the tower number(s) and a toll-free telephone number, answered by a person twenty-four hours a day seven days per week, for emergency calls and informational inquiries.

2. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.

3. No wind turbine generator tower or anemometer tower or site shall include any advertising sign, but logos of the Owner or Operator or the wind turbine generator manufacturer shall not be considered “advertising” for the purpose of this Ordinance.

4. 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

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to a height of fifteen (15) feet from the ground. Another method of protection for general safety may be officially presented to the County Engineer for his approval.

5. Warning signs identifying underground wire locations shall be placed at all road crossings, creek, waterway, and ditch crossings, and at the base of WECS Towers. All underground wire locations shall be GPS mapped and given to the L.A.

G. Climb Prevention. All WECS Towers must be unclimbable by design for the first twelve feet or protected by anti-climbing devices or otherwise be protected by fences with locking portals at least eight (8) feet high.

H. Setbacks.

1. Participating Property Owners. All WECS Towers shall be set back at least one thousand five hundred feet (1500) from participating property owners' primary structures. The distance from this setback shall be measured from the point of the primary structure foundation to the center of the WECS Tower foundation. The property owner may waive this setback to a distance equal to 1.1 times the height of the WECS including the blades at the highest point..

2. Non-Participating Property Owners. All WECS Towers shall be set back from the non-participating property owners' primary structures at least a distance equal to 4 times the height of the WECS including the blades at the highest point. The distance for this setback shall be measured from the point of the primary structure foundation to the center of the WECS Tower foundation.

3. Non-Participating Property Owners. All WECS Towers shall be set back from property lines for non-participating property owners a distance equal to at least 1.5 times the height of the WECS including the blades at the highest point.

4. Public Roads. All WECS Towers shall be setback from public roads a distance at least equal to 1.5 times the height of the WECS including the blades at the highest point. The Township may waive this setback requirement.

5. Third-Party Transmission Lines and Communications Towers. All WECS Towers shall be set back from third-party transmission lines and communications towers at least one thousand (1000) feet. This setback may not be waived.

6. All WECS Towers shall be set back a distance of at least one thousand (1000) feet from adjacent property lines of participating owners. The affected adjacent participating property owners may waive this setback requirement by written consent of each party.

7. Any WECS site proposed within one and one half (1 ½) mile of the corporate limits of any incorporated village or city shall require an approval sign-off by that corporate authority.

8. A two-mile radius around an existing private airstrip recognized by the FAA will be left free of wind turbines. The airstrip owner may waive this regulation.

9. 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.

I. Compliance with Additional Regulations.

1. All underground wiring or cabling for the WECS shall be at a minimum depth of 4 feet below grade or deeper if required to maintain a minimum one foot of clearance between wire and cable and any agricultural drainage tile.

2. Protection of agricultural drainage tile

(a) The applicant shall endeavor to locate all existing agricultural drainage tile prior to establishing any construction staging areas, construction of any necessary WECS TOWER access lanes or driveways, construction of any WECS towers, any common switching stations, substations, and installation of underground wiring or cabling. The applicant shall contact affected landowners and tenants for their knowledge of the tile line locations prior to the proposed construction. Drainage districts shall be notified at least two weeks prior to disruption of tile.

(b) All identified drainage district tile lines shall be staked or flagged prior to construction by the Applicant to alert construction crews of the possible need for tile line repairs unless this requirement is waived in writing by the drainage district.

(c) Any agricultural drainage tile located underneath construction stage areas, access lanes, driveways, any common switching stations, and substations shall be replaced.

(d) Any agricultural drainage tile that must be relocated shall be relocated as required to the satisfaction of land owner.

(e) Conformance of any relocation of drainage district tile shall be certified by an Illinois Professional Engineer. Written approval by the drainage district shall be received prior to any backfilling of the relocated drain tile and a copy of the approval shall be submitted to the Zoning Administrator. As-built drawings shall be provided to both the relevant drainage district and the Zoning Administrator of any relocated district tile.

(f) All tile lines that are damaged, cut, or removed shall be staked or flagged in such manner that they will remain visible until the permanent repairs are completed.

(g) All exposed tile lines shall be screened or otherwise protected to prevent the entry into the tile of foreign materials, loose soil, small mammals, etc.

(h) Permanent repairs shall be made within 14 days of the tile damage provided that weather and soil conditions are suitable or a temporary tile repair shall be made. Immediate temporary repair shall also be required if water is flowing through any damaged tile line. Temporary repairs are not needed if the tile lines are dry and water is not flowing in the tile provided the permanent repairs can be made within 14 days of the damage.

(i) All damaged tile shall be repaired so as to operate as well after construction as before the construction began.

(j) Following completion of the WECS construction the applicant shall be responsible for correcting all tile line repairs that fail, provided that the failed repair was made by the applicant.

3. All soil conservation practices (such as terraces, grassed waterways, etc.) that are damaged by WECS construction shall be restored by the applicant to the pre-WECS construction condition.

4. Topsoil replacement. For any open trenching required pursuant to WECS construction, the topsoil shall be stripped and replaced as follows:

(a) The top 12 inches of topsoil shall first be stripped from the area to be trenched and then stored in a windrow parallel to the trench in such a manner that it will not become intermixed with subsoil materials.

(b) All subsoil material that is removed from the trench shall be placed in a second adjacent stripped windrow parallel to the trench but separate from the topsoil windrow.

(c) In backfilling the trench, the stockpiled subsoil material shall be placed back into the trench before replacing the topsoil.

(d) The topsoil must be replaced such that after settling occurs, the topsoil's original depth and contour (with an allowance for settling) will be restored.

5. Mitigation of soil compaction and rutting

(a) The applicant shall not be responsible for mitigation of soil compaction and rutting if exempted by the WECS lease.

(b) Unless specifically provided for otherwise in the WECS lease, the applicant shall mitigate soil compaction and rutting for all areas of farmland that were traversed with vehicles and construction equipment or where topsoil is replaced in open trenches.

6. Land leveling

(a) The applicant shall not be responsible for leveling of disturbed land if exempted by the WECS lease.

(b) Unless specifically provided for otherwise in the WECS lease, the applicant shall level all disturbed land as follows:

(1) Following the completion of any open trenching, the applicant shall restore all land to its original pre- construction elevation and contour.

(2) Should uneven settling occur or surface drainage problems develop as a result of the trenching within the first two years after

completion, the applicant shall again restore the land to its original pre-construction elevation and contour.

7. When proposed citing infringes upon or prevents a non-participating adjacent property owner or his agent from participating in accepted agricultural aerial application practices, the applicants must negotiate in good faith with said landowners prior to final site approval by the township for lost opportunity and expected benefits of such applications. This issue must be satisfied before the Township will consider the application. Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.

8. Use of Public Roads.

A. An Applicant, Owner, or Operator proposing to use any county, Municipality, Township or Village 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:

- (1) Identify all such public roads intended for use; and
- (2) Identify all agencies involved; and
- (3) Enter into legal agreement concerning road upgrade and maintenance with each of the affected jurisdictions; and
- (4) Obtain applicable weight and size permit from relevant government agencies prior to construction and/or maintenance activities.

