

ORDINANCE NO. 2009-BC-0-07
OF THE BOARD OF COMMISSIONERS
OF MADISON COUNTY, INDIANA

**AN ORDINANCE AMENDING TEXT OF THE MADISON COUNTY
LAND USE AND DEVELOPMENT CODE,
ORDINANCE NO. 2002-BC-0-6**

WHEREAS, the Madison County Planning Commission did on November 18, 2008, pursuant to *Indiana Code § 36-7-4-607*, in accordance with *Indiana Code § 36-7-4-604*, conduct a public hearing concerning certain amendments to the Madison County Land Use and Development Code heretofore approved; and

WHEREAS, after conducting said hearing, the Madison County Planning Commission did certify the recommendation to the Madison County Board of Commissioners; and

WHEREAS, the Madison County Board of County Commissioners did hold a public meeting to consider the recommendation submitted; and

WHEREAS, the Board of County Commissioners concur in the recommendations of the Madison County Planning Commission regarding the amendment as hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF MADISON, INDIANA THAT ORDINANCE NUMBER 2002-BC-0-6, IS HEREBY AMENDED AS FOLLOWS :

1. Part A, Article 15, Wind Energy Conversion Systems, amended to add:

Sec. 1 WIND ENERGY CONVERSION SYSTEMS

A. **PURPOSE.** This Zoning Code is adopted for the following purposes:

1. To assure that any development and production of wind-generated electricity in Madison County is safe and effective;
2. To facilitate economic opportunities for Madison County and its residents;
3. To assist in the reduction of carbon-based emissions; the dependence of petroleum and coal-based energy systems; and
4. To provide a regulatory scheme for the construction and operation of Wind Energy Facilities in Madison County, subject to reasonable restrictions, in order to preserve the public health, safety and general welfare.

B. INTENT

It is the intent of the Wind Energy Conversion Systems (WECS) siting regulations to provide a regulatory scheme for the construction and operation of WECS in the county; subject to reasonable restrictions these regulations will preserve the health, safety and general welfare of the public.

C. DEFINITIONS

1. **WIND ENERGY CONVERSION SYSTEM (“WECS”)** means 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 rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, and electrical cabling from the WECS Tower to the Substation(s), switching stations, communications facilities, and other required facilities and equipment, as related to a WECS project.
2. **APPLICANT** The owner, owners, or legal representative of real estate who makes application to Madison County for action affecting the real estate owned thereby.
3. **FINANCIAL ASSURANCE/COMMITMENT** the sources of private or public funds or combinations thereof that have been identified which will be sufficient to finance public facilities or private development necessary to support development and that there is reasonable assurance that such funds will be timely put to that end. Examples include a surety bond, cash escrow, irrevocable letter of credit or combinations thereof.
4. **METEOROLOGICAL TOWER** means a tower that provides a platform for instrumentation to evaluate meteorological conditions. For the purpose of this ordinance, a meteorological tower is a temporary structure that is intended to be on any one site for a period of five (5) years or less.
5. **OPERATOR** means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.
6. **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 the property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) within one year of such event.
7. **PROFESSIONAL ENGINEER** means a qualified individual who is licensed as a professional engineer in any state in the United States.

8. **PRIMARY BUILDING/STRUCTURE** The building or structure in which the primary use of the lot or premises is located or conducted. With respect to residential uses, the primary structure or building shall be the main dwelling.
9. **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.
10. **SWITCHING STATION** shall be an apparatus/structure in the system similar to a substation but not necessarily increasing voltage into the grid.
11. **WECS PROJECT** means the collection of WECS and Substations as specified in the siting approval application pursuant to this Ordinance.
12. **WECS TOWER** means the support structure to which the nacelle and rotor are attached, free standing or guyed structure that supports a wind turbine generator.
13. **WECS TOWER HEIGHT** means the distance from the rotor blade at its highest point to the top surface of the WECS foundation.
14. **BOCA** refers to the Building Officials and Code Administrators International.

D. **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 1.25 MW or less who locate the WECS(s) on their property must obtain a variance to this Ordinance in order to be exempt from regulation by this ordinance. This ordinance applies to all townships.

E. **PROHIBITION**

No applicant or entity shall construct, operate, or locate within Madison County a wind energy conversion system (WECS) without having fully complied with the provisions of this Ordinance.

