

ORDINANCE NO. 2020-14

An Ordinance AMENDING ORDINANCE 2007-10 COMMONLY KNOWN AS “THE MARSHALL COUNTY ZONING ORDINANCE”, AS AMENDED;

WHEREAS, the Marshall County Plan Commission has proposed an amendment to the Marshall County Zoning Ordinance, as amended;

WHEREAS, The Marshall County Plan Commission did conduct a public hearing on November 19, 2020, after legal notification, and did recommend favorably on said Zoning Ordinance amendment; and,

WHEREAS, the Board of County Commissioners of Marshall County, Indiana, did give legal notice and conducted a public meeting on December 21, 2020 in regard to said amendment.

NOW, THEREFORE, BE IT ORDAINED that the Marshall County Zoning Ordinance be amended as follows:

AMEND:

Article Three

A-1 Permitted Uses – Utilities

Solar Energy System – Roof Mounted Micro-Scale and Small Scale; Ground Mounted Micro-Scale and Small-Scale; Roof Mounted Medium-Scale and Large-Scale

Special Uses – Transportation, Communications, Utilities

Solar Energy Systems – Ground Mounted Medium-Scale and Large-Scale; Farm-Scale

A-2 Permitted Uses – Utilities

Solar Energy System – Roof Mounted Micro-Scale and Small Scale; Ground Mounted Micro-Scale and Small-Scale; Roof Mounted Medium-Scale and Large-Scale

Special Uses – Transportation, Communications, Utilities

Solar Energy Systems – Ground Mounted Medium-Scale and Large-Scale

A-3 Permitted Uses – Utilities

Solar Energy System – Roof Mounted Micro-Scale and Small Scale; Ground Mounted Micro-Scale and Small-Scale; Roof Mounted Medium-Scale and Large-Scale

Special Uses – Transportation, Communications, Utilities

Solar Energy Systems – Ground Mounted Medium-Scale and Large-Scale

T-1 Permitted Uses – Utilities

Solar Energy System – Roof Mounted Micro-Scale and Small Scale; Ground Mounted Micro-Scale and Small-Scale

L-1 Permitted Uses – Utilities

Solar Energy System – Roof Mounted Micro-Scale and Small Scale; Ground Mounted Micro-Scale and Small-Scale

MH Permitted Uses – Utilities

- Solar Energy System – Roof Mounted Micro-Scale and Small Scale; Ground Mounted Micro-Scale and Small-Scale
- C-1 Permitted Uses – Transportation, Communications, Utilities
 - Solar Energy System – Roof Mounted Micro-Scale and Small Scale; Ground Mounted Micro-Scale and Small-Scale; Roof Mounted Medium-Scale and Large-Scale
- Special Uses – Transportation, Communications, Utilities
 - Solar Energy Systems – Ground Mounted Medium-Scale and Large-Scale
- C-2 Permitted Uses – Transportation, Communications, Utilities
 - Solar Energy System – Roof Mounted Micro-Scale and Small Scale; Ground Mounted Micro-Scale and Small-Scale; Roof Mounted Medium-Scale and Large-Scale
- Special Uses – Transportation, Communications, Utilities
 - Solar Energy Systems – Ground Mounted Medium-Scale and Large-Scale
- I-1 Permitted Uses – Transportation, Communications, Utilities
 - Solar Energy System – Roof Mounted Micro-Scale and Small Scale; Ground Mounted Micro-Scale and Small-Scale; Roof Mounted Medium-Scale and Large-Scale
- Special Uses – Transportation, Communications, Utilities
 - Solar Energy Systems – Ground Mounted Medium-Scale and Large-Scale; Farm-Scale
- I-2 Permitted Uses – Transportation, Communications, Utilities
 - Solar Energy System – Roof Mounted Micro-Scale and Small Scale; Ground Mounted Micro-Scale and Small-Scale; Roof Mounted Medium-Scale and Large-Scale
- Special Uses – Transportation, Communications, Utilities
 - Solar Energy Systems – Ground Mounted Medium-Scale and Large-Scale; Farm-Scale

120 Land Use Matrix

Solar Energy systems	A-1	A-2	A-3	T-1	L-1	C-1	C-2	I-1	I-2	MH	PUD
Roof Mounted Micro-Scale and Small-Scale	P	P	P	P	P	P	P	P	P	P	D
Ground Mounted Micro-Scale and Small-Scale	P	P	P	P	P	P	P	P	P	P	D
Roof Mounted Medium-Scale and Large-Scale	P	P	P			P	P	P	P		
Ground Mounted Medium-Scale and Large-Scale	S	S	S			S	S	S	S		
Farm-Scale	S							S	S		

Article Six

210 Solar Energy Systems

A. Intent

In order to protect the public health, safety, and general welfare of the community while accommodating the energy needs of residents and businesses, these regulations are necessary in order to:

1. Bring the benefits of solar energy to Marshall County, including the potential to add local jobs, reduce energy bills, and reduce pollution in a manner that preserves reliability and affordability;
2. minimize adverse effects of SES facilities through careful design and siting standards;
3. avoid potential damage to adjacent properties from SES failure through structural standards and setback requirements.
4. A Solar Energy System is considered a Primary Use if there is no other Primary Use on site.