B. To the extent an Applicant, Owner, or Operator must obtain a weight or size permit from the local agency of jurisdiction, the legal agreement shall contain a minimum of the following:

- (1) A pre-construction and/or pre-maintenance baseline survey to determine existing road conditions and R.O.W. (conduct a pre-construction and/or maintenance baseline survey to determine existing road conditions for assessing potential future damage; and);
- (2) Outline exact routes intended for construction and/or maintenance use;

- (3) Detail of maintenance responsibility and method of reimbursement if it is deemed the L.A. responsibility;
- (4) Expectations of the L.A. when road reconstruction is involved;
- (5) Easement on private property will be the sole responsibility of the applicant, owner or operator;
- (6) Outline of time schedule including any and all provision during the Feb. 1 to May 1 posting season;
- (7) Outline any and all permits required for entrance off the L.A. roads;
- (8) Provide financial assurance in the form of a sufficient bond or letter of credit for the purpose of repairing any damage to public roads caused by constructing, operating or maintaining the WECS and for decommissioning.

9. Limitation on Liability Clause. The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than 25 feet measured from the highest point of the terrain within one blade radius from the base of the tower.

10. Lighting. The turbines shall not be illuminated or have any external lighting unless required by the Federal Aviation Association (FAA). To the extent warning lighting is required it shall consist of approved red strobe lights at the lowest intensity allowed and timed to activate synchronized intervals. The Applicant shall further seek leave from the FAA to utilize the least intrusive lighting possible. The Applicant will employ the best available technology to minimize the impacts of lighting including installation of Obstruction Collision Avoidance Systems (OCAS) which activates the lighting only upon approach of aircraft and terminates the lighting at all other times. The Township may consider waiving the installation of Obstruction Collision Avoidance Systems (OCAS) upon request by the Applicant.

11. The Applicant shall provide all studies to be updated to the final number, size, etc. of towers to be in the final plan.

VII OPERATION

A. Maintenance. The Owner or Operator of the WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the Township. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the Township reasonably requests. It being understood that nothing in this Section VII (A) (1) shall be construed so as to require any Owner or Operator of the WECS to violate any non-disclosure or confidentiality covenant that the Owner or Operator may have with any of (i) its equipment supplier(s), (ii) the purchasers of electricity and/or environmental attributes from the WECS, or (iii) any debt or equity financier of the WECS.

To the extent that, under Section VI of this Ordinance, any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components so that such modification requires re-certification from the original third-party certifying entity of the WECS (i.e. DNV, GL, UL, etc.), then the Owner or Operator of the WECS shall obtain such recertification for the affected WECS from such entity in accordance with its then-existing design standards and processing times for re-certification certificates. Like-kind replacements shall not require recertification. 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 to determine whether the physical modification requires re-certification.

B. Interference. 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 (or various project summaries and site plans if the Applicant should seek approval of differently sized projects and/or projects constructed with differing wind turbine generators), as set forth in Section V of this Ordinance. To the extent that (a) the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s) and (b) the United States Federal Communication Commission (“FCC”) agrees with such demonstrated interference, then the Applicant shall take all measures prescribed by the FCC to mitigate or eliminate such anticipated interference in compliance with then-existing, FCC-promulgated regulations. If, after construction of the WECS, the Owner or Operator receives a written complaint from the FCC

related to the above-mentioned, or any other type of interference with the regulated airwaves, the Owner or Operator shall take all steps required by the FCC to mitigate or eliminate such complaint. All interference issues must first be taken to the Owner or Operator for consideration before going to the FCC.

Through the appropriate placement of wind turbine generators, the owner or operator shall design to eliminate any interference such as, but not limited to, Internet (Wi-Fi or satellite), AM or FM radio, cell phones, 911, satellite television, emergency systems, and digital television. Post-construction signal interference caused by the WECS shall be mitigated by the WECS owner/operator at their expense.

C. Repowering. In the event of substantial repowering, the parties acknowledge that it is impossible to predict the timing, nature or extent of the impact on the Township. Applicant shall:

1. Give at least thirty (30) calendar days' advanced written notice to the Township Supervisor and the County and Township Road Authorities of the intent to undertake substantial repowering;
2. Submit for approval a site plan with a proposed schedule of roads, bridges, and culverts to be used in substantially the form provided for the original construction of WECS;
3. Provide specifications and weight loads of vehicles, equipment and materials necessary for the repowering; and
4. Obtain necessary permits from the Road Authorities to access the public roads.

Coordination with Local Fire Department

A. The Applicant, Owner or Operator shall submit to the local fire department a copy of the site plan.

B. 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. In addition, at no cost to the local fire department, the Owner or Operator shall provide to the local fire department any and all specialized and necessary rescue or retrieve equipment occasioned by the use of

the particular wind turbine generators being used at the project (i.e. gurney, body harnesses, etc.). In addition, the Owner or Operator shall have the responsibility to update—at no cost to the local fire department—any such equipment in possession of the local fire department as any updates are received by the Owner or Operator in the normal course of business.

C. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

Materials Handling, Storage and Disposal

A. 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.

B. 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.

VIII NOISE LEVELS

Standard Conditions for Allowable Noise Level

1. The applicant shall submit manufacturer's wind turbine sound power level characteristics and other relevant data regarding wind turbine noise characteristics necessary for a competent noise analysis.

2. The applicant, through the use of a qualified professional, as part of the siting approval application process, shall appropriately demonstrate compliance with the Illinois Pollution Control Board noise requirements. The sound measurements must also be “A” weighted for consideration of the low frequency sound pressure. Should the township board determine that noise emissions appear to exceed allowable levels, an acoustic engineering firm shall be hired by the township and paid for by the owner of the WECS facility to determine compliance.

3. The applicant shall submit a map of the relevant noise contours for the proposed WECS and indicate the proposed WECS TOWERS and all

existing “Primary Structures” within at least 1,500 feet of any WECS TOWER or within the coverage of the relevant noise contours.

4. If a computer model is used to generate the required noise contours the applicant shall clearly state the assumptions of the model's construction and algorithms so that a competent and objective third party can as simply as possible verify the noise contours and noise data.

5. After construction of the WECS the Zoning Administrator shall take appropriate enforcement action as necessary to investigate noise complaints in order to determine the validity of the complaints and take any additional enforcement action as proves warranted to stop any violation that is occurring, including but not limited to the following:

(a) The Zoning Administrator may seek authorization from the Township Board to hire a noise consultant to determine the noise produced by the WECS in a manner consistent with the Illinois Pollution Control Board (IPCB) regulations (35 Illinois Administrative Code Subtitle H: Noise Parts 900, 901, 910).

(b) The Zoning Administrator may require the WECS owner to cooperate fully with the noise consultant in the enforcement action including shutting down all wind turbines to allow documentation of ambient noise levels.

(c) In the event that a violation of the noise regulations is identified the Zoning Administrator may require the WECS owner to trace whatever actions are necessary to stop the violation and comply with the noise regulations.

(d) Further, in the event that a violation of noise regulations is identified the WECS owner shall reimburse to the Township the cost of the noise consultant.

IX SHADOW FLICKER.