F. **CONFLICT WITH OTHER REGULATIONS**

Nothing in this Ordinance is intended to preempt other applicable state and federal laws or regulations, including compliance with all Federal Aviation Administration rule 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 imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provisions that is more restrictive or that imposes higher standards shall govern.

G. APPLICATION REQUIREMENTS

Prior to construction of a WECS, the applicant shall obtain approval for the following: (1.) an application for a Special Exception to provide for WECS use from the Madison County Planning Commission (MCPC) to permit a WECS in the following zoning districts: Agriculture (AG), General Industrial (GI), and Heavy Industrial (HI). WECS are not permitted in any other zoning districts. (2.) Request a variance from the Madison County Board of Zoning Appeals (BZA) for any variances anticipated for the WECS project as described below and in Section 10 of this Ordinance, and; (3.) An Improvement Location Permit from the Madison County Planning Commission/Permit Office, as described below and the Madison County Land Use & Development Code, Article 13, page 201.

1. The Application for WECS Special Exception

- a. The application shall be filed with the MCPC and include the following items:
 1. A WECS Project summary, including, to the extent available: (1.) a general description of the project, including its approximate name plate generating capacity; the potential equipment manufacturer(s), type(s) of WECS(s), number of WECS(s), and name plate generating capacity of each WECS; the maximum height of the WECS Tower(s) and maximum diameter of the WECS(s) rotor(s); the general location of the project; and (2.) a description of the Applicant, Owner, and Operator, including their respective business structures.
 2. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) with WECS on their properties, if known.
 3. A topographic map of the project site and the surrounding area which shall encompass an area at least a quarter mile radius from the proposed project site with contours of not more than five foot intervals.
 4. A site plan at an appropriate scale showing (standard sheet of 36 inches by 24 inches and individual tower site not greater than 1 inch equals 20 feet): the proposed location of the wind energy facility (including planned locations of each WECS Tower, guy lines and anchor bases (if any); WECS access roads; Substations; electrical cabling; and ancillary equipment). In addition, the site plan shall show: Primary Structures within one quarter of one mile of any WECS; property lines, including identification of adjoining properties; setback lines; public roads; location of all above-ground utility lines within a distance of two (2) times the WECS Tower Height of any WECS Tower; recognized historic or heritage sites as

noted by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources; and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines.

5. Location of all existing underground utility lines associated with the WECS.
 - b. In determining whether to approve the application for WECS Special Exception, the MCPC shall determine whether the application satisfies each of criteria set forth in this Ordinance for special exception, and make written findings thereof.
 - c. The Special Exception granted by the MCPC for a WECS Project shall be valid for a period of one (1) year, after which approval shall terminate and be of no further force or effect if construction in earnest of the approved WECS has not commenced. The Applicant shall be granted a one (1) extension up to two (2) years from the date of the MCPC approval if the Applicant presents its request for an extension to the MCPC and provides a report to the MCPC which shows the progress made on the WECS Project. Thereafter, an additional extension shall be at the MCPC's discretion.
 - d. The fee for the application for special exception shall be payable at the time of submission of the application. The fee shall be \$20,000.00, of which 50% shall be applied toward fees for Improvement Location Permits. In the event that the Improvement Location Permit fees are less than \$10,000.00, the County shall retain the unused Improvement Location Permit fees. The application fee shall be used to defray the costs associated with the application for a special exception, including professional fees and expenses. In the event that the Improvement Location Permit fees are more than \$10,000.00, the applicant shall be required to pay to the County the cost of each of those permits. Failure to do so will nullify the Special Exception grant.

2. **The Application for a Variance**

- a. Contemporaneously with the Application for special exception, the applicant shall submit an application for variance from developmental standards sought as part of the WECS project. A single application for variance may be submitted for all variances sought.
- b. The fee for any variance is as in the fee schedule.

