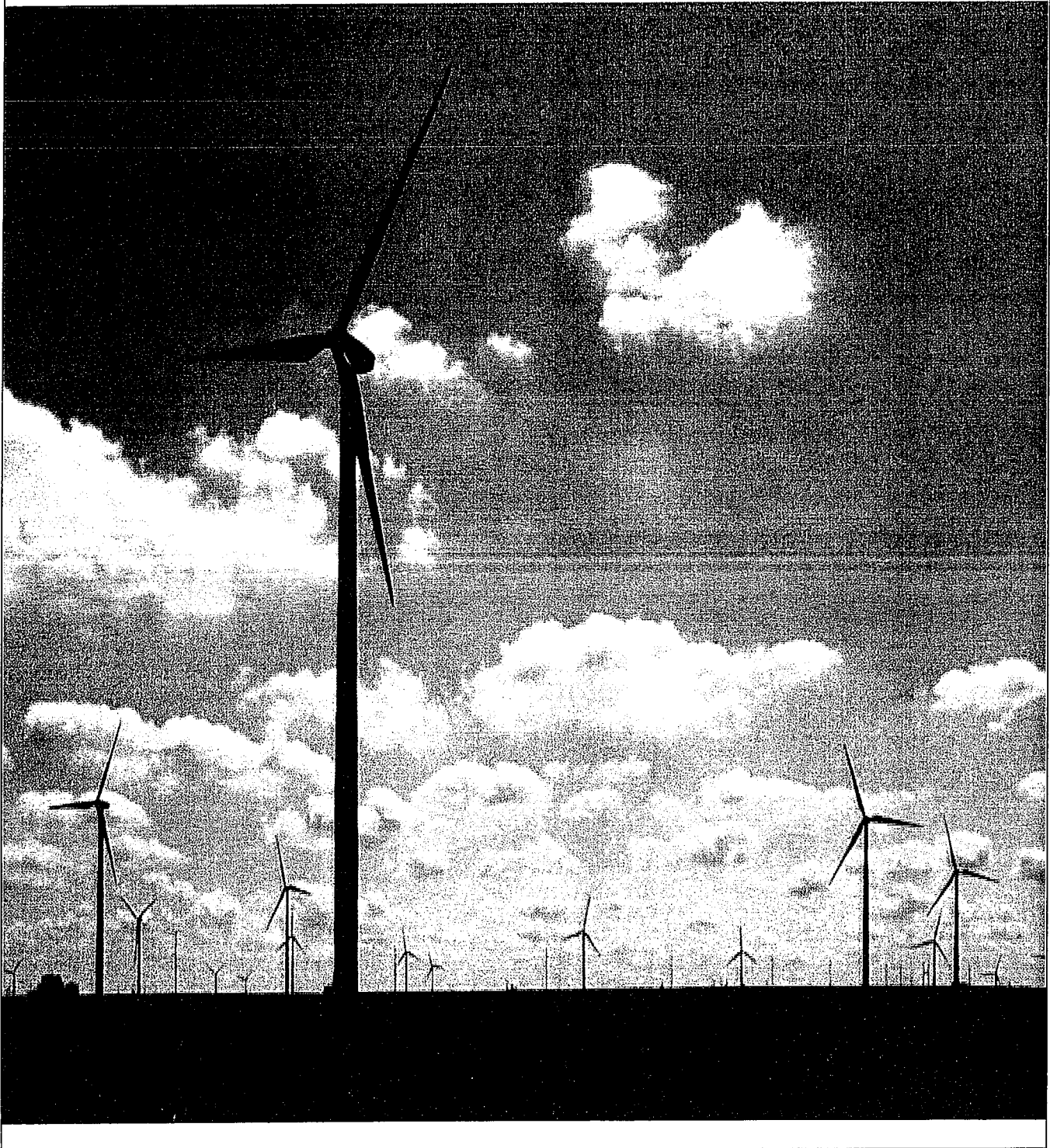


GENERAL ORDINANCE NUMBER 85- 2 , 2010

AN ORDINANCE REGULATING WIND ENERGY
CONSERVATION SYSTEMS IN WABASH COUNTY, INDIANA



WIND ENERGY CONSERVATION SYSTEMS (WECS)
ORDINANCE OF WABASH COUNTY

10/1/2009

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I WECS INTRODUCTION

10/1/09

1. Purpose and Intent:

A. The purpose:

1. It is the purpose of the WECS Ordinance to assure that the development and production of wind-generated electricity in Wabash County is safe and effective by establishing predictable and balanced regulations for the establishment of COMMERCIAL and NON COMMERCIAL WECS in the locations and circumstances under which the use may be established without detriment to the public health, safety and welfare of neighboring property owners or occupants, and;
2. Facilitate economic opportunities for the residents of Wabash County and;
3. Promote the supply of wind energy in support of Indiana's alternative energy sources potential and other economic development tools.