If, in property owners judgment, the shadows cast at any occupied residence substantially interferes with the use and enjoyment of the residence, the WECS owner / operator shall promptly investigate the nature and extent of the problem and the best method to correct any problems found to exist. Owner / operator at its expense will then promptly undertake measures such as tree planting, or installation of awnings, draperies or other window treatment necessary to mitigate

the effects of the offending shadow. Both participating and non-participating property owners may waive this requirement by written consent.

X REAL PROPERTY VALUE PROTECTION PLAN

To assure that real property values of nonparticipating landowners within the WECS footprint will be protected from any negative impacts due to the WECS siting, the applicant shall agree to the following prior to issuance of a permit:

1. Applicant agrees to protect the property values of all real estate located within the WECS facility footprint boundary as defined by the map submitted by Applicant with the request for a Conditional Use Permit, as follows: Applicant and the property owner shall each select an independent Illinois licensed appraiser, the cost of which shall be paid for by each party. Each appraiser shall determine the diminution in value to the real property caused by the proximity to the wind turbines by determining the difference between the fair market value of the real property assuming no WECS Facility is proposed or constructed and the fair market value at the time of exercising this option ("Diminution Value"). If one of the appraisals submitted is no more than ten percent (10%) higher than the other, the appraisal values shall be averaged ("Average Diminution Value"), and the property owner may elect to receive payment from Applicant of the Average Diminution Value. If one of the appraisals submitted is more than ten percent (10%) higher than the other, then the two (2) independent appraisers will select a third independent Illinois licensed appraiser who shall prepare and present to Applicant and property owner his written appraisal report setting forth his opinion as to the Diminution Value for the real property. The parties agree that appraisal of the third independent appraiser shall constitute the Diminution Value and the property owner may elect to receive payment from Applicant of the Diminution Value. This option must be exercised within ten (10) years of the date of final approval of the special use permit application by Township. The third appraisal shall be paid for one-half by Applicant and one-half by the property owner.

XI. PUBLIC PARTICIPATION.

Nothing in the Ordinance is meant to augment or diminish existing opportunities for public participation.

XII. 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 \$20 million per occurrence and \$20 million in the aggregate. The Owner or Operator of the WECS shall maintain this policy for the lifetime of the WECS and submit a copy of same to the Newman Township Board at each renewal. The Township of Newman and its officials shall be named as additional insureds. The policy limits shall be subject to adjustment every five (5) years.

XIII DECOMMISSIONING PLAN

Prior to receiving the issuance of a building permit under this Ordinance, the Township, the Applicant or Owner, and/or Operator (Applicant) must agree to a Decommissioning Plan that ensures the WECS Project is properly decommissioned. The Decommissioning Plan shall include:

A. Provisions describing the triggering events for decommissioning the WECS Project which shall include but not be limited to any wind turbine generator or anemometer tower that is not generating electricity for a continuous period of twelve (12) months.

B. Removal of all transmission equipment, buildings and fences.

C. Removal of all structures, debris and cabling and all physical material pertaining to the project improvements, except the concrete foundation to a depth of seventy-two (72) inches below grade.

D. Provisions for the restoration of the soil surface to the same condition that existed immediately before construction of such improvements.

E. Financial assurances to Newman Township to include:

1. A basis formed by a licensed Illinois professional engineer's cost estimate for demolition and removal of the WECS facility; repairs to be made to bring roads back to the same condition as they were immediately preceding actual decommissioning; any associated expenses such as operating night time warning lights during the twelve(12) month period the Project may be abandoned; and the like. The licensed Illinois Professional Engineer, selected by Newman Township, shall provide the original decommissioning cost estimate prior to the issuance of the building permit and a new cost estimate shall be prepared every three years. The Applicant shall pay the engineer's fee. Payment for said engineer's fee to prepare decommissioning cost estimates is not included in the initial Application Fee. Financial assurances to the Township shall be adjusted every three years to reflect new cost estimates prepared by the engineer.

2. A bond or letter of credit in the minimum amount of \$50,000.00 for each tower shall be provided to Newman Township. An additional financial assurance shall be supplied, if necessary, to bring the total amount of assurance per tower to an amount at least equal to the said engineer's estimate for demolition and removal with consideration of up to 50% of the salvage value, plus road repairs to be made to the same condition as they were immediately preceding actual decommissioning. This assurance shall again, if necessary, be adjusted to reflect the changes in the engineer's estimates as they are adjusted every three years. This additional assurance must be made in the form of a bond or letter of credit. All financial security shall be completed and approved by the Zoning Administrator before the issuance of any building permits. Said securities shall be released when each tower site and associated infrastructure are completely decommissioned and the road repairs are properly completed as determined by the Newman Township Road Commissioner, all affected public road authorities, and final approval by the Newman Township Board.

3. In the event of abandonment of the project, the Applicant shall provide an affidavit to the Newman Township Zoning Administrator representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, and for the property owners to ensure that the WECS and related improvements are properly decommissioned within twelve (12) months of abandonment or earlier termination of the wind project.

4. A provision that the terms of the Decommissioning Plan shall be binding upon the Applicant and any of their successors, assigns, or heirs.

5. The Township may sell any salvage material to reduce the Township's expenses related to the decommissioning of any project site and shall be granted access to each site to effect or complete decommissioning.

6. In the event of project abandonment, the Township reserves the right to remove the towers and access any related salvageable materials for the Township to sell but the Township is not obligated to remove the concrete improvements which provide the structural base for the towers.

7. A stipulation that at such time as decommissioning takes place the applicant or its successors in interest are required to enter into a Roadway Use and Repair Agreement with the relevant highway authority.

8. A stipulation that the Applicant shall provide evidence of any new, additional, or substitute financing or security agreement to the Zoning Administrator throughout the operating lifetime of the project.

9. A stipulation that the Applicant shall be obliged to perform the work in the site reclamation plan before abandoning the WECS or prior to ceasing production of electricity from the WECS, after it has begun, other than in the ordinary course of business. This obligation shall be independent of the obligation to pay financial assurance, and shall not be limited by the amount of financial assurance. The obligation to perform the reclamation work shall constitute a covenant running with the land.

10. The site reclamation plan shall provide for payment of any associated costs that Newman Township may incur in the event that decommissioning is actually required. Associated costs include all administrative and ancillary costs associated with drawing upon the financial assurance and performing the reclamation work and shall include but not be limited to attorney's fees; construction management and other professional service fees; and the costs of preparing request for proposals and bidding documents required to comply with state law or Newman Township purchasing policies.

11. The hole resulting from the removal of foundation concrete during decommissioning shall be backfilled as follows:

(a). The excavation resulting from the removal of foundation concrete shall only be backfilled with subsoil and topsoil in similar depths and similar types as existed at the time of the original WECS construction except that a lesser quality topsoil or a combination of a lesser quality topsoil and a subsoil that is similar to the native subsoil may be used at depths corresponding to the native subsoil but not less than 12 inches below grade.

(b). The native soils excavated at the time of the original WECS construction may be used to backfill the concrete foundation excavations at the time of decommissioning provided that the soils are adequately stored throughout the operating lifetime of the WECS. The methods for storing the excavated native soils during the operating lifetime of the WECS shall be included in the site reclamation plan.