B. Authority

The Marshall County Planning Office is vested with the authority to review, approve, and disapprove applications for Solar Energy Systems, including a sketch, preliminary plans and final plans

C. Public Purpose

Regulations of the siting of SES facilities is an exercise of valid police power delegated by the State of Indiana. The developer has the duty of compliance with reasonable conditions laid down by the Marshall County Plan Commission.

D. Types and Sizes of Solar Energy Systems

1. Types

- a. Roof Mounted: a Solar Energy System, including but not limited to the panels and mounting system, that is affixed, set, or placed on the roof of a Primary or Accessory Structure.
- b. Ground Mounted: a Solar Energy System that is self-supporting and set into or on the ground.

2. Sizes of Solar Energy Systems

- a. Shall be measured by the total surface area of all the panels and is referenced below in panel square feet.
- b. Micro-Scale Solar Energy System: A Solar Energy System that occupies less than 120 square feet of panel area (Standalone systems are exempt such as flag pole lights, single solar lights, etc.)
- c. Small-Scale Solar Energy System: A Solar Energy System that occupies 1,750 square feet of panel area to 120 square feet.
- d. Medium-Scale Solar Energy System: A Solar Energy System that occupies more than 1,750 square feet but less than 43,560 square feet of panel area.
- e. Large-Scale Solar Energy System: A Solar Energy System that occupies more than 43,561 square feet, but less than 435,600 square feet of panel area.
- f. Farm-Scale Solar Energy System: A Solar Energy System that occupies 435,601 square feet of panel area or more.

E. General Approval Standards

1. Setbacks:

- a. Ground Mounted Micro-Scale, Small-Scale, Medium-Scale, and Large-Scale Solar Energy Systems in all districts shall be installed either in the Side Yard, Second Street Front Yard, or Rear Yard when considered Accessory Structures. Ground-Mounted Solar Energy Systems may be located no closer than the setback for their Zoning District.
- b. Ground Mounted Micro-Scale, Small-Scale, Medium-Scale, and Large-Scale Solar Energy Systems that are primary uses on property shall meet the District Setback standards.
- c. Farm-Scale Solar Energy Systems shall be setback **150' from the centerline of the adjacent Right-of-Ways**, 75' from all property lines and 250' from the nearest corner of residential structures. Interior project property lines don't have setback requirements.

2. Height:

- a. Roof Mounted: Roof-Mounted Solar Energy Systems may exceed the maximum building height, provided the SES does not exceed five feet in height above the roofline in residential districts and ten feet above the roof line in all other districts.
- b. Ground Mounted: The maximum height of PV module and racking system shall not exceed 15' as measured from the highest natural grade below each solar panel. The recommend minimum height from grade is 3' for pollinator species to grow without obstructing the panel efficiency.

3. Lot coverage:

The area covered by Ground Mounted Solar Energy Systems, measured by a rectangle encompassing the various system components, where the ground beneath is permeable or pervious, shall not be included in calculations for lot coverage or impervious cover.

The Applicant shall plant a pollinator species with a mix approved by a local licensed landscape architect or equivalent. The Michiana Council of Governments ~~or Minnesota State~~ requirements for pollinator species for solar installations shall be referenced. **The site shall be planted and maintained to be free of all invasive species, as listed by the Indiana Invasive Species Council.**

4. Drainage:

Solar Energy Systems must meet the requirements of the Marshall County Storm Drainage and Sediment Control Ordinance.