B. The intent:

1. It is the intent of the Wind Energy Conservation System (WECS) siting regulations to provide a regulatory scheme for the construction and operation of WECS in Wabash County; subject to reasonable restrictions these regulations are intended to preserve the health, safety, and welfare of the community.

2. Applicability:

The provisions of this WECS Ordinance are applicable to those zoned areas which allow WECS, or govern the siting of WECS and substations that generate electricity to be sold to wholesale or retail markets, or that generate electricity for private use. A reasonable attempt shall be made to notify all property owners within the defined area of the WECS project prior to making application for a WECS Permit. Notification may be done by media, separate mailings, or through the public notice requirements prescribed by IC 5-3-1 as amended from time to time. Said notice shall inform land owners of the intent to build a COMMERCIAL WECS and/or wind farm.

3. Prohibition:

No person or entity shall construct, operate or locate a Wind Energy Conservation System (WECS) within Wabash County without having fully complied with the provisions of this Wabash County WECS Ordinance.

II WECS DEFINITIONS

1. Drainage System

All facilities, channels, and areas which serve to convey, filter, store, and/or receive storm water, either on a temporary or permanent basis.

2. **Easement**

The right of a person, government agency, or public utility company to use, for specific purpose, the public or private land owned by another.

3. **Engineering Professional**

Any person who is currently licensed by the State of Indiana to practice professional engineering.

4. **Fall Zone**

The area defined as the farthest distance from the tower base, in which any tower will collapse in the event of a structural failure. This area is less than the total height of the structure.

5. **Feeder Line**

Power lines that transport electrical power from one or more wind turbines to the point of inter-connection with a high voltage transmission line.

6. **Financial Assurance**

Reasonable assurance from a credit worth party, such as surety bond, trust instrument, cash, escrow or irrevocable letter of credit or combinations thereof.

7. **Meteorological Tower**

For the purpose of this WECS Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and wind direction plus other data relevant to siting a WECS. Meteorological towers do not include any equipment used by airports, The Indiana Department of Transportation, or other similar applications to monitor weather conditions. Setbacks shall be implemented based on 120% of total height.

8. **Power Purchase Agreement**

A legally enforceable agreement between two or more persons/parties where one or more of the signatories agrees to provide electrical power and one or more of the signatories agrees to purchase the power.

9. **Primary Structure**

For each property, the structure that one or more persons occupy, the majority of the time, on that property for either business or personal reasons.

10. **Rotor Diameter**

The diameter of the circle (arc) defined by the moving rotor blades.

11. Site Development Plan

Also referred to as development plan or site plan. A detailed plan, prepared in accordance with the rules and regulations of the appropriate jurisdiction, and submitted to the Wabash County Plan Commission or other designated body or authority for review or approval. The plan shall illustrate the proposed development or alterations of the site.

12. Substation

An electrical facility which connects with the electrical collection system of the WECS and is designed to increase the voltage produced by wind turbines to a voltage for inter-connection with transmission lines.

13. Switching Station

An electrical facility in the system similar to a substation but not necessarily increasing the voltage produced by the turbine going into the grid.

14. Total Height

The distance from the tip of the rotor blade at its highest point to the top of the surface of a tower's foundation.

15. Tower

Vertical structures that support the nacelle, rotor and blades, or meteorological equipment. May be a freestanding certified tubular tower, monopole type tower or a guyed lattice tower.

16. Tower Height

The total height of the WECS from the foundation to top of the tower exclusive of the nacelle and rotor blades.

17. WECS

Wind Energy Conservation System is all necessary devices that together convert wind energy into electricity and the electricity is independently consumed or delivered to a utility's transmission lines, including but not limited to the blades, rotor, nacelle, generator, WECS tower, electrical components, WECS foundation, transformer, electrical cabling from the WECS Tower to the substation(s), switching stations, meteorological towers, communication facilities, and other required facilities and equipment, as related to a WECS Project.

18. WECS- Commercial

All necessary devices that together convert wind energy into electricity and deliver that electricity to a utility's transmission lines including but not limited to the blades, rotor, nacelle, generator, WECS tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS tower, the substation, switching stations, meteorological towers, communications facilities, and other required facilities and equipment, as related to the WECS project.

19. WECS-Non-Commercial

All necessary devices that together convert wind energy into electricity and the electricity is independently consumed. This includes but is not limited to the blades, rotor, nacelle, generator, WECS tower, electrical components, WECS foundation, transformer, electrical cabling from the WECS Tower to the substation(s), switching stations, meteorological towers, communication facilities, and other required facilities and equipment, as related to a WECS Project.

20. WECS - Large

A WECS of 100 KW or larger, per turbine, nameplate generating capacity and utilizing supporting towers from 161 feet to maximum FAA acceptance.

21. WECS - Micro

WECS of .1 kW to 9.9 kw, per turbine, nameplate generating capacity or less and utilizing supporting towers of 60 feet or less.