(c). If the excavated native soils are not stored for use for backfilling the concrete foundation excavations, a qualified soil scientist or Illinois Licensed Professional Engineer shall certify that the actual soils used to backfill the concrete foundation excavations are of equal or greater quality than the native soils or that, in the case of subsoil, the backfill soil meets the requirements of this paragraph. The certification shall be submitted to the Zoning Administrator.

(d). An Illinois Licensed Professional Engineer shall certify in writing that the concrete foundation excavations have been backfilled with soil to a depth of seventy-two (72) inches and with a minimum of compaction that is consistent with the restoration of productive agricultural use.

12. A stipulation that should the site reclamation plan be deemed invalid by a court of competent jurisdiction the WECS Permit shall be deemed void.

13. A stipulation that the Applicant's obligation to complete the site reclamation plan and to pay all associated costs shall be independent of the Applicant's obligation to provide financial assurance.

14. A stipulation that the liability of the Applicant's failure to complete the site reclamation plan or any breach of the site reclamation plan requirement shall not be capped by the amount of the financial assurance.

15. If the Applicant desires to remove equipment or property credited to the estimated salvage value without the concurrent replacement of the property with property of equal or greater salvage value or if the Applicant installs equipment or property increasing the cost of decommissioning after the WECS begins to produce electricity, at any point, the Applicant shall first obtain the consent of the Township Board of Trustees. If the Applicant's lien holders remove equipment or property credited to the salvage value the Applicant shall promptly notify the Zoning Administrator. In either of these events, the total financial assurance shall be adjusted to reflect any change in total salvage value and total decommissioning costs resulting from any such removal or installation.

F. Upon decommissioning, all facilities will be removed as required by the Agricultural Impact Mitigation Agreement (“AIMA”) of the State of Illinois.

XIV PUBLIC NUISANCE

Any WECS declared to be unsafe by the Newman Township Board by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, or abandonment is hereby declared a Public Nuisance and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures set forth in this ordinance.

XV DEFAULTS AND REMEDIES

The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Ordinance.

Prior to implementation of the existing Township procedures for the resolution of such default(s), the appropriate Township 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).

Any violation of this ordinance shall be an offense punishable by a fine not to exceed \$1,000.00. Each violation shall be a separate offense. Each day a violation occurs or continues shall be a separate offense. A court may set any appropriate per day fine for each day the infraction exists or until such infraction is remedied. It is the goal of this ordinance to promote structural safety to protect the public and

the court in setting any appropriate fine shall consider the nature of the offense, the degree of public safety involved, the efforts of the Township and responsible owner or applicant to quickly and safely resolve and infractions. It is the intent that any dispute between the parties be resolved promptly and where possible by informal discussions as outlined elsewhere in this ordinance.

The Township reserves the right to hire outside Counsel to enforce this ordinance. The Owner/Operator is liable for payment of reasonable Attorney's Fees in this regard.

XVI. SEVERANCE

If any section, clause, or provision of the Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

XVII. INDEMNIFICATION

The applicant, owner and/or operator of the WECS project shall defend, indemnify and hold harmless Newman Township and its officials from and against any and all claims, demands, losses, suites, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including attorney's fees, without limitation arising out of acts of omissions of the applicant, owner and/or operator associated with the construction and/or operation of the WECS project.

K) Solar Power Generating Facility

The following standards shall apply to a solar power generating facility:

(a) Setbacks. The facility shall be set back 100 feet from the front and rear property lines and 50 feet from the side property lines.

(b) Lighting shall be installed for security and safety purposes only. Except with respect to lighting required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of a facility.

(c) An erosion control plan shall be provided.

- (d) A stormwater management plan shall be provided.
- (e) All areas occupied by the facility that are not utilities for access to operate and maintain the installment shall be planted and maintained with a native shade-tolerant grass or other vegetation for the purpose of soil stabilization or other methods approved by the Zoning Administrator.
- (f) Solar panels shall require construction permits from the Zoning Administrator. Solar panels that are part of a solar power generating facility shall require engineering certified by a registered engineer or other certified professional before an occupancy permit will be issued.
- (g) If a facility ceases to produce electricity on a continuous basis for 12 months, the equipment must be removed and the site restored to original condition.
- (h) The facility shall provide approval for access points and change in access use from the road authority.
- (i) The applicant shall complete consultation with the Illinois Historical Preservation Agency (IHPA) before a construction permit is issued.
- (j) The solar panels shall be installed with an anti-reflective coating.
- (k) The applicant shall have all field tile damaged in the construction process repaired by a competent contractors, with experience in such repair, during the life of the solar farm.
- (l) Groundcover that encourages pollination that is recommended by the County Soil and Water Conservation District needs to be installed.
- (m) A contact person for the applicant will need to be kept on file with the Zoning Administrator for issues/complaints upon completion of the facility.
- (n) As a condition of receiving a permit from the Township, the company must pay the cost of hiring an Illinois registered professional engineer to provide a certified estimate of decommissioning costs. The company shall provide decommissioning security financing for the estimated cost of decommissioning in the amount determined by the engineer or \$25,000.00, whichever is greater. Security financing must be in the form of a bond or letter of credit. The decommissioning cost estimate will be reviewed and revised every three years.
- (o) The company must provide an Agricultural Impact Mitigation Agreement signed by the company and the Illinois Department of Agriculture prior

to the issuance of a permit to construction from the Township, and must certify that it will comply with all of the terms of the Agreement. Nothing in the Agricultural Impact Mitigation Agreement will preclude the Township from establishing any standards that exceed those contained in the Agreement.

(p) Development shall conform with the plans and documents submitted with the application and with the regulations of this Zoning Ordinance.

L) Rural Residential Developments

1. Purpose and Intent.

Rural Residential Developments are intended to provide for a quiet, pleasant and relatively spacious living area protected from traffic hazards and the intrusion of non-compatible land uses. The intent is to provide for rural residential development and for recreational residential development on soils that are compatible for on-site disposal of sewage effluent, and in area that do not infringe on existing agricultural uses.

2. Permitted Uses.

- A. Single-family dwellings.
- B. Public parks, playgrounds, and athletic fields.
- C. Churches, chapels, temples, synagogues, rectories, parsonages, parish houses and other related religious institutions.
- D. Home offices.

3. Permitted Accessory Uses.

- A. Private garages, carports and driveways.
- B. Tool houses, sheds and other similar accessory buildings.

4. Conditional Uses.

A conditional use in such developments is to permit the following uses only after a public hearing and approval of the Township Zoning Board of Appeals:

A. Two-family and multi-family dwellings.

B. General farming, dairying, floriculture, forestry, grazing, greenhouses, hatcheries, horticulture, livestock raising, nurseries, orchards, paddocks, pasturage, poultry raising, riding academies and stables, truck farming, game farms, wildlife sanctuaries and game preserves.

C. Home occupations.

5. Requirements for Permitted and Conditional Uses.

- | | |
|-------------------------------------|-----------------------------|
| A. Maximum building height | 35 feet |
| B. Front yard setback | 50 feet |
| C. Minimum rear yard setback | 25 feet |
| D. Accessory buildings setback | 5 feet |
| E. Minimum frontage on public road | Not less than 70 feet |
| F. Minimum lot area | 1 acre (43,560 square feet) |
| G. Maximum lot size | Not to exceed 5 acres |
| H. Minimum side yard setback | 15 feet |
| I. Maximum density for multi-family | 4 dwelling units per acre |

M) Mobile Home Parks

1. Intent. It is the intent of this ordinance to permit mobile home parks as a means of providing balance and variety to dwelling types available while still maintaining the integrity of existing and proposed residential neighborhoods. Each mobile home park tract shall be suitable for the development proposed recognizing and preserving to the maximum extent possible outstanding natural features.