3. **Aggregated Project Applications**

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

4. **The Application for Improvement Location Permit**

- a. The Applicant shall apply to the Building Commissioner for an Improvement Location Permit, as described in the Madison County Land Use & Development Code, Section 13, page 201. In addition to the information required on the Improvement Location Permit Application, the Applicant shall provide the following information to the Building Commissioner prior to the issuance of an Improvement Location Permit:
1. Location of all above-ground utility lines within a radius equal to two (2) times the height of the proposed WECS
 2. Location of all underground utility lines associated with the WECS site.
 3. Dimensional representation of the structural components of the tower construction including the base and footings.
 4. Schematic of electrical systems associated with the WECS including all existing and proposed electrical connections.
 5. Manufacturer's specifications and installation and operation instructions or specific WECS design information.
 6. Certification by a registered professional engineer that the tower designs is sufficient to withstand wind load requirements for structure as defined by International Code Council.
 7. All turbines shall be new equipment commercially available. Used, experimental or proto-type equipment still in testing shall be approved by the MCPC as per the normal special exception process.
 8. Necessary recorded access easements and necessary recorded utility easements, copies of which shall be submitted to the MCPC.
 9. No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the MCPC.
 10. A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation.
 11. A revegetation plan for restoring areas temporarily disturbed during construction.

12. A fire protection plan for construction and operation of the facility.
 13. Any other item reasonably requested by the MCPC.
 14. A drainage plan for construction and operation must be developed and approved by the Madison County Drainage Board.
 15. An erosion control plan must be developed in consultation with the Madison County Soil and Water Conservation District.
- b. Each WECS Tower shall require an Improvement Location Permit. The fee for each Improvement Location Permit shall be \$1,800.00 per MW, which shall be used to defray the costs of professional services, as well as other expenses associated with the issuance of Improvement Location Permits.

H. **SETBACK REQUIREMENTS**

1. No WECS or meteorological tower shall be constructed in any setback, dedicated public easement or dedicated public right-of-way without prior written authorization from the county and owner of any utility easement if applicable.
2. Installation of any WECS or meteorological tower may not be nearer than 1.1 times the height of the WECS tower height to any property lines, dedicated roadway, railroad right-of-way or overhead electrical transmission or distribution lines. Distance shall be measured from the center of the foundation at the base of the tower. New structures built adjacent to wind power facilities shall maintain these same minimum setback requirements. Participating landowners within the area comprising the WECS may waive property line setbacks with written approval from all landowners sharing such property line.
3. Except as provided herein the setback distance for any WECS shall be, at a minimum, 1,000 feet or more from any existing or occupied residence or 1,500 feet or more from any platted major subdivision, as defined in the subdivision control ordinance. A turbine with a capacity of 1.25 MW or less may be placed as near as 600 feet from an occupied residence with the prior written approval of the owner. The setback distance will be followed except in specific instances allowed by the BZA.
4. The setback distance for the WECS will be, at a minimum, 1,500 feet from any platted community under the zoning jurisdiction of a separate municipality. Distance shall be measured from the center of the foundation at the base of the WECS to the closest Corporate Limit boundary line.

I. **SAFETY DESIGN AND INSTALLATION STANDARDS**

1. **Equipment Type**

a. Turbines

All turbines shall be constructed of new, commercially available equipment.

b. Meteorological towers

Meteorological towers may be guyed.

2. **Design Safety Certification**

All WECS shall conform to applicable industry standards, as well as all local, state and federal regulations. An applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanishcher Lloyed Wind Energie, or an equivalent third party.

3. **Controls and Brakes**

a. Braking System

All 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. Stall regulation shall not be considered a sufficient braking system for over speed protection.

b. Operation Mode

All Mechanical brakes shall be operated in a fail-safe mode.

4. **Electrical Components**

a. Standards

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

b. Collection cables

All electrical collection cables between each WECS shall be located underground unless they are located on public or utility rights-of-way or with prior County approval.

c. Transmission Lines

All transmission lines that are buried shall be trenched at a depth consistent with or greater than local utility and telecommunication underground lines standards or as negotiated with the land owner or the land owner's designee until the same reach the property line or a substation adjacent to the property line.

5. Color and Finish

In addition to all applicable FAA requirements, the following shall also apply:

a. Wind Turbines and Towers

All wind turbines and towers that are part of WECS shall be white, grey, or another non-obtrusive color.

b. Blades

All blades shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing.

c. Finishes

Finishes shall be matte or non-reflective.

d. Exceptions

Exception may be made for meteorological towers, where concerns exist relative to aerial spray applicators.

6. Warnings

a. Towers, Transformers, and Substations

A sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.

b. Guy Wires and Anchor Points

For all guyed towers, visible and reflective objects, such as flags, plastic sleeves, reflectors, or tape shall be placed on the anchor points of guy wires and along the innermost guy wires up to eight (8) feet above the ground. In addition, visible fencing shall be installed around anchor points of guy wires.

c. Meteorological Towers

All Meteorological Towers shall meet all FAA regulations as applicable.