22. WECS - Small

WECS of 10 KW to 99.9 KW, per turbine, nameplate generating capacity and utilizing supporting towers up to 160 feet.

23. Wind Farm

A wind farm is a group (more than one), of wind turbines in the same region and used for the generation of electricity.

III COMMERCIAL WECS APPLICATION REQUIREMENTS

Prior to the construction of a **COMMERCIAL WECS**, the Applicant(s) shall obtain approval for **COMMERCIAL WECS** by completing an application for a Special Exception in which the following conditions must be met. Special Exceptions and Variances shall be applied for and reviewed under the procedures established by the Wabash County Zoning Ordinance and this WECS Ordinance.

1. Applications for COMERCIAL WECS shall include the following information:

- A. Contact information of the project applicant(s) including name(s), address(es), and phone number(s) of the applicant(s) and applicant's overall role in the proposed project, and
- B. Contact information of current project owner(s) including name(s), address(es) and phone number(s) of the owner(s) and owner's overall roll in the proposed project, and
- C. Contact information of project operator(s) including name(s), address(es) and phone number(s) of the operator(s) and operator's overall role in the proposed project.

- D. Contact information of the current project applicant(s) shall include a description of the project applicant(s) business structure with three (3) references.
- E. Contact information of the current project owner(s) shall including a description of the project owner(s) business structure with three (3) references.
- F. Contact information of the current project operator(s) shall include a description of the project operator(s) business structure with three (3) references.
- G. The legal description(s), address(es), and general location of the proposed project, including documentation of land ownership or legal control of the property on which the WECS is proposed to be located.
- H. For all COMMERCIAL WECS, the manufacturer's engineer or a Certified Indiana Structural Engineer shall certify, by Seal, as part of the building permit application, that the turbines foundations, tower design, substations, and power distribution for the COMMERCIAL WECS are within accepted professional standards , given local soil and climate conditions.
- I. An engineering analysis of the tower showing compliance with the applicable regulations and certified by a licensed professional engineer shall also be submitted. The analysis shall be accompanied by the standard drawings of the wind turbine structure, including the tower, base, and footings.
- J. A WECS project description, including to the extent possible, information on each wind turbine proposed including:
 - 1. Number of turbines
 - 2. Type
 - 3. Nameplate generating capacity
 - 4. Tower height and design
 - 5. Blade arc diameter
 - 6. Total Height
 - 7. Anchor base schematic
 - 8. Means of interconnection with the electrical grid (Electrical Schematic)
 - 9. Potential equipment manufacture(s)
 - 10. All related accessory structures.
- K. Location of all known WECS within one (1) mile of the proposed WECS, including a description of the potential impacts on said WECS and wind resources on adjacent properties.

- L. All COMMERCIAL WECS shall comply with all air hazard rules by applying for and receiving permits and approvals of compliance for all required Federal Aviation Administration rules and regulations.
- M. Copy of communications study.
- N. Noise profile.
- O. For the purpose of preventing harm to migratory birds and in compliance with the Migratory Bird Treaty Act, the applicant shall provide written documentation that he or she is in direct correspondence and cooperation with the U.S. Fish and Wildlife Service and the Indiana Department of Natural Resources.
- P. Applications for COMMERCIAL WECS shall include a preliminary site layout plan with distances, certified by a registered land surveyor, drawn to scale (one inch equals 80 feet preferred) illustrating the following.
 - 1. Property lines, including identification of adjoining properties.
 - 2. The longitude and latitude of each wind turbine, along with individual identification of each WECS turbine. (ID by number)
 - 3. Dimensional representation of the structural components of the tower construction including the base and footings.
 - 4. All WECS access roads and road composition
 - 5. Substations and switching stations
 - 6. All WECS electrical cabling runs
 - 7. Ancillary equipment
 - 8. Primary structures within 1/4 mile of all proposed COMMERCIAL WECS.
 - 9. Required setback lines
 - 10. Location of all public roads which abut, or traverse the proposed site.
 - 11. Location of all above-ground utility lines within a distance of two (2) times the total height of any proposed COMMERCIAL WECS structure.
 - 12. Location of existing underground utilities that may impede buried cable runs and all underground utilities associated with the WECS.
 - 13. The location of any historic or heritage sites as recognized by the Division of Historic Preservation and Archeology of the IDNR within one (1) mile of the proposed COMMERCIAL WECS.
 - 14. The location of any wetlands based upon a delineation plan prepared in accordance with the applicable U.S. Army Corps of Engineers requirements and guidelines within one (1) mile of the proposed COMMERCIAL WECS.

Q. A USGS topographical map or map with similar data, of the property and the surrounding area, including any other WECS within the distance of ten (10) rotor lengths, but no less than 1/4 mile radius from the proposed project site, with contours of not more than five (5) foot intervals.