5. Additional Farm Scale Conditions:

a. Buffer Requirements:

~~a). Shall have a 25' planted buffer along the following areas:~~

~~1. Along the perimeter of project area.~~

~~b). The buffering shall be a minimum 3 row, 4 season tree stand with off set spacing as to minimize the view of the proposed project.~~

- a). Shall provide adequate visual 4 season screen while within 250' setback from residences and when adjacent to roadway intersections.
- b). Buffering shall be maintained by trimming if necessary, removal of dead or fallen trees and replanting.
- *c). Buffering shall be considered when adjacent, non-residential parcels may have competing uses.
- b. Must be approved by the Marshall County Drainage Board and the system must be a minimum 75' away from any county ditch or tile.
- c. Must ~~repair~~ repair, reroute or install new tile private Drainage Systems in order to preserve the overall drainage integrity.
- d. Must be reviewed by the Technical Review Committee
- e. Must meet floodplain regulations.
- f. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- g. Exterior lighting shall be limited to that required for safety and operational purposes and will not produce glare across lot lines onto properties not associated with the project and minimized for same property residences.
- h. The Applicant shall certify that the Applicant will comply with the Damage to Underground Facilities Law (Ind. Code 8-1-26) and accompanying regulations of the Indiana Utility Regulatory Commission
- i. A decommissioning agreement must be executed by the Applicant.
- j. A traffic management plan shall be approved by the Marshall County Highway Superintendent/ Marshall County Commissioners.
- k. A property operation and maintenance plan shall be submitted with the Special Use application.
- l. The facility shall have a perimeter security fence. The security fence must be kept repaired, painted and maintained in good condition.
- m. Signage on the solar farm fencing shall display the facility name, address and emergency contact information.
- n. Must provide reasonable accessibility for emergency vehicles.
- o. Top soil shall be preserved on site and grading should be minimized to preserve the future viability of plantings, and natural contours of the property must be maintained.
- p. Deforestation shall be minimized and approved by the Plan Director and Board of Zoning Appeals.

- q. Energy Storage installations must meet the associated development standards.
- r. Wildlife and Mitigation study or similar as required by applicable state or federal department shall be submitted. Should neither state or federal departments require such a study, the county will require best practices and impact mitigation to be shown and indicated by report or site design.
- s. Preferred locations for Solar Farms and other large-scale solar installations are on Brownfields, industrial zoned property ~~and marginal agricultural soils~~.
- t. Electric solar energy system components must have a UL or equivalent listing.
- u. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by Marshall County in instance where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines or distance makes undergrounding infeasible at the discretion of the Plan Director.
- v. For solar farms located within 500 feet of an airport or within approach zones of an airport, the applicant must complete and provide the result of a glare analysis through a qualitative analysis of potential impact, field test demonstration, or geometric analysis of ocular impact in consultation with the Federal Aviation Administration (FAA) Office of Airports, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

F. Permitting

1. A complete building permit application for all Solar Energy Systems will include the following:
 - a. Solar System Specifications including manufacturer and model information
 - b. Module design and site plans
 - c. Business plan indicating how all conditions will be addressed
 - d. System components including panels, inverters, batteries, etc. should be a minimum 95% recyclable.
2. A Technical Review Committee (TRC) site plan approval is required for Medium-Scale, Large-Scale, and Farm -Scale Solar Energy Systems prior to building permit approval.
3. System upgrades/~~repair~~/replacement will require a new building permit.

G. Site Plan

Site Plan documents shall include, but not limited to signed off by a licensed Engineer in the State of Indiana:

1. Property lines and physical features, including roads, for the project site;
2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
3. Drawings of the Solar Energy System showing the proposed layout of the system, the distance between the proposed solar collector and all property lines, and the tallest finished height of the solar collector;
- ~~4. Name, address, and contact information for proposed system installer;~~
- ~~5. Name, address, phone number and signature of the project Applicant, as well as all co-Applicants and of property owners;~~
6. Zoning District designation for the parcel(s) of land comprising the project site.
7. Documentation that the Applicant has submitted notification to the utility company of the Applicant's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

H. Abandonment and Decommissioning Requirements

1. Small-Scale, Medium-Scale, and Large-Scale removal requirements: Any Ground Mounted Solar Energy System which has reached the end of its useful life or has been abandoned shall be removed [by the owner or operator]. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Marshall County Plan Department by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - a). Physical removal of all Solar Energy Systems, structures, and equipment from the site.
 - b). Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - c). Stabilization or re-vegetation of the site as necessary to minimize erosion. The Marshall County Plan Director may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
2. Small-Scale, Medium-Scale, and Large-Scale abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the Small-Scale, Medium-Scale or Large-Scale Ground-Mounted Solar Energy System shall be considered abandoned when it fails to operate for more than one year without the written consent of the Marshall County Plan Department. If the owner or operator of the Solar Energy System fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the County retains the right to enter and remove an abandoned, hazardous, or decommissioned Small-Scale, Medium-Scale, or Large-Scale Ground Mounted Solar Energy

System at the owner/operator's expense. As a condition of Site Plan approval, the Applicant and property owner shall agree to allow entry to remove an abandoned or decommissioned installation.