2. Application Process. Any individual (s) shall make application for mobile home park in accordance to the procedures set forth in Section 8.2 of this

ordinance, for conditional use permits. Applications for a mobile home park shall be filed with the Zoning Administrator and shall be accompanied with the following information:

A). A complete plan of the mobile home park drawn on a topographic map at a scale of not less than one inch equals 200 feet.

B). The number, location and dimensions of all mobile home lots.

C). The location and width of roadways, walkways, easements, setback lines, planting strips and recreation areas.

D). The location of automobile parking areas and service buildings, if any.

E). The location and size of utility service lines, wells, on-site septic systems, electrical, telephone, and fuel.

F). Plans and specifications of all buildings and other improvements constructed or to be constructed within the court, including a detailed sketch of a typical mobile home lot.

3. Location Criteria. Every mobile home park shall be located on a well-drained area, and be properly graded so as to prevent the accumulation of storm or other waters. No mobile home or mobile home park shall be located in any area that is situated so that drainage of contaminated liquids or solids can be deposited on its location.

4. Park Size. Each mobile home park shall have a tract area of not less than twenty (20) contiguous acres under single ownership or unified control.

5. Lot Requirements. The minimum site for each mobile home unit shall be 8,000 square feet and minimum site width shall be 60 feet.

6. Parking of Mobile Homes.

A). Only one mobile home shall be place on each lot

B). Each mobile home lot shall abut upon a roadway within an approved park.

7. Restrictions on Occupancy of Mobile Homes. No mobile home shall be occupied for dwelling purposes unless it is properly placed on a mobile home lot

and connected to water, sewerage, electrical and other utilities and complies with all provisions of this ordinance. Also, when public utilities are available to a mobile home park, connection and use is required.

8. Minimum Lot Width and Setback Standards

- A). From any public road, see County Ordinance 95-0-7.
- B). From any internal road 25 feet from the right-of-way lines
 - Front yard setback 25 feet
 - Side yard setback 25 feet
 - Rear yard setback 25 feet

9. Parking. At least two (2) off-street hard surfaced parking spaces shall be provided for each mobile home lot. The size of each space must be at least 8 feet by 20 feet.

10. Screening There shall be provided a screening buffer strip along the boundary of the mobile home park where it abuts a residential district. Such screening shall be at least five (5) feet in height. Such strip shall be a densely planted hedge or shrubbery so as to effectively cause a visual barrier and still allow a breeze to pass.

11. Recreation Requirements. Recreation facilities such as playgrounds, swimming pools or lot shall be provided to meet the needs of the clientele the park is designed to serve.

12. Tenant Storage. One accessory storage building to a mobile home will be permitted on a mobile home lot provided that the storage building does not exceed 100 square feet and does not exceed eight (8) feet in height. The storage building shall be fully enclosed.

13. Internal Street Network.

A). A two-way street in a mobile home park must be at least 32 feet in width if parking is permitted on both sides; 25 feet in width if parking is permitted on only one side; or 18 feet in width if parking is not allowed on the street.

B). A one-way street must be at least 14 feet in width if parking is prohibited.

C). All streets shall be oil and chip, asphalt or concrete, maintained in good condition, adequately lighted and provided with adequate storm drainage.

14. Private Water Systems. All private water systems shall meet the requirements of Douglas County and the State of Illinois.

15. Tie-downs. There shall be tie-downs required for each mobile home located in the mobile home park. Each tie-down shall be well anchored and withstand a minimum tensile strength of 2,800 pounds. A minimum of 4 tie-downs shall be provided at each lot.

16. Open Space Requirement. A minimum of 500 square feet per mobile home site, exclusive of that provided for individual mobile home spaces and buffers shall be required for the purpose of providing open space and recreational areas for the residents of the mobile home park.

17. Additions and Alterations to Mobile Homes

A). Permit Required. A permit issued by the Zoning Administrator shall be required before any construction on a mobile home lot or any structural addition or alteration to the exterior of a mobile home. No permit is required for addition of steps, awnings, skirting, windows, doors or tenant storage structures.

B). Size of Expansion. No addition to a mobile home shall be greater than the area in square feet of the existing mobile home. No addition or alteration to the mobile home shall exceed in height the height of the existing mobile home.

C). Conform to Setbacks. Any addition to a mobile home shall be deemed a part of the mobile home and shall conform to the same setbacks of the existing mobile home.

D). Skirting Required. Vented skirting of non-flammable material for mobile homes is required. Areas enclosed by such skirting shall be maintained so as not to provide a refuge for rodents or create a fire hazard. It is also recommended that insulation be provided inside the skirting to prevent the freezing of pipes.

18. Procedure After Conditional Use Permit is Granted.

A) License Application. The owners of the land for the proposed mobile park shall file an application with the Township Clerk for a mobile home park license. The Clerk shall issue the initial license allowing said owners to develop the land in accordance to all conditions set forth in the approved conditional use permit. Construction pursuant to such permit must commence within one year of the date of the license issuance or the license shall apply to the Township Clerk each year and the annual license shall be subject to the approval of the Township Board.

B). Transfer of License. A transfer of license application shall be applied for and may be approved by the Township Board in the same manner as an application for the renewal of an existing license.

19. Revocation and Suspension of License. In the event of a violation of any of the rules and conditions imposed upon mobile homes pursuant to this ordinance, the mobile home park license issued under this ordinance may be revoked by affirmative vote of the Township Board. A license may be revoked by the Board only after a public hearing has been held and notice has been given to the license holder. The license holder or his/her representative shall have a right to be present and to present relevant evidence against the revocation of said license.

20. Management of Each Mobile Home Park. In every mobile home park there shall be a person in charge of such a park. The person in charge shall:

A). Keep a register, which is to be open at all reasonable times and upon reasonable notice to inspection by appropriate state and local officials, of all owned mobile homes located in the park.

B). Maintain the mobile home park in a clean, orderly and sanitary condition at all times.

C). Cooperate with local health officials in all cases of persons or animals infected or suspected of being infected with communicable disease.

D). Post copies of these regulations in one or more conspicuous places in the mobile home park where they can be easily seen by the mobile home park personnel and visitors.

21. Duties of Occupants. It is the duty of all occupants of mobile homes to:

A). Maintain their site in a clean, orderly and sanitary condition at all times.

B). Abide by all applicable state and local regulations and the rules established by the park management.

N) Salvage yard

O) Landfill

P) Business uses as follows:

1). Stores and shops in which items are sold directly to the public to include: gasoline service stations and auto repair; grocery; hardware; clothing and apparel stores; drug and beverage stores; bakeries; magazine and tobacco stores; coffee shops; laundry and dry cleaners; gift shops; taverns and restaurants; parking areas and other similar retail establishments normally found in neighborhood commercial centers.