R. Any other item reasonably requested by the Wabash County Plan Commission.

2. Aggregate Project Applications

Aggregate projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearing, and reviews and as appropriate, approvals.

3. Application for Variance

Contemporaneously with the application for a Special Exception, the applicant shall submit an application for variance for any variances sought as part of the WECS. A single application may be submitted for all variances sought.

IV NON-COMMERCIAL WECS APPLICATION REQUIREMENTS

Prior to the construction of a **NON-COMMERCIAL WECS**, the Applicant(s) shall obtain approval for **NON-COMMERCIAL WECS** by completing an Application for Improvement Location Permit in which the following conditions must be met. Variances shall be applied for and reviewed under the procedures established by the Wabash County Zoning Ordinance and this WECS Ordinance.

1. Applications for NON-COMMERCIAL WECS shall also include the following information:

- A. Contact information of the project applicant, including name, address, and phone number of the applicant.
- B. Contact information of current project owner, including name, address, and phone number of the owner.
- C. The legal description, address, and general location of the proposed project, including documentation of land ownership or legal control of the property on which the **NON-COMMERCIAL WECS** will be located.
- D. A **NON-COMMERCIAL WECS** project description, including to the extent possible, information on each wind turbine proposed including:
 - 1. Number of turbines
 - 2. Turbine type
 - 3. Nameplate generating capacity
 - 4. Tower height and design
 - 5. Blade arc diameter

6. Total Height
 7. Anchor base schematic
 8. Means of interconnection with the electrical grid (electrical schematic)
 9. Potential equipment manufacture(s)
 10. All related accessory structures.
- E. The primary purpose of the production of energy from a NON-COMMERCIAL WECS shall be to serve the energy needs of that parcel. The applicant(s) shall demonstrate how much energy is needed and how the proposed size and number of the NON-COMMERCIAL WECS units fulfill this need.
- F. A site layout plan drawn to scale (one inch equal 30 feet preferred).
- G. For all NONCOMMERCIAL WECS, the manufacturer's engineer or another qualified registered professional engineer shall certify, as part of the building permit application, that the turbine, foundation and tower design of the NON-COMMERCIAL WECS are within accepted professional standards, given local soil and climate conditions.
- H. A line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code and meets all the requirements of the electrical utility's service regulations applicable to WECS as amended from time to time.
- I. All NON-COMMERCIAL WECS shall comply with all air hazard rules by applying for and receiving permits and approvals of compliance for all required Federal Aviation Administration rules and regulations.
- J. Noise profile.
- K. No NON-COMMERCIAL WECS shall be installed until evidence has been given that the local utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
1. All applicants must provide a completed "Agreement to Interconnect Application" between the public utility company providing electrical service and the customer before the application for Improvement Location Permit can be completed.
 2. Off-grid systems shall provide proof of notification of local utility before and after installation.

V ZONING REQUIREMENTS

WECS shall be permitted by Special Exception OR Application for Improvement Location Permit in the following zones according to Commercial WECS or Non-Commercial WECS classification.

COMMERCIAL
AGRICULTURE
FOREST RECREATION
LAKE RESIDENTIAL
ACCOMIDATION BUSINESS
GENERAL BUSINESS
INDUSTRIAL
INDUSTRIAL RESERVE

NON-COMMERCIAL
AGRICULTURE
FOREST RECREATION
RESIDENTIAL ONE
LAKE RESIDENTIAL
ACCOMIDATION BUSINESS
GENERAL BUSINESS
INDUSTRIAL
INDUSTRIAL RESERVE

VI APPLICATION FEES

All fees shall be payable at the time of the filing of the application for Special Exception, Variance, and Improvement Location Permit.

The County shall use the fees to defray the cost associated with the application process, application requirements, engineering , and other professional service fees and expenses.

- A. All Improvement Location Permit Applications for **NON-COMMERCIAL WECS** shall be charged a fee equal to \$1.00 times the tower height plus \$1.00 times the blade arc diameter.
- B. All Variance Application fees for **COMMERCIAL and NON-COMMERCIAL WECS** shall be \$40.00 per Variance.
- C. Special Exception Applications with preliminary site plans for **COMMERCIAL WECS** shall pay an application fee of \$10,000.00.
- D. All Improvement Location Permit Applications for all **COMMERCIAL WECS** shall be charged a fee of \$2,500.00 for each tower.

VII WECS STANDARDS

WECS shall conform to all industry standards. Applicant shall submit certificate(s) of design compliance that the wind turbine manufactures have obtained from Underwriters Laboratories, Det Norske Vertas, Germanishcer Lloyd Wind Energie, or an equivalent third party.

1. Tower Construction

All wind turbines shall be installed on a certified tubular free standing tower, a guyed lattice tower, or a monopole tower. Towers may be guyed or self supporting.

2. **Lighting**

All lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the Federal Aviation Administration (FAA) permits and regulations. Except with respect to lighting required by the FAA, lighting shall require shielding so that no glare extends substantially beyond any NON-COMMERCIAL or COMMERCIAL WECS.