7. Climb Prevention

- a. All WECS tower designs shall include features to deter climbing or be protected by anti-climbing devices such as:
 1. Fences with locking portals at least six (6) feet in height; or
 2. Anti-Climbing devices fifteen (15) feet vertically from the base of the WECS tower; or
 3. Locked WECS Tower doors.

8. Blade Clearance

- a. The minimum distance between the ground and any protruding blades(s) utilized on all WECS shall be fifteen (15) 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 over-sized vehicles might travel.

9. Lighting

- a. Intensity and Frequency

All lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations.

- b. Strobe Lights

Red strobe lights shall be required for night-time illumination to reduce harm to migrating birds. Red pulsating incandescent lights are expressly prohibited.

- c. Shielding

Except with respect to lighting required by the FAA, All lighting shall be shielded so that no glare extends substantially beyond the boundaries of any WECS.

10. Materials Handling, Storage and Disposal

- a. Solid Wastes

All solid wastes whether generated from supplies, equipment, parts, packaging, operation or maintenance of the facility, including old parts and

equipment related to the construction, operation and/or maintenance of any WECS shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.

b. **Hazardous Materials**

All hazardous materials or waste related to the construction, operation and/or maintenance of any WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

J. **OTHER APPLICABLE STANDARDS**

1. **Guyed Wire Anchors**

No guyed wire anchors shall be allowed within any required road right-of-way setback.

2. **Sewer and Water**

All WECS facilities shall comply with the existing septic and well regulation as required by the Madison County Health Department and/or the State of Indiana Department of Public Health.

3. **Noise and Vibration**

At no point within 200 feet of a primary residence may the sound pressure levels from a wind turbine exceed the following sound levels. Sound levels shall be measured with an octave band analyzer or sound level meter and associated filter manufactured in compliance with standards prescribed by the American National Standards Institute (ANSI). This standard shall supersede any noise standard(s) set forth in any other Madison County Ordinance.

| Octave Bands for Madison County In Hertz (Hz), per ANSI | Maximum Permitted Sound Level (in decibels) (Measured 200 feet from edge of any Primary Structure.) |
|--|--|
| 63 | 75 |
| 125 | 70 |
| 250 | 65 |
| 500 | 59 |
| 1000 | 53 |
| 2000 | 48 |
| 4000 | 44 |
| 8000 | 41 |

4. **Utility Interconnection**

The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, as amended from time to time.

5. Signage

- a. In addition to complying with Sign standards, the following signage regulations and standards shall also apply. In the event that one of the following regulations or standards conflicts with another sign regulation or standard prescribed by the Madison County Land Use & Development Code, the most restrictive regulation or standard shall apply.

1. Surface Area

No sign shall exceed sixteen (16) square feet in surface area.

2. Height

No sign shall exceed eight (8) feet in height.

3. Manufacturers or owner's company name and/or logo.

The manufacturers or owner's company name and/or logo may be placed upon the compartment containing the electrical equipment.

4. Development Signs

No more than two (2) ground/monument identification signs relating to the development shall be located on any portion of the project site.

5. Other signs and logos

No other advertising signs or logos shall be erected, placed or painted on any WECS, including, but not limited to, off-premise advertising signs (billboards) or free-standing pole signs.

6. Feeder Lines

With the exception of minimum setback distances, feeder lines installed as part of any WECS shall not be considered an essential service. To wit, all communications and feeder lines installed as part of any WECS shall be buried underground.

7. Other Appurtenances

No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the MCPC.

K. USE OF ROADS/SERVICES

An Applicant, Owner, or Operator proposing to use any county road(s), for the purpose of transporting WECS or Substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) or Substation(s), shall prior to construction:

1. Identify All Such Public Roads and Services;

a. Roads

1. 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 Madison County Engineer/Highway Department. The Engineer shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.
2. Any road damage caused by the construction of the WECS project equipment, the installation of same, or the removal of same, shall be repaired to the satisfaction of the Madison County Engineer. The Engineer must choose to require either remediation of road repair upon completion of the project or is authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by the Engineer shall be required by the Engineer to insure the County that future repairs are completed to the satisfaction of the unit of local government. The cost of bonding is to be paid by the applicant.
3. Newly constructed WECS access roads may not impede the flow of water and shall be approved by the Madison County Drainage Board.

b. Dust and Debris Control

Reasonable dust and debris control measures will be required by the County during construction of the WECS. For instance, a storm water run off fence shall be required on all construction sites during construction and installation.

c. Sewer and Water

Any facility shall comply with existing septic and well regulation as required by the Madison County Health Department and the State of Indiana Department of Public Health.

d. Drainage Repair

All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the WECS, must be completely repaired to near original condition, and so as not to impede the natural flow of water.