3. Farm-Scale construction, decommissioning and removal requirements:

a). Prior to the issuance of a building permit, a decommissioning plan must be approved by the Board of Zoning Appeals and recorded with the Marshall County Recorder, cross-referenced to the deed(s) to all associated project parcels. Once a project has not generated energy for 1 month the developer/owner shall notify the Marshall County Plan Commission Director. Once a facility has not generated power for ~~12~~ 6 consecutive months, the decommissioning plan shall be activated. **Shall provide the Plan Director and the County Commissioners a semi-annual generation report.**

b). The decommissioning plan will include, but is not limited to, the following:

1. Lifetime of the project
2. Timeline for construction, and general operation
3. Decommissioning cost estimate, including salvage value of materials.

4. Restoration and reclamation requirements shall adhere to the following:

i. restoration of the pre-construction surface grade and soil

profile after removal of the structures, equipment, graveled

areas and access roads. **Sub-grade components shall be removed from a depth of 3' and shallower, and encourages total removal.**

ii. re-vegetation of restored soil areas with crops, native seed

mixes, plant species suitable to the area.

iii. for any part of the Solar Energy System on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates or repurposed buildings in place or regarding restoration of agricultural crops or forest resource land. Any remaining structures must be in conformance with all ordinances and regulations in effect at the time of decommissioning. Copies of said agreements must be provided as a part of the decommissioning plan pending approval of the Marshall County Plan Director.

5. Bonds or financial assurance are required:

- i. Bond or financial assurance that will cover the reconstruction of public infrastructure due to construction activity related to the Solar Energy System installation that will be approved in association with the traffic management plan.
- ii. Bond or financial assurance that will cover damage to the drainage infrastructure that may be damaged during the construction process beginning once construction has been completed and is to last for 5 years once construction has been completed.
- iii. Bond or financial assurance that will cover the decommissioning of the Solar Energy System as described in the decommissioning plan.
- iv. Bonds and financial assurance shall be reevaluated every 3 years with contributions adjusting at that time to cover costs at the time of decommissioning.
- v. The amount of the Bonds or financial assurances must be approved by the Marshall County Commissioners.

Article 13 Definitions

Solar Energy System (SES)

Solar Energy System: Any device or structural design feature whose primary purpose is to generate energy for interior lighting or provide for the collection, storage, or distribution of solar energy for space heating, space cooling, electricity generation, or water heating.

Assessed and adopted the ____ day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS
MARSHALL COUNTY, INDIANA

Kevin Overmyer, President

Stan Klotz, Vice-President

Mike Burroughs, Member

ATTEST:

Julie Fox, Auditor

BEFORE THE MIAMI COUNTY BOARD OF COMMISSIONERS

ORDINANCE NO. 8-16-2021 B

**AN ORDINANCE AMENDING REGULATIONS
FOR WIND ENERGY CONVERSION SYSTEMS AND METEOROLOGICAL TOWERS**

On January 19, 2021, the Board of Commissioners adopted Ordinance No. 01-19-2021 B, an Ordinance establishing regulations for Wind Energy Conversion Systems.

The Miami County Plan Commission has since determined that certain changes and corrections to that Ordinance are appropriate and this ordinance makes those changes and corrections.

IT IS THEREFORE ORDAINED BY THE BOARD OF COMMISSIONERS OF MIAMI COUNTY, INDIANA, AS FOLLOWS:

SECTION 1. PURPOSE AND INTENT

The purpose of this Ordinance is to provide a regulatory scheme for the construction and operation of Wind Energy Conversion Systems and Meteorological Towers.

SECTION 2. DEFINITIONS

Words contained in this Ordinance shall have the same meaning as those defined in the Miami County Zoning Ordinance. In addition to those definitions, the definitions in this Section 2 shall apply to this Ordinance. Words not specifically defined in this Section 2 shall have the meanings attributed to them by common English usage and context.

2.1. “Applicant” means the person or entity that submits to the Zoning Administrator an application for an Improvement Location Permit in order to construct a Wind Energy Conversion System or a Meteorological Tower.

2.2. “Classified Forest and Wildlands” means an area of at least ten (10) contiguous acres of forest or non-forest wildlife habitat where the owner thereof has agreed to be a good steward of the land and its natural resources.

2.3. “Meteorological Tower” means a tower that is erected primarily to measure wind speed and direction plus other data, excluding towers and equipment used by airports, the Indiana Department of Transportation, or other similar entities that monitor weather conditions.

2.4. “Meteorological Tower, Operational Support” means a tower that is erected primarily to measure wind speed and direction plus other data in support of an operating Wind Energy Conversion System, excluding towers and equipment used by airports, the Indiana Department of Transportation, or other similar entities that monitor weather conditions.