3. **Filtering**

All NON-COMMERCIAL and COMMERCIAL WECS shall be filtered, shielded or otherwise designed and constructed so as not to cause electrical, radio frequency, television, navigational, microwave, or any other electro-magnetic interference.

4. **Grounding**

All NON-COMMERCIAL AND COMMERCIAL WECS components shall be grounded and shielded to protect against natural lightning strikes in conformance with the National Electrical Code (NEC), and local utilities service regulations applicable to WECS.

5. **Speed Control**

All NON-COMMERCIAL and COMMERCIAL WECS shall be designed with automatic over speed control to render the system inoperable when winds are blowing in excess of speeds for which the machine is designed.

6. **Brake Control**

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

7. **Power Loss**

All NON-COMMERCIAL and COMMERCIAL WECS, connected to an electric utility grid, shall be designed with an automatic and a manual control that will render the system inoperable in case of loss of utility power to prevent the WECS from supplying power to a de-energized electrical distribution system.

8. **Utility Interconnection**

All NON-COMMERCIAL and COMMERCIAL WECS connected to a utility system, shall meet the requirements for interconnection and operate as set forth in the electrical utility's service regulations applicable to WECS, as amended from time to time.

9. **Electrical Applications**

- A. All electrical components of all NON-COMMERCIAL and COMMERCIAL WECS shall conform to all applicable local, state, federal and national codes, and any relevant national and international standards.

- B. All NON-COMMERCIAL and COMMERCIAL WECS , structures, substations, feeder lines, facilities , and accessory equipment shall comply with the National Electrical Code and operate as set forth in the electrical utility's service regulations applicable to WECS, as amended from time to time.

10. **Noise and Vibration**

- A. At no point immediately outside of any Primary Structure shall the sound pressure levels from a wind turbine or any of the components that make up a NON-COMMERCIAL or COMMERCIAL WECS exceed 50 decibels on the "A" weighted scale.
- B. This level may only be exceeded during short term events such as utility outages and / or severe wind storms.
- C. This standard shall supersede any noise standard set forth in 4.24 and 4.25 of the Wabash County Master Plan Zoning Ordinance

11. **Shadow Flicker**

Landscaping shall be designed to counter the effects of shadow flicker on any neighboring residence, business, or roadways caused by the rotor rotation in the sunlight for any NON-COMMERCIAL OR COMMERCIAL WECS.

VIII WECS CONDITIONS

In addition to all WECS requirements and standards, all WECS shall meet or exceed the following WECS conditions as designated dependent on the classification of each WECS as a NON-COMMERCIAL or COMMERCIAL WECS.

1. **FINAL SITE LAYOUT PLAN:**

APPLIES TO COMMERCIAL WECS

- A. Provide a copy of the Final Site Layout Plan illustrating the final location of all that is required in the preliminary site layout plan, as approved by the landowner(s), WECS project owner(s), WECS project operator(s), WECS project applicant(s), and the Wabash County Plan Commission.

APPLIES TO COMMERCIAL WECS

- B. The final site plan shall include a utility plan drawn to scale (one (1) inch equals 30 feet preferred) illustrating the location of all underground utility lines associated with the total WECS project.

2. DRAINAGE AND EROSION

APPLIES TO COMMERCIAL WECS

- A. Requirements of the IDEM Rule 5 and the Wabash County Storm Water Control Ordinance shall be followed during construction, operation and maintenance of the WECS. An erosion control plan developed in consultation with the Natural Resources Conservation Service (NRCS) and any storm water quality management plan adopted by the applicable jurisdiction shall be submitted.

APPLIES TO COMMERCIAL WECS and NONCOMMERCIAL WECS

- B. All sites must be reviewed by the Wabash County Drainage Board and shall comply with all requirements administered by the drainage board for the specific site. All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by construction or maintenance of the WECS must be completely repaired to original or better condition, and so as to not impede the natural flow of water. All maintenance and repairs must be completed within a reasonable time.

3. DRAINAGE, ROAD AND PROPERTY MAINTENANCE AGREEMENT

APPLIES TO COMMERCIAL WECS

- A. Any applicant, owner, or operator proposing to use any county road for the purpose of transporting COMMERCIAL WECS or substation parts and /or equipment for construction, operation, or maintenance of any part of the COMMERCIAL WECS, shall prior to construction:
1. Identify all such public roads, bridges, culverts, ditches, county drains, personal property, and services. Any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it must be approved by the Wabash County Highway Supervisor. The WECS applicant and County Highway Supervisor shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.
 2. Any damage, to above listed items, caused by the construction of the WECS, by the project equipment, by the installation, removal, or maintenance of same, must be repaired to the satisfaction of the Wabash County Highway Superintendent, the County Drainage Board, and/ or County Commissioners. The Wabash County Highway Superintendent or the County Commissioners shall require remediation of road damage upon completion of the project or a timeline previously set and agreed to by all parties. Further, a corporate surety bond, in an amount to be fixed by a professional engineer, shall be required by the Wabash County Commissioners to insure the County that the future repairs are completed to the satisfaction of the County. The cost of bonding is to be paid by the applicant.