2). Professional offices for physicians, dentists, attorneys, real estate, insurance sales, and similar professional services in which services are offered to the general public on the premises.

3). Personal services to include barbershops, beauty salons, tailor shops, and coin operated Laundromats.

4). Governmental and cultural uses such as fire and police stations, community centers, libraries, public emergency shelters, parks and playgrounds.

SECTION 5.0 NONCONFORMING USES AND STRUCTURES

5.1 Purpose and Intent

The purpose and intent of this section is to provide for the regulation of non-conforming buildings, structures, land and other uses and to specify those circumstances and conditions under which such non-conforming buildings, structures, land and uses shall be permitted to continue. Any non-conforming building, structure, land or other use which existed lawfully at the time of the adoption of this Ordinance is subject to the regulations which follow.

5.2 Buildings Under Construction

Buildings or structures on which construction was started or for which a construction contract was entered into before the effective date of this Ordinance may be constructed provided that substantial construction has commenced within 6 months from the adoption of this ordinance notwithstanding this Ordinance, and provided that the construction was legal and had received any necessary permits under the ordinances in effect on the date the construction project commenced.

5.3 Existing Structures: Dimensional Nonconformance

Buildings which were constructed prior to the effective date of this Ordinance, which are conforming to the Ordinance as to use, but do not conform as to dimensional rules (setbacks, height, yard spaces, separations, etc.) are subject to the following requirements:

1. Repairs and improvements of a maintenance nature are allowed.
2. Alterations, additions and expansion which change the exterior dimensions of the structure or building and which conform to the dimensional rules of this Ordinance are allowed.
3. Alterations, additions, and expansions which change the exterior dimensions of the structure or building, and which do not conform to this Ordinance, but which do not increase the dimensional nonconformity beyond that which existed before the work commenced are allowed provided that they do not exceed 50 percent of full market value of the structure or building.
4. No alterations, additions or expansions may occur which will increase the dimensional nonconformity.
5. Residential dwellings and uses existing at the time of adoption of this ordinance which are on separate parcels in an area surrounded on all boundaries by agricultural lands are grandfathered and are treated as permitted uses.

5.4 Existing Uses and Structures: Use Nonconformance

Land uses or uses of structures which were established prior to the effective date of this Ordinance which are nonconforming as to use may be continued provided that:

1. If a nonconforming use is discontinued or terminated for a period of 12 months, any future use of that use or structure shall conform to this Ordinance.

2. A nonconforming use may be changed to another nonconforming use only after the review and approval of the Township Zoning Board of Appeals. A nonconforming use which is changed to a conforming use shall not revert back to a nonconforming use or structure.

5.5 Existing Structures and Uses: Other Standards and Requirements

When a nonconforming use or structure is damaged by fire, explosion, act of God or public enemy to the extent of more than 50 percent of its current full market value, it shall not be restored except so as to comply with the use and setback requirements of this Ordinance. Residential structures existing at the time of adoption of this Ordinance which are damaged beyond 50 percent of its full market value may be rebuilt on the existing foundation.

5.6 Substandard Lots

In any residential or agricultural district, one-family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record in the County Recorders Office before the effective date or amendments of this Ordinance.

1. Compliance with the standards of the Douglas County Sanitary Code shall be a condition for the granting of a building permit.

2. Substandard lots granted permits under this Section shall be required to meet the setback and other yard requirements of this Ordinance. A building permit for the improvement of a structure on a lot with lesser dimensions and requisites than those stated above shall be issued only after a variance is issued by the Township Zoning Board of Appeals.

SECTION 6.0 ADMINISTRATION AND ENFORCEMENT

6.1 Purpose.

This section shall set forth the requirements to adequately provide for the proper administration and enforcement of this Ordinance.

6.2 Administration Structure.

1. This Ordinance hereby establishes a Township Zoning Administrator and Township Zoning Board of Appeals.

2. This section shall provide the authority and necessary requirements for issuance of land use permits and occupation permits; amendments, conditional uses, fees, and penalties.

6.3 Zoning Administrator

1. The Board of Newman Township shall appoint a Zoning Administrator. It will be the primary responsibility of the Zoning Administrator to administer and enforce the provisions of this Ordinance. The Zoning Administrator shall have the following responsibilities and duties:

A). Issue all land use and building permits and make and maintain records thereof.

B). Issue all rezoning certificates and make and maintain records thereof.

C). Conduct inspection of buildings, structures and use of land to determine compliance with the terms of this Ordinance as needed.

D). Provide and maintain an information bureau relative to all matters arising out of this Ordinance.

E). Forward to the Township Zoning Board of Appeals all applications for conditional uses, amendments, appeals and variances to this Ordinance that are initially filed with the Zoning Administrator.

F). Initiate, direct and review from time to time, a study of the provisions of this Ordinance and to make reports on any recommendations to the Township Board of Trustees.

G). If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall notify, in writing, the person responsible for such violation and ordering the action necessary to correct it.

6.4 Township Zoning Board of Appeals

1. In addition to the duties and responsibilities described in 60 ILCS 1/110 of the Illinois Statutes, the Township Zoning Board of Appeals shall also perform the following duties:

A). To review and issue all conditional use permits in accordance to the provisions of this Ordinance.

B). To review all zoning changes and amendment requests to this Ordinance and report said findings and recommendations to the Township Board.

C). To receive from the Township Zoning Administrator recommendations as related to the effectiveness of this Ordinance and report his/her conclusions and recommendations to the Newman Township.

D). To hear and grant applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses. The permit shall be temporary, revocable, subject to any conditions required by the Zoning Board of Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Ordinance shall be required.

E). To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of codes, regulations or ordinances under the Township's jurisdiction. The concurring vote of four members of the Zoning Board of Appeals is necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator.

F). To hear and grant appeals for variances as will not be contrary to the public interest, where owing to special conditions, a literal enforcement will

result in practical difficulty or unnecessary hardship, so that the spirit and purposes of the Ordinance shall be observed and the public safety, welfare, and justice secured. Use variances for self-imposed hardships shall not be granted.

G). To reverse, affirm wholly or partly, modify the requirements appealed from, and may direct the issuance of a permit.

H). To request assistance from other Township and County officials, departments, commissions and boards.

6.5 Membership

1. The Township Zoning Board of Appeals shall consist of five (5) members. The Township Board of Trustees shall appoint the members and designate the chairman of the board of appeals. The Zoning Administrator shall be an ex officio member and shall attend all Zoning Board of Appeals meetings but shall not be a voting member.

2. The membership of Zoning Board of Appeals shall conform to the requirements of 60 ILCS 1/ 110, *et seq.* of the Illinois Statutes. Citizen members shall initially serve for terms of one, two, three, four and five years. All terms thereafter shall be for five years.

3. Whenever a vacancy shall occur, The Township Board shall elect or appoint the appropriate member to complete the unexpired term.

4. Any member who has any interest in a matter before the Committee shall not vote thereon and shall remove themselves from any meeting or hearing at which said matter is under consideration.

5. A secretary shall be appointed by the Township Zoning Board of Appeals.

6.6 Meetings

1. All meetings of the Township Zoning Board of Appeals shall be held at the call of the Chairman of the Committee and at such times as the Committee may determine.