2.5. “Non-participating Landowner” means a person(s) or entity who has not entered into an agreement with a Wind Energy Conversion System company, entity or person(s) for the purpose of (i) developing a Wind Energy Conversion System on or near such person(s) or entity's land and/or (ii) receiving the economic benefits expected to accrue from the operation of such a System.

2.6. “Operator” means the person or entity that is responsible for the day-to-day operation and maintenance of a Wind Energy Conversion System or a Meteorological Tower, including any third-party sub-contractors.

2.7. Participating Landowner means a person or entity who has entered into an agreement with a Wind Energy Conversion System company, entity or person(s) for the purpose of (i) developing a Wind Energy Conversion System on or near such person(s) or entity's land and/or (ii) receiving the economic benefits expected to accrue from the operation of such a System.

2.8. “Reservoir” means an artificial lake where water is collected and kept in quantity.

2.9. “River” means a natural stream of water of usually considerable volume.

2.10. “Substation” means a structure containing apparatus that connects the below or above ground electrical collection lines of the Wind Energy Conversion System to the electric utility grid, with or without increasing the voltage.

2.11. “Wind Energy Conversion System” or “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, substation, Meteorological Towers, communications facilities and other required facilities and equipment, as related to the WECS Project, including the following:

2.11.1. Commercial WECS. A Wind Energy Conversion System constructed on the property of another by a company or corporation or other entity, whose general intent is to capture wind energy and place it on the electrical grid for resale to a public utility.

2.11.2. Micro WECS. A very small Wind Energy Conversion System designed to provide electric power to a home or other local site for use by the owner.

2.11.3 Non-commercial WECS. A Wind Energy Conversion System that is generally smaller than a Commercial WECS and the primary purpose is to collect wind energy for the purpose of supplying energy to the owners, such as a business, school or factory.

2.12. “WECS Project” means the development, construction, and/or operation of a WECS.

2.13. “WECS Tower” means the support structure to which the nacelle and rotor are attached, a free standing or guyed structure that supports a wind turbine generator.

2.14. “Wetlands” means areas characterized by a dominance of wetland vegetation where the soil is saturated during a portion of the growing season or the surface is flooded during some part of most years. Wetlands generally include swamps, marshes, bogs, and similar areas.

SECTION 3. PERMIT REQUIREMENTS

3.1. No WECS or Meteorological Tower may be constructed within Miami County without first obtaining an Improvement Location Permit.

3.2. No WECS or Meteorological Tower may be owned or operated within Miami County without having fully complied with the provisions of this Ordinance.

SECTION 4. ALLOWABLE LOCATIONS FOR WECS AND METEOROLOGICAL TOWERS

4.1. Permitted Districts. Commercial, Non-commercial, Micro WECS, and Meteorological Towers are permitted in the following Districts:

- 4.1.1. Commercial WECS**
Permitted in A-1, A-2, and A-3
Special Exception required for B-1, B-2, B-3, and I-1
Prohibited in all other areas
- 4.1.2. Non-commercial WECS (equal or less than 200 feet in height)**
Permitted in A-1, A-2, and A-3
Special Exception required for B-1, B-2, B-3, I-1 and I-2
Prohibited in all other areas
- 4.1.3. Non-commercial WECS (greater than 200 ft. in height)**
Special Exception required for A-1, A-2, A-3, B-1, B-2, B-3, I-1, I-2
Prohibited in all other areas
- 4.1.4. Micro WECS**
Permitted in A-1, A-2, A-3, I-1, I-2
Special Exception required for B-2, B-3
- 4.1.5. Meteorological Tower**
Permitted in A-1, A-2, A-3
Special Exception required for B-2, B-3, I-1, I-2

SECTION 5. SET BACK REQUIREMENTS FOR WECS AND METEOROLOGICAL TOWERS

5.1. Minimum setback distances for Commercial WECS Towers.

<u>Distance from a</u>	<u>Minimum Setback Distance:</u>
Property line, measured from the center of the base of the WECS Tower to the property line	<p>Two thousand (2,000) feet</p> <p>(i) The setback requirement is waived if the affected adjoining landowners sharing the common property line are Participating Landowners and a fully executed and recorded agreement is secured by the Participating Landowners.</p> <p>(ii) A WECS Tower may be placed up to the property line, if a fully executed and recorded written waiver agreement is secured from the affected adjoining Non-Participating Landowner.</p>
Dwelling, measured from the center of the base of the WECS Tower to the nearest corner of the structure	Two thousand (2,000) feet
Public road right-of-way, measured from the center of the base of the WECS Tower to the edge of the right-of-way	Two thousand (2,000) feet
Other rights-of-way, such as railroads and public utility easements, measured from the center of the base of the WECS Tower to the edge of the right-of-way	Two thousand (2,000) feet
Public conservation lands, measured from the center of the base of the WECS Tower to the nearest point of public conservation land in question	Two thousand (2,000) feet