APPLIES TO COMMERCIAL WECS and NONCOMMERCIAL WECS

3. Culvert pipes shall be sized by the County Highway Superintendent and installed as required at all exits from roadways onto WECS access roads.
4. Newly constructed WECS access roads may not impede the flow of water and shall comply with the County Drainage Ordinance.
5. Reasonable dust control measures shall be required by the county during construction of all WECS.
6. Any facility shall comply with existing sewer, septic and well regulations as required by the Wabash County Health Department, and the Indiana State Department of Public Health.

APPLIES TO COMMERCIAL WECS

- B. All WECS applicants, operators, owners shall complete and follow an economic development agreement, a drainage agreement, and a road use and maintenance agreement approved by the Wabash County Commissioners. The agreement shall also prescribe or reference provisions to address all crop and field tile damages.

4. COLOR AND FINISH

APPLIES TO COMMERCIAL WECS and NONCOMMERCIAL WECS

- A. All WECS shall be white, light grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matt or non-reflective. Must meet all applicable FAA color requirements. No advertising or signage shall be allowed on a WECS, except for the manufactures name on the Nacelle.
- B. Exception may be made for meteorological towers, with regard to color, where concerns exist relative to aerial spray applicators.

5. TIMETABLE

APPLIES TO COMMERCIAL WECS

A work schedule shall be provided each week to the Wabash County Commissioners in time for the Commissioners weekly scheduled meeting outlining the construction zone and all other related project activity for the current week.

6. MODIFICATION, REPAIRS, MAINTENANCE

APPLIES TO COMMERCIAL WECS and NONCOMMERCIAL WECS

Any physical modification to a WECS that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Prior to making any physical modifications (other than like-kind) the owner or operator shall confer with the Wabash County Plan Commission to determine whether the physical modification requires re-certification.

7. INSPECTIONS

APPLIES TO COMMERCIAL WECS and NONCOMMERCIAL WECS

The Wabash County Plan Commission, along with licensed 3rd party professionals, retained by the County for the specific purpose of conducting inspections of the WECS, shall have the right, at any reasonable time and with sufficient prior notice, to accompany the owner or operator, or his agent, on the premises where a WECS has been constructed, to inspect all parts of said WECS installation and to require that repairs or alterations be made. The owner or operator of a WECS may retain a licensed 3rd party professional engineer, familiar with WECS systems, to prepare and submit data to the Wabash County Plan Commission, within 30 days after receiving notice from the WCPC, which addresses the repairs or alterations requested and which may suggest alternate methods for addressing the concerns, or provides evidence that said repairs or alterations are unnecessary, The WCPC will consider any such written report and determine whether the repairs or alterations should be made as originally requested in the initial written report. The decision of the Wabash County Plan Commission shall be final.

8. WRITTEN NOTICES

APPLIES TO COMMERCIAL WECS and NONCOMMERCIAL WECS

Prior to implementation of the existing procedures for the resolution of such default(s), the Wabash County Plan Commission shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner(s), operator(s) a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).

9. TEMPORARY METEOROLOGICAL EQUIPMENT

APPLIES TO COMMERCIAL WECS and NONCOMMERCIAL WECS

Temporary equipment located upon a temporary tower used on an interim basis to gather wind and meteorological data to determine feasibility of the WECS shall require the processing of an Improvement Location Permit and comply with the requirements of this ordinance.

10. OTHER ACCESSORY OBJECTS

APPLIES TO COMMERCIAL WECS and NONCOMMERCIAL WECS

No accessory objects other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the Wabash County Plan Commission.

11. ABANDONMENT, DISCONTINUATION, DECOMMISSIONING, AND REMOVAL

APPLIES TO COMMERCIAL WECS

- A. Prior to issuance of a Special Exception, the applicant shall provide a contractor cost estimate for demolition and removal of the COMMERCIAL WECS facility and will provide financial assurance in an amount 125% of the estimated cost of said demolition and removal contractor cost estimate, through the use of a bond, letter of credit, or other security acceptable to the county, the cost of decommissioning the tower to be constructed under the building permit, the security shall be released when such tower is properly decommissioned as determined by the Wabash County Plan Commission.

APPLIES TO COMMERCIAL WECS

- B. The plan shall include assurance that the facilities will be properly decommissioned upon the end of the project life or facility abandonment. Applicants' and owners' obligations with respect to decommissioning shall include removal of all physical material pertaining to the project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the project improvements to the same or better condition that existed immediately before construction of such improvements.