2. The Committee shall keep minutes of its proceedings, and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question, or if absent, or falling to vote indicating such fact, the reasons for the Committee's determination and action, and its findings of facts. The Secretary shall keep records of the Committee's actions, all of which shall be immediately filed with the Township Clerk and shall be a public record.

3. Three members shall constitute a quorum to transact any business and formulate its proper action.

4. The Chairman shall administer oaths and may compel the attendance of witnesses.

6.7 Appeals and Variance Applications

1. Appeals from the decision of the Zoning Administrator concerning the enforcement of this Ordinance may be made by any person aggrieved or by any officer, department, committee, or board of the Township. Such appeals shall be filed with the secretary within sixty (60) days after the date of written notice of the decision or order of the Zoning Administrator. Applications for variances may be made by the owner of or lessee of the structure, land, or water to be affected at any time and shall be filed with the secretary. Such appeals and variances applications shall include the following:

A). Name and Address of the appellant or applicant and all abutting and opposite property owners of record, and owners within five hundred (500) feet of the perimeter of original parcel before division or rezoning.

B). Plat of Survey prepared by a registered land surveyor showing all of the information required under Section 7.3 for a Building Permit.

C). Additional information required by the Township Zoning Board of Appeals or Zoning Administrator.

6.8 Findings

1. No variance to the provisions of this Ordinance shall be granted by the Zoning Board of Appeals unless it finds by clear and convincing evidence that all of the following facts and conditions exist and so indicates such in the minutes of its proceedings:

A). **Preservation of Intent:** No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting use, accessory use or conditional use in that particular district.

B). **Exceptional Circumstances:** There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties of uses in the same district, and the granting of the variance should not be so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.

C). **Economic Hardship and Self-Imposed Hardship are Not Grounds for Variance:** No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

D). **Preservation of Property Right:** The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

E). **Absence of Detriment:** No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and intent of this Ordinance.

F). **Expiration:** Variances, substitutions or use permits granted by the Zoning Board of Appeals shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

6.9 Hearings

The Zoning Board of Appeals shall hold a public hearing within thirty (30) days of receiving written application for an appeal or variance, give public notice thereof at least ten (10) days prior to the hearing by publication and shall give due

notice to the parties in interest, the Township Zoning Administrator and the Township Board. At the hearing, the appellant or applicant shall appear in person, by agent or by attorney. The Chairman shall have the authority, upon majority vote of members present, to continue any hearing for a reasonable time if to do so, will facilitate the investigation and decision making process involved.

6.10 Decision

1. The Zoning Board of Appeals shall decide all appeals and variance applications within sixty (60) days after the final hearing and shall transmit a signed copy of the decision to the appellant, and Township Board.

A). Conditions may be placed upon any Building Permit ordered or authorized by the Board.

B). Variances granted or building permits directed by the Committee shall expire within six (6) months unless substantial work has commenced pursuant to granting such approval.

6.11 Appeals to Township Board

Any appeal that has been heard and ruled upon by the Zoning Board of Appeals may then be appealed to the Township Board following the procedures outlined in sections 6.7, 6.8, 6.9 and 6.10 of this ordinance.

SECTION 7.0 BUILDING PERMITS, FEES FOR BUILDING PERMITS AND ZONING

Newman Township does hereby adopt and incorporate by reference that certain Ordinance of Douglas County, Illinois, Number 95-0-7, as amended from time to time pertaining to building permits, setback lines from a public road, subdivision and flood plain development requirements, except that the administrative duties described in Section 3 and Section 6 shall be performed by the Zoning Administrator of Newman Township. In the event of a conflict or inconsistent provisions between the County Ordinance and the Township Zoning Ordinance, the Township Zoning Ordinance shall control.

7.1 Cases Where Building Permits are Required

1. Where any building or other structure is erected, moved or structurally altered so as to change its use or increase its floor area.
2. Where any land use is substantially altered.
3. Where 50 percent or more of the fair market value of a structure is destroyed and it is being repaired or altered.
4. Existing buildings destroyed beyond 50 percent shall be repaired or demolished within 12 months.

7.2 Cases Where Building Permits are not Required

1. For any accessory building of 200 square feet or less, provided that such building conforms to all the setback, yard and open space requirements of this Ordinance.
2. For any exterior improvement or alteration to an existing building in the amount of \$5,000 or less which shall not result in a structural change in use or encroach upon any yard or open space.
3. Roofing and siding of existing homes do not require a building permit.
4. Any existing building used for agricultural use and/or production, or with respect to the erection, maintenance, repair, alteration, remodeling, or extension of buildings or structures used or to be used for agricultural purposes

upon such land, except that such buildings or structures shall conform to all required setbacks.

7.3 Application for Building Permits

1. Application for a building permit shall be made to the Newman Township Zoning Administrator seven (7) days before construction begins by the landowner or his authorized agent and shall include the following, where applicable:

- A). A copy of the plat or certified survey map of the proposed building site.
- B). A plat, in duplicate, drawn at a minimum scale of one inch to 100 feet showing the ground area, height, and bulk of building or structure, the building lines in relation to lot lines, the use to be made of the building, structure, or land; and such other information as may be required by the Township Zoning Board of Appeals and Zoning Administrator for the proper enforcement of this ordinance.
- C). Estimated cost of the construction activity.
- D). For new residential dwelling, proposed sewage disposal plan if municipal sewerage service is not available. This plan shall include a copy of the permit issued by Douglas County for the installation of an on-site soil absorption sanitary sewage disposal system, or other appropriate means of waste disposal. A building permit for a new home will be issued only after a sanitary permit has been issued by Douglas County.
- E). For new residential dwellings, proposed water supply plan including the well location if applicable.
- F). Proof of payment of all fees from other taxing bodies.
- G). Additional information as may be required by the Township Zoning Board of Appeals and Zoning Administrator.
- H). A building permit shall be granted or denied in writing by the Zoning Administrator. The permit shall expire within six (6) months unless

substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

7.4 Building Permit and Zoning Fees

Building Permit Fees

A.	Single Family Dwellings	\$300.00
	Additional to Single Family Dwellings	\$200.00
B.	Detached Buildings accessor to and on the same lot as a single family dwelling	\$150.00
C.	Structures (other than buildings, accessor to single family dwellings and on the same lot as such dwellings:	
	Swimming pools, above-ground or in-ground	\$100.00
	Other structures	\$100.00
D.	Permits for Commercial / Industrial Type Uses, including but not limited to all airfields, airports and heliports, quarries, sand and gravel pits, commercial stockyards and feedlots, gas, electric and telephone switching / transmission station; water and waste disposal structures and facilities; wind energy conversion systems; solar power generating facility; mobile home parks, salvage yard, and landfill: \$2.00 per each one thousand dollars or fraction thereof up to a value of \$3,000,000.00. From a value of \$3,000,000.00 and up, the fee shall be \$6,000.00 plus \$0.50 assessed for each one thousand dollars of the value of the proposed improvements over \$3,000,000.00. There shall be a minimum fee of \$500.00.	
D1	For Wind Energy Conversion Systems (“WECS”), each tower is required to obtain a building permit and to pay the fee according to this Section D.	