Wetlands, as defined by the U.S. Army Corps of Engineers, measured from the center of the base of the WECS Tower to the nearest point of the wetland in question	As determined by a permit obtained from the U.S. Army Corps of Engineers in the case of Wetlands and from the proper permitting authority in the case of Classified Forest and Wildlands
Classified Forest and Wildlands as defined by Indiana Department of Natural Resources, Division of Forestry; measured from the center of the base of the WECS Tower to the nearest point of the Classified Forest and Wildlands	
All Rivers and Reservoirs, measured from the center of the base of the WECS Tower to the shoreline	One-half mile
Incorporated limits of a municipality or platted community, measured from the center of the base of the WECS Tower to the corporate limits	Two Thousand (2,000) Feet
Above-ground electric transmission line, measured from the center of the base of the WECS Tower to the transmission line	1.1 times the total height (where the blade tip is at its highest point)

5.2. Commercial WECS Power Collection and Transmission System.

5.2.1. WECS Substation. For all substations, setbacks from property lines may not be waived unless a fully executed and recorded written waiver agreement is secured from the affected adjoining non-participating landowner.

5.2.2. Poles. For all poles carrying overhead wiring connecting Commercial WECS Towers to a Substation for connection to a utility's electric transmission line, there are no setback requirements from property lines as long as the poles are located within a recorded easement for such purpose.

5.3. Minimum setback distances for Non-Commercial and Micro WECS Towers.

<u>Distance from a</u>	<u>Minimum Setback Distance</u>
Property line, measured from the center of the base of the WECS Tower to the property line	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback prescribed
Dwelling, measured from the center of the WECS Tower to the nearest corner of the structure	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point)
Public road right-of-way, measured from the center of the base of the WECS Tower to the edge of the right-of-way	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback prescribed
Other rights-of-way, such as railroads and public utility easements, measured from the center of the base of the WECS Tower to the edge of the right-of-way	1.1 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less than the required yard setback prescribed
Public conservation lands, measured from the center of the base of the WECS Tower to the nearest point of public conservation land in question	Seven hundred and fifty (750) feet
Wetlands, as defined by the U.S. Army Corps of Engineers, measured from the center of the base of the WECS Tower to the nearest point of the wetland in question	As determined by a permit obtained from the U.S. Army Corps of Engineers
All Rivers and Reservoirs measured from the center of the base of the WECS Tower to the shoreline	One-half mile
Above-ground electric transmission line, measured from the center of the base of the WECS Tower to the transmission line	1.1 times the total height (where the blade tip is at its highest point)

5.4. Horizontal extension for Non-commercial and Micro WECS. The furthest horizontal extension (including guy wires) shall not extend into a required setback as prescribed or be closer than twelve (12) feet to any primary structure or public right-of-way easement for any above ground telephone, electric transmission or distribution lines.

5.5. Minimum setback distances for all Meteorological Towers.

<u>Distance from:</u>	<u>Minimum Setback Distance</u>
Property line, measured from the center of the base of the Meteorological Tower to the property line	1.1 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback. (i) The setback requirement is waived if the affected adjoining landowners sharing a common property line are Participating Landowners
Dwelling, measured from the center of the base of the Meteorological Tower to the nearest corner of the structure	1.1 times the total height of the Meteorological Tower.
Public road right-of-way, measured from the center of the base of the Meteorological Tower to the edge of the right-of-way	1.1 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback ⁴
Other rights-of-way, such as railroads and public utility easements, measured from the center of the base of the Meteorological Tower to the edge of the right-of-way	1.1 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback

5.6. Horizontal extension for all Meteorological Towers. The furthest horizontal extension (including guy wires) shall not extend into a required setback as prescribed or be closer than twelve (12) feet to any primary structure or public right-of-way easement for any above ground telephone, electric transmission or distribution lines.

SECTION 6. SAFETY, DESIGN, INSTALLATION, AND CONSTRUCTION STANDARDS APPLICABLE TO ALL WECS AND METEOROLOGICAL TOWERS

6.1 Height Restrictions.

6.1.1. Non-commercial WECS or Meteorological Towers. Any Non-commercial WECS Towers or Meteorological Towers greater than two hundred (200) feet in height shall require a variance approval.

6.1.2. Commercial WECS or Operational Support Meteorological Towers. For Commercial WECS Towers and Operational Support Meteorological Towers there are no limitations on height, except those height limitations imposed by Federal Aviation Administration rules and regulations.