APPLIES TO COMMERCIAL WECS and NONCOMMERCIAL WECS

- C. In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the Wabash County Plan Commission that all easements for the wind turbines shall contain assurance for access to remove WECS equipment.
The Wabash County Plan Commission shall have the right to remove any abandoned WECS and have the right to sell all equipment to defray the cost of removal subject to the rights of any secured creditor holding a security interest in the WECS.

APPLIES TO COMMERCIAL WECS and NONCOMMERCIAL WECS

- D. Any WECS therefore declared to be unsafe by the Wabash County Plan Commission by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in this ordinance.

APPLIES TO COMMERCIAL WECS and NONCOMMERCIAL WECS

- E. All WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Wabash County Plan Commission outlining the steps and schedule for returning the WECS to service.

APPLIES TO COMMERCIAL WECS and NONCOMMERCIAL WECS

- F. An applicant(s), owner(s) obligations shall include removal, by the owner or by Wabash County at the owner's expense, all physical material pertaining to the project improvements, within three hundred sixty five (365) days of the discontinuation or abandonment of the facility, and restoration of the area occupied by the project improvements to the same or better condition which existed immediately before construction of such improvements.

IX WECS CONSTRUCTION REQUIREMENTS

1. **BLADE CLEARANCE**

The minimum distance between the ground and any protruding blades utilized on a WECS shall be twenty (20) feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where oversized vehicles might travel.

2. **STRUCTURE HEIGHT**

Maximum tower height shall not to exceed maximum height in feet permitted by the Federal Aviation Administration as measured from the ground level base of the WECS tower to the top of the tower.

3. **TOTAL HEIGHT**

Maximum total height shall not to exceed the maximum height in feet permitted by the Federal Aviation Administration as measured from the ground level base of the WECS tower to the top of the arc of the rotor diameter.

4. **COLLECTION, TRANSMISSION AND FEEDER LINES**

APPLIES TO COMMERCIAL WECS

All COMMERCIAL WECS electrical distribution, transmission, feeder and collection lines shall be located underground a minimum of five (5) feet. All electrical components of the WECS shall conform to all applicable local, state and national codes and relevant national and international standards.

5. **SETBACKS**

- A. No NON-COMMERCIAL or COMMERCIAL WECS shall be constructed in any setback, dedicated public easement or dedicated public right-of-way without prior written authorization from the county. No WECS shall be constructed in any flowage easement or floodplain without prior written authorization from FEMA, Army Corp. of Engineers, or Indiana Department of Natural Resources.

- B. Distances shall be measured from the center of the foundation at the base of the structure. New structures built adjacent to the wind power facilities shall maintain these minimum setback requirements. Participating landowners within the area comprising the COMMERCIAL WECS may waive side and rear property line setbacks with written approval from all landowners sharing such property line.
- C. Except as provided herein the setback distance for all COMMERCIAL WECS shall be a minimum of 800 feet from any non-applicant Primary Structure.
 - 1. No new structure may be constructed within 800 feet of a WECS turbine tower.
 - 2. Provided however, that the Wabash County Plan Commission may waive, but shall not be required to waive, the separation distance between a tower and a structure if it is determined the structure will not affect the WECS performance.
- D. No structure other than a fence may be erected within 100 feet of the meander line of any stream or any legal county drain as designated on the county zoning map or GIS zoning layer.
- E. All WECS turbines shall be set back from all public roads the required distance to prevent the furthest horizontal extension of the blades from entering the required setback of the designated road.
- F. Substations, accessory facilities, and feeder lines not located within a public right of way or any utility easement shall be setback as specified from the centerline of any public road.

1. State Roads	105 Feet
2. Primary County Roads	95 Feet
3. Secondary County Roads	65 Feet
- G. Micro WECS shall be 120 percent of total height from property lines.
- H. Small WECS shall be 120 percent of total height from property lines.
- I. Large WECS shall be 120 percent of total height from property lines.
- J. These setback distances shall be followed except in specific instances allowed by the Wabash County Board of Zoning Appeals.

6. HOUSEKEEPING

All solid waste whether generated from supplies, equipment, parts, packaging or operation and maintenance of the facility, including old parts and equipment, shall be removed from the site in a timely manner. All hazardous waste generated by the operation and maintenance of the facility, including but not limited to lubrication materials, coolants, shall be handled in a manner consistent with all local, state and federal rules and regulations.

X WECS SAFETY

1. EQUIPMENT TYPE

All WECS components shall be constructed of commercially available equipment.

2. SIGNAGE

- A. For all WECS, warning signs, danger signs and informational signs shall be posted on towers, transformers, substations, structures and accessory buildings to notify of: high voltage, no trespassing, danger overhead, emergency contact phone number (s), certified inspectors contact phone number(s).
- B. Emergency manual shutdown procedures shall be posted with all manual shutdown levers and switches clearly labeled.
- C. No signage shall be used on any WECS equipment for the purpose of advertising or to promote any product or service.