Zoning Case Fees

1.	Appeal of Administrative Decision	None
2.	Variances	\$300.00
3.	Administrative Variances	\$150.00
4.	Map Amendments	\$400.00
5.	Text Amendments	\$400.00

6.	Conditional Use Permits	
	Less than 2 acres	\$400.00
	At least 2 acres but less than 15 acres	\$450.00
	At least 15 acres but less than 25 acres	\$550.00
	At least 25 acres but less than 80 acres	\$650.00
	At least 80 acres but less than 100 acres	\$700.00
	More than 100 Acres	\$700.00 plus \$4.00 per acre over 100 acres
	Non-Commercial Parks and Outdoor Recreation Acres	The fee for special uses for such areas which are owned by a public entity, a philanthropic organization or a non-profit corporation shall be \$275.00 regardless of property area
7.	Temporary Permits	\$150.00
8.	Exemptions from fees	Any application by the Douglas County Board or the Newman Zoning Board of Appeals shall be except from the above fees.
9.	Cost of publication in addition to fees	The cost of publication shall be the amount billed to the Zoning Administrator by the publisher

10.	Cost of copies	\$0.25 per 8½” x 11” black and white page \$1.00 for color photos \$15.00 per zoning map \$25.00 per Zoning Ordinance
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SECTION 8.0 CONDITIONAL USE PERMITS

8.1 General Provisions

Any use listed as a conditional use in this Ordinance shall be permitted only upon application in duplicate to the Zoning Administrator and issuance of a Conditional Use Permit by the Zoning Board of Appeals. A Conditional Use Permit shall be issued only upon satisfaction of the requirements listed herein, in addition to all other requirements of this Ordinance. All such uses classified as conditional uses are hereby declared to possess such unique and special characteristics that each specific use shall be considered as an individual case.

8.2 Application

The application for a conditional use permit shall be filed with the Township Zoning Administrator on a form so prescribed by Newman Township. In order to secure evidence upon which to base its determination, the Zoning Board of Appeals may require, in addition to the information required for a Conditional Use Permit, the submission of plans of buildings, stockpiles, equipment storage, fences or screens, specification of operations, parking areas, traffic access, open spaces, landscaping and any other pertinent information that may be necessary to determine if the proposed use meets the requirements of the Ordinance.

8.3 Standards Applicable to All Conditional Uses

In passing upon a Conditional Use Permit application, the Zoning Board of Appeals shall consider the following factors:

- A). The existing topography, drainage patterns and vegetative cover.
- B). The availability of water, sewer, rail and other services and the utility requirements of the proposed use or site.
- C). The percolation characteristics of the soil.

- D). Access to a public road
- E). The costs of providing various public services.
- F). Compatibility with existing or proposed uses in the area.
- G). Relation to any existing land use plan.
- H). Amount of traffic generated relative to existing and anticipated ultimate traffic generated in the area.
- I). Access to the market or service area.
- J). Relation to the public interest, the purpose and intent of this Ordinance, and substantial justice to all concerned parties.

8.4 Conditions Attached to Conditional Use Permit

Upon consideration of the factors listed above, the Zoning Board of Appeals may attach such reasonable conditions, in addition to those otherwise specifically listed, that it deems necessary. The conditions may include landscaping, architectural design, type of construction, construction commencement and completion date, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, higher performance standards, street dedication, certified survey maps, terraces, stream bank protection, planting screens, operational restrictions, highway access restrictions, or increased yards. Additional conditions may be recommended by the Zoning Board of Appeals finding that these are necessary to fulfill the purpose and intent of this Ordinance.

8.5 Notice and Public Meeting

Before issuing a Conditional Use Permit, the Zoning Board of Appeals shall hold a public hearing. Notice of such public hearing specifying the time, place and matters to come before the Committee shall be done in accordance to procedures set forth in the Illinois Statutes. Due notice of the meeting shall be given to parties of interest as well as owners of property within 500 feet of the proposed original parcel.

8.6 Appeals to the Township Board

The denial of the issuance of any conditional use permit or in the event of an objection by the applicant to any condition imposed on the granting of said permit can be appealed to the Township Board within forty-five (45) days. The Township Board shall conduct a public hearing within forty-five (45) days after a request for an appeal pursuant to this section is made. The applicant, or his representative shall appear at the hearing and will have an opportunity to present evidence in support of his/her appeal. The Board shall review the findings of the Zoning Board of Appeals (ZBA) along with all evidence submitted to the ZBA at the time of its hearing. A majority vote of all Township Board members shall be required to grant any conditional use pursuant to this section.

SECTION 9.0 CHANGES AND AMENDMENTS

9.1 Authority

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Township Board may by Ordinance change the district boundaries or amend, change or supplement the regulations established by this Ordinance when the amendment is consistent with the purpose and intent of this Ordinance.

9.2 Initiation

A change or amendment may be initiated by the Township Board, Zoning Board of Appeals, or by a petition of one or more of the owners or an agent of owners of property within the area proposed to be changed.

9.3 Petitions

1. Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Zoning Administrator, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

A). Plot Plan drawn to scale of 1 inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning district, and the location and current use of all properties within five hundred (500) feet of the perimeter of original parcel before division or rezoning.

B). Owner's Names and Addresses of all properties lying within five hundred (500) feet of the perimeter of original parcel before division or rezoning

C). Additional Information required by the Zoning Board of Appeals or Township Board.

D). Fee Receipt from the Township Clerk in the minimum amount of four hundred dollars (\$400), plus the cost of legal notice and publication and

twenty dollars (\$20) per acre affected by the request. The total fee for a zoning change is not to exceed five hundred dollars (\$500).

9.4 Recommendation

1. The Zoning Board of Appeals shall review all proposed changes and amendments within the limits of the Township and shall recommend that the petition be granted as requested, modified or denied. Where the purpose and effect of the proposed amendment is to change the zoning classification of a particular property, the Zoning Board of Appeals shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:

A). All standards for conditional uses as described in section 8.3 of this Ordinance.

B). Existing uses or property within the general area of the property in question.

C). Zoning classification of property within the general area of the property in question.

D). Suitability of the property in question to the uses permitted under the existing zoning classification.

E). Trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification.

F). The Zoning Board of Appeals may recommend the adoption of an amendment changing the zoning classification other than that requested by the applicant.

G). The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant.

9.5 Hearings

The Township Clerk shall notify all property owners within five hundred (500) feet of the land in question and after publishing a notice listing the time, place, and the changes or amendments proposed, the Township Board shall hold a public hearing upon each recommendation. The Township Board shall also give at least ten(10) days prior written notice to the Clerk of any municipality located within one thousand (1000) feet of any land to be affected by the proposed change or amendment.

9.6 Township Board's Action

Following such hearing and after careful consideration of the Township Zoning Board of Appeals recommendations, the Township Board shall vote on the passage of the proposed change or amendment.

9.7 Protest to Proposed Change

In the event of protest against a proposed district change or amendment to this Ordinance, duly signed and acknowledged by the owners of 20 percent or more of the frontage proposed to be altered, or by the owners of at least 20 percent of the frontage immediately in the rear thereof, or by the owners of 20 percent of the frontage directly opposite the frontage proposed to be altered, such amendment shall not be passed unless recommended by a three-quarters of all members of the Township Board of Trustees.