6.1.3. Micro WECS. No Micro WECS shall exceed sixty (60) feet in height.

6.2. Equipment Type.

6.2.1. Turbines. All turbines shall be constructed of commercially available equipment.

6.2.2. Meteorological Towers. All Meteorological Towers shall be guyed.

6.2.3. Experimental or prototype equipment. Experimental or prototype equipment still in testing which does not fully comply with industry standards, may be approved by the Miami County Board of Zoning Appeals per the variance process established by the Zoning Ordinance.

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

6.4. Controls and Brakes.

6.4.1. Braking System. All WECS Towers must be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including pitch, tip, and other similar systems) and mechanical brakes. Stall ordinance shall not be considered a sufficient braking system for over speed protection.

6.4.2. Operation mode. All mechanical brakes shall be operated in a fail-safe mode.

6.5. Electrical Components.

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

6.5.2. Collection cables. All electrical collection cables between each WECS Tower shall be located underground whenever possible.

6.5.3. Transmission lines. All transmission lines that are buried should be 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.

6.6. Color and finish. In addition to all applicable Federal Aviation Administration requirements, the following shall also apply:

6.6.1. Wind turbines and towers. All wind turbines and towers that are part of a WECS shall be white or grey.

6.6.2. Blades. All blades shall be white or grey, or may be black to facilitate deicing.

6.6.3. Finishes. Finishes shall be matte or non-reflective.

6.6.4. Exceptions. Exception may be made for Meteorological Towers, where concerns exist relative to aerial spray applicators.

6.7. Signage. All signs pertaining to a WECS Project must comply with existing Miami County Zoning requirements with the following stipulations:

6.7.1. Size area. No sign shall exceed sixteen (16) square feet in surface area, and shall not exceed eight (8) feet in height

6.7.2. Manufacturer's 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.

6.7.3. Development signs. An identification sign relating to the WECS Project development may be located on each side of the total WECS Project area, provided that there are no more than four (4) signs located on any one WECS Project site.

6.7.4. Other signs and logos. No other advertising signs or logos shall be placed or painted on any structure or facility that is part of a WECS Project.

6.8. Warnings

6.8.1. Commercial WECS. The following notices shall be posted for all Commercial WECS:

6.8.1.1. A sign or signs shall be posted on the pad-mounted transformer and the substation(s) warning of high voltage.

6.8.1.2. Private roads providing access to Commercial WECS shall have posted an Emergency 911 address road sign.

6.8.1.3. A sign shall be posted on the WECS tower listing an emergency telephone number.

6.8.2. Guy wires and anchor points. For all guyed towers, one of the following warning mechanisms shall be used for each anchor point:

6.8.2.1. Visible or reflective objects. Visible and reflective objects, such as flags, plastic sleeves, reflectors, or tape placed on the anchor points of guy wires and along the innermost guy wires up to eight (8) feet above ground.

6.8.2.2. Visible Fencing. Visible fencing not less than four (4) feet in height installed around anchor points of guy wires.

6.8.3. Non-commercial WECS and Micro WECS Towers. The following notices shall be clearly visible on all Non-commercial WECS and Micro WECS Towers and accessory facilities:

6.8.3.1. Multiple "No Trespassing" signs shall be attached to the perimeter fence;

6.8.3.2. "Danger" signs shall be posted at the height of five (5) feet on each WECS Tower and accessory structure;

6.8.3.3. A sign shall be posted on the each WECS Tower showing an emergency telephone number, and the manual electrical and/or over speed shutdown disconnect switch(es) shall be clearly labeled; and

6.8.4. Meteorological Towers. Meteorological Towers shall contain all warning signs required by the Federal Aviation Administration.

6.9. Climb Prevention. All Commercial WECS Tower designs shall include features to deter climbing or be protected by anti-climbing devices such as fences with locking portals at least six (6) feet in height, anti-climbing devices fifteen (15) feet vertically from the base of the WECS Tower, and/or locked WECS Tower doors.

6.10. Blade Clearance. The minimum distance between the ground and any protruding blade(s) utilized on all Commercial WECS Towers shall be twenty-five feet (25') as measured at the lowest point of the arc of the blades. The minimum distance between the ground and any protruding blade(s) utilized on all Non-commercial or Micro WECS Towers shall be a minimum of fifteen feet (15'), as measured at the lowest point of the arc of the blades provided the rotor blade does not exceed twenty feet (20') in diameter. In either instance, the minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.

6.11. Lighting.

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

6.11.2. Shielding. Except with respect to lighting required by the Federal Aviation Administration, lighting may require shielding so that no glare extends substantially beyond any WECS Tower.