3. WECS ACCESS

- A. Removal of all tower climbing fixtures fifteen (15) feet above ground level shall be required. Installation of a locking anti-climb device shall be installed on the tower. All substations, switching stations, associated facilities, or accessory buildings shall be locked.
- B. Devices such as fences with locking portals at least 8 feet high shall be required for all free standing or guyed lattice towers.

4. GUYED TOWERS

For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of not less than eight (8) feet above the ground.

5. EMERGENCIES

The applicant, owner or operator shall submit to the local fire department a copy of the site plan. Upon request by the local fire department, the owner ,operator shall cooperate with the local fire department to develop the fire departments emergency response plan. Nothing in this Section shall alleviate the need to comply with all other applicable fire laws and regulations.

6. INSURANCE

COMMERCIAL UNITS

The owner, operator of the WECS shall maintain a current general liability policy covering bodily injury and property damage and name Wabash County Plan Commission as an additional insured with limits of at least \$2 million per occurrence and \$5 million in the aggregate with a deductible of no more than \$5,000.00.

7. EXPERIMENTAL OR PROTO-TYPE EQUIPMENT

Experimental or proto-type equipment still in testing , which does not fully comply with industry standards, may be approved by the Wabash County Plan Commission per the variance process on a case by case basis.

8. SHUTDOWN

The manual electrical and/ or over speed shutdown disconnect switche(s) shall be clearly labeled.

XI WECS CONCLUSION

1. CHANGE IN OWNERSHIP

- A. It is the responsibility of the owner, operator listed in the application to inform the Wabash County Plan Commission of all changes in ownership and operation during the life of the project , including the sale or transfer of ownership or operation.
- B. All bonding must transfer accordingly.

2. CONFLICT WITH OTHER REGULATIONS

Nothing in this Chapter is intended to preempt other applicable state and federal laws or regulations, including compliance with all Federal Aviation Administration rules and regulations and shall comply with the notification requirements of the FAA. Nor are they intended to interfere with, abrogate, or annul any other ordinance, rule, or regulation, statute, or other provision of law. In the event that any provision of these regulations impose restrictions or provisions that differ from any other ordinance, rule, regulation, statute, or provision of law, the higher standards shall govern.

3. WAIVER

Requirements of this WECS Ordinance may be waived by the Wabash County Plan Commission upon receipt of a Variance application and after public hearings with the Wabash County Board of Zoning Appeals.

4. ENFORCEMENT

The Wabash County Plan Commission may bring an action in the Circuit or Superior Court of Wabash County, Indiana, to enjoin any person from violating any provision of this Ordinance, or to cause such violation(s) to be prevented, abated or removed. Any person or entity violating any provision of this Ordinance shall be liable to the Wabash County Plan Commission for any expense, loss or damage occasioned by reason of such violation, including reasonable attorney's fees and costs.

**THE WABASH COUNTY PLAN COMMISSION
PROPOSED AMENDMENT TO THE ZONING ORDINANCE**

BE IT RESOLVED, that the Wabash County Plan Commission favorably recommend to the Board of Commissioners or Wabash County, Indiana, the Town Board of Lafontaine, Indiana the Town Board of Lagro, Indiana and the Town Board of Roann, Indiana passage of the following amendment to the Wabash County Zoning Ordinance.

ORDINANCE AMENDMENT NUMBER

2010-85-02

85- ~~2009~~

**AN ORDINANCE AMENDING THE
WABASH COUNTY
ZONING ORDINANCE**


Be it ordained by the Board of Commissioners of Wabash County, Indiana as follows:

1. Part 1 of the Wabash County Zoning Ordinance is hereby amended to add Chapter 11, "Wind Energy Conservation Systems in Wabash County, Indiana". Section 1 WECS Introduction, Section 2 WECS Definitions, Section 3 Commercial WECS Application Requirements, Section 4 Non-Commercial WECS Application Requirements, Section 5 WECS Zoning Requirements, Section 6 WECS Application Fees, Section 7 WECS Standards, Section 8 WECS Conditions, Section 9 WECS Construction Requirements, Section 10 WECS Safety, and Section 11 WECS Conclusion.


This amendment shall be in full force and effect upon passage, according to the laws of the State of Indiana.

Passed by the Board of Commissioners of Wabash County, Indiana this 8TH day of

March, 2010



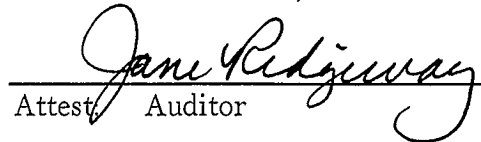
Commissioner



Commissioner



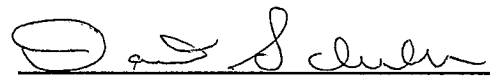
Commissioner



Attest Auditor

Adopted this 3rd day of December, 2009

Wabash County Plan Commission



Chairman