All repairs must be completed within sixty (60) days and must be approved by the Madison County Drainage Board.

L. OPERATION AND MAINTENANCE

1. Physical Modifications

In general, any physical modification to any 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. Therefore, prior to making any physical modification, the owner or operator shall confer with the Planning Commission to determine whether the physical modification requires re-certification.

2. Inspections

Inspections, at a fee to be determined from time to time by the Madison County Planning Commission and paid by the applicant, may be made by Madison County Planning Commission no more than once annually to certify the safety and maintenance of the WECS and any accessory structures.

3. Interface

No WECS shall be constructed so as to interfere with any county, state or federally owned and operated microwave transmissions. The applicant, owner and/or operator shall minimize and if necessary mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. In addition, the applicant, owner, and/or operator shall:

b. Notification of existing communication tower owners

The applicant shall notify all existing communication tower owners within two (2) miles of the proposed WECS upon application to the county for permits.

c. Mitigating interference following a complaint

If after construction of the WECS, the owner or operator receives a written complaint related to interference with local broadcast residential television, telecommunication, communication or microwave transmissions, the owner or operator shall take reasonable steps to mitigate said interference.

d. Failure to remedy a complaint

If the interference is not remedied within thirty (30) days the WECS shall remain inactive until the interference is remedied. Remedies may include relocation or removal.

e. Declaration of Public Nuisance

Any WECS thereof declared to be unsafe by the Madison County Planning Commission Inspector by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in this Chapter.

f. Operation and Maintenance Summaries and Reports

The owner or operator shall submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition, the applicant shall also make available operation and maintenance reports as the County reasonably requests.

g. Access to the Site and Facility

The Madison County Planning Commission Staff, along with licenses third 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/her 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 third party professional engineer familiar with WECS systems to prepare and submit to the Madison County Planning Commission staff a written report which addresses the repairs or alterations requested, and which suggests alternate methods for addressing the concerns or provides evidence that said repairs or alterations are unnecessary, within thirty (30) days after receiving notice from the Madison County Planning Department staff that repairs or alterations requested, or within a longer period of time mutually acceptable to both parties. The Madison County Planning Commission staff will consider any such written report and determine whether the repairs or alterations should be made as originally requested or

as suggested in the written report. In the event of a dispute between the Madison County Planning Commission staff and the owner or operator, or the owner or operator's third party professional engineer, as to the repairs or alterations which are being required, the decision of the Plan Commission shall be final.

M. DECOMMISSIONING PLAN

Prior to receiving an Improvement Location Permit, or siting approval under this Ordinance, the County and the applicant, owner and/or operator shall formulate a decommissioning plan outlining the anticipated means and cost of removing a WECS at the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the WECS is properly decommissioned. A decommissioning plan shall include, at a minimum, language to the following.

1. Assurance

Written assurances will be provided that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned.

2. Cost Estimates

The applicant shall provide a contractor cost estimate for demolition and removal of the WECS facility. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning WECS.

3. Financial Assurance

Applicant will provide financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, or other security acceptable to the County, for the cost of decommissioning each tower constructed under the permit. Said security will be released when each tower is properly decommissioned as determined by the Madison County Planning Commission.

4. Discontinuation and Abandonment

a. Discontinuation

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

b. Abandonment by the Owner or Operator

In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the Madison County Planning Commission representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within one (1) year of expiration or earlier termination of the project.

c. Removal

An applicant's obligations shall include removal of all physical material pertaining to the project improvements to a depth of four (4) feet below ground level within ninety (90) days of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements by the owner, or by Madison County at the owner's expense.

d. Written Notices

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

e. Unresolved Defaults

If the County determines at its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing County ordinance provision(s) addressing the resolution of such default(s) shall govern.

f. Costs Incurred to the County

If the County removes a tower and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permittee or grantor grants a license to Madison County to enter the property to remove a tower pursuant to the terms of an approved decommissioning plan.

N. LIABILITY INSURANCE

The owner or operator of any WECS shall maintain a current general liability policy covering bodily injury and property damage and name Madison County as an additional insured with dollar amount limits of at least two million dollars (\$2,000,000) per occurrence, and five million dollars (\$5,000,000) in the aggregate, and a deductible of no more than five thousand (\$5,000).

This Ordinance shall be in full force and effect upon passage and notice of adoption as required by law.

This Ordinance was recommended for adoption by the Planning Commission of Madison County, Indiana on the 10th day of February, 2009.

MADISON COUNTY PLAN COMMISSION

ATTEST:

Beverly Guignet
Beverly Guignet, Secretary

BY:

Bill Maxwell
Bill Maxwell, President

THIS ORDINANCE WAS PASSED AND ENACTED by the Board of Commissioners of Madison County, Indiana, this 21st day of April, 2009.

MADISON COUNTY BOARD OF COMMISSIONERS

BY:

Paul F. Wilson
Paul F. Wilson, President

Jeffrey L. Hardin
Jeffrey L. Hardin, Member

John M. Richwine
John M. Richwine, Member

ATTEST:

Kathy Sloops-Wright
Kathy Sloops-Wright, County Auditor

Publish:
Anderson Herald-Bulletin & Elwood Call-Leader

PREPARED BY:
Cory A. Wilson, Executive Director
Madison County Plan Commission

REVIEWED FOR LEGAL SUFFICIENCY:
Gerald P. Shine, Jr. (#297-48)
Attorney for Madison County Plan Commission

ORDINANCE NO. 2017-BC-0-01
ORDINANCE AMENDING THE MADISON COUNTY LAND USE AND
DEVELOPMENT CODE ZONING ORDINANCE ADOPTED
PURSUANT TO I.C. 36-7-4-602 BY ESTABLISHING SOLAR ENERGY STANDARDS

WHEREAS, the Board of Commissioners has adopted, pursuant to I.C. § 36-7-4-602, a Zoning Ordinance, which specifies the intent, permitted uses, special uses, development standards, and other information concerning various land use districts in Madison County; and,

WHEREAS, throughout Indiana and the rest of the United States, the use of systems to utilize solar energy has greatly increased in recent years; and,

WHEREAS, the Madison County Zoning Ordinance presently does not address standards for Solar Energy Systems potentially creating a disincentive for the use of such systems; and,

WHEREAS, the Board of Commissioners deems it desirable for Madison County to implement Solar Energy Standards to reduce uncertainty and encourage the installation of Solar Energy Systems in Madison County.

NOW THEREFORE BE IT ORDAINED, that the following definitions are hereby added to Part A, Article One, Section 1.1 (Basic Provisions) of the Madison County Zoning Ordinance:

Definitions:

BUILDING INTEGRATED PHOTOVOLTAIC SYSTEM: A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure for the primary purpose of producing electricity for onsite consumption.

LARGE-SCALE SOLAR ENERGY SYSTEM: A Solar Energy System that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Panel System located on the roof of any legally permitted building or structure for the purpose of producing electricity for onsite or offsite consumption.

SOLAR ENERGY EQUIPMENT: Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

SOLAR ENERGY SYSTEM: An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electrical energy.

1. Article Six, Development Standards, is hereby amended as follows:

6.29 Solar Energy System Standards

SE-01: This Solar Energy Standards section applies to the following districts:

AP, AG, CR, R1, R2, R3, MR, MH, PR, IS, LC, GC, HC, LI, GI

A. **Roof-Mounted Solar Energy System Requirements:**

1. Roof-Mounted Solar Energy Systems that use the electricity onsite or offsite are permitted
2. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located
3. Roof-Mounted Solar Energy Systems installations shall incorporate, when feasible, the following design requirements:
 - a. Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and the highest edge of the system.
4. Roof-Mounted Solar Energy Systems that use the energy onsite or offsite shall be exempt from site plan review.

B. **Ground-Mounted Solar Energy System Requirements:**

1. Ground-Mounted Solar Energy Systems that use the electricity primarily onsite are permitted as accessory structures
2. Ground-Mounted Solar Energy Systems shall adhere to the height and setback requirements of the underlying zoning district.
3. The surface area covered by Ground-Mounted Solar Energy Systems shall be included in the total lot coverage.
4. All Ground-Mounted Solar Energy Systems shall be installed in the side or rear yards.
5. Ground-Mounted Solar Energy Systems that use the electricity primarily onsite shall be exempt from site plan review.

SE-02: This Solar Energy Standards section applies to the following districts:

AP, AG, CR, PR, IS, LC, GC, HC, LI, GI

A. Large-Scale Solar Energy System Requirements:

1. Large-Scale Solar Energy Systems are permitted with a Special Use.
2. The Special Use shall be null and void if construction has not begun within three (3) years of the approval date, and an extension of the Special use has not been approved.
3. Large-Scale Solar Energy Systems Special Use Permit Application Requirements:
 - a. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easement and other agreements, shall be submitted.
 - b. A preliminary Site Plan showing the intended layout of the Solar Energy System shall be required. Final designs signed by the Engineer of Record shall be submitted as part of the application for the Improved Location Permit.
 - c. Equipment specification sheets typical of the Solar Energy System shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and inverters that are anticipated to be installed. Prior to the Improvement Location Permit application, equipment within the Solar Energy System may be substituted, pending approval by the Utility.
 - d. Property Operation and Maintenance - Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
 - e. A Decommissioning Plan must be submitted as part of the Special Use application. Compliance with this plan shall be made a condition of the issuance of a special use permit. The Decommissioning Plan must specify that after the Large-Scale Solar Energy System can no longer be used, it shall be removed by the applicant or any subsequent owner. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the Decommissioning Plan shall be prepared. Cost estimations shall take into account inflation. Removal of Large-Scale Solar Energy Systems must be completed in accordance with the Decommissioning Plan. The Decommissioning Plan may be updated until final construction permitting. If the Large-Scale Energy System is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property to cover these costs to the municipality. A Recorded Decommissioning Plan prepared, signed, and stamped by a Professional Engineer must be submitted with the Improvement Location Permit application. Significant changes to the

Decommissioning Plan may require additional approval by the Board of Zoning Appeals.


4. A minimum of 5 Acres is required for Large-Scale Solar Energy Systems
5. Large-Scale Solar Energy Systems shall adhere to the Buffer Yard Standards in Section 6.7 of this ordinance.
6. Large-Scale Solar Energy Systems shall not exceed the maximum height restrictions of the zoning district within which they are located
7. The surface area covered by Large-Scale Solar Energy Systems shall not be included in calculating the total lot coverage.
8. All Large-Scale Solar Energy Systems shall be enclosed by fencing on all sides (including the front yard). Fencing shall not exceed 8 feet in height without a variance. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. Fencing must adhere to Section 6.25 of this ordinance for standards not specified in this section.
9. Signage on the solar farm fencing shall display the facility name, address and emergency contact information. All signage must adhere to Article 7 of this ordinance and the National Electric Safety Code.
10. Reasonable accessibility for emergency services vehicles shall be required.
11. No grid tied System shall be installed until evidence has been given to the planning and development department that the owner has been approved by the utility company to install the system. Off-grid systems shall be exempt from this requirement.

B. Abandonment and Decommissioning

1. Solar Energy Systems are considered abandoned after 1 year without electrical energy generation and must be removed from the property. Applications for extensions are reviewed by the Board of Zoning Appeals.

2. Any violation of this Solar Energy Ordinance shall be subject to the same civil and criminal penalties provided for in Section 14 of this Ordinance.

This Ordinance was recommended for adoption by the Plan Commission of Madison County, Indiana on the ____ day of _____, 2017.



Wesley Likens, President

Mark Gary, Vice-President

ATTEST:

Elizabeth Bruns, Secretary

THIS ORDINANCE HAVING BEEN APPROVED AND ADOPTED by the Board of Commissioners of Madison County on this 17 day of January, 2017.

BOARD OF COMMISSIONERS OF
MADISON COUNTY, INDIANA




John M. Richwine, President



Steffanie L. Owens

ATTEST:



Michael Phipps

Prepared by:

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**CERTIFICATION OF PROPOSED AMENDMENT TO
THE ZONING ORDINANCE OF MADISON COUNTY,
INDIANA, CONTAINED IN THE MADISON COUNTY
LAND USE AND DEVELOPMENT CODE**

The Madison County Plan Commission hereby certifies with a favorable recommendation the Amendment attached hereto to the Madison County Zoning Ordinance contained in the Madison County Land Use and Development Code.

SO CERTIFIED THIS 10TH DAY OF JANUARY, 2017.

MADISON COUNTY PLAN COMMISSION

BY: 
WESLEY LIKENS, President

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