6.12. Guy wire anchors. No guy wire anchors shall be allowed within any required public road right-of-way setback

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

6.14. Feeder Lines. 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 whenever possible.

6.15. Other appurtenances. No appurtenances other than those associated with the WECS construction, operations, maintenance, decommissioning/removal, and permit requirements shall be connected to any WECS Tower except with the express written permission of the Miami County Board of Zoning Appeals.

SECTION 7. PERMIT APPLICATION PROCEDURES

7.1. Application. All applications for an Improvement Location Permit shall be filed utilizing forms provided by the Zoning Administrator, and must contain copies of all agreements between the Applicants, Landowners, Developers, and Operators.

7.2. Applications for All Wind Energy Conversion Systems. Applications for all WECS shall include the following:

7.2.1. Contact information of participants. The name(s), address(es), and phone number(s) of the Applicant(s), Landowners, Developers, and Operators, as well as a description of their respective business structure.

7.2.2. Legal description. The legal description and common street address showing the location of the System.

7.2.3. Project description. A description of the proposed System, including to the extent possible, information on each turbine proposed, including number of turbines, type, name plate generating capacity, tower height, rotor diameter, total height, anchor base, the means of interconnecting with the electrical grid, the potential equipment manufacturer(s), and, all related accessory structures.

7.2.4. Site layout plan. A site layout plan, drawn at an appropriate scale, showing distances pertaining to all applicable setback requirements and certified by a registered land surveyor.

7.2.5. Engineering certification. For all WECS, the manufacturer's engineer or another qualified registered professional engineer shall certify, as part of the improvement location permit application, that the foundation and tower design of the WECS are within accepted professional standards, given local soil and climate conditions. An engineering analysis of the WECS Tower showing compliance with the applicable ordinances and certified by a licensed professional engineer shall also be submitted. The analysis shall be accompanied by standard drawings of the wind turbine structure, including the tower, base and footings.

7.2.6. Proof of correspondence and cooperation with wildlife agencies. For the purpose of preventing harm to migratory birds and in compliance with the Migratory Birds 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, and any other item reasonably requested by the Zoning Administrator.

7.2.7. Ruling Required from IEMT Coordinator.

7.2.7.1. Prior to consideration for approval under this Ordinance, Miami County will transmit a copy of applications submitted hereunder to the Grissom Air Reserve Base Installation Encroachment Management Team (IEMT) Coordinator for a written determination of whether the proposed project will create an obstruction, interference, hazard, or adverse impact on military training routes, flight paths, or other operational areas or will interfere with military surveillance radar or communications equipment used by the Department of Defense. The written decision of the IEMT Coordinator must include an explanation of its determination, including any background analyses or findings.

7.2.7.2. Failure of the IEMT Coordinator to provide a written response to Miami County staff within seven (7) business days of the Coordinator's receipt of the County's transmittal of a copy of an application submitted under this Ordinance, may be deemed an indication the proposed development does not create an obstruction, interference, hazard, or adverse impact. A written determination or a request for additional time within 7 business days meets the requirements of this paragraph.

7.2.7.3. The determination of the IEMT Coordinator, or confirmation that no timely determination was received, will be provided to an official, board, commission, or other agency making recommendations or making a final decision under this Ordinance, prior to a final recommendation or final decision being rendered.

7.2.7.4. Upon written request of the IEMT Coordinator, the County may make a final decision regarding an application submitted under this Ordinance, following completion of and a final decision under 10 U.S.C. 183a review, "Military Aviation and Installation Assurance Clearinghouse for review of mission obstructions," if such is required.

7.2.7.5. The County will consider the input of the IEMT Coordinator prior to giving a final approval to any development proposed under this Ordinance for which the IEMT Coordinator makes a determination in writing will create an obstruction, interference, hazard, or adverse impact on military training routes, flight paths, or other operational areas or will interfere with military surveillance radar or communications equipment used by the Department of Defense.

7.2.8. Decommissioning plan. A decommissioning plan as prescribed in Section 9 of this Ordinance

7.2.9. Economic development, drainage, and road use and maintenance agreements.

7.2.9.1 An Economic Development Agreement, a Drainage Agreement, and a Road Use and Maintenance Agreement, all fully executed and approved by the County Commissioners.

7.2.9.2. For any project seeking tax abatement or other economic considerations for the project from a governmental entity, the applicant shall submit an Economic Development Agreement approved by the County Commissioners. The Economic Development Agreement must be developed in consultation with the Miami County Economic Development Authority (MCEDA) and the County Council. The

Economic Development Agreement shall include, as applicable, estimated property taxes, estimated tax abatement benefits, any estimated economic development payments, any estimated lease payments, and an estimate of the overall cost and tax revenue impact on the County, as well as the estimated current economic impact of the project area in its current use.

7.2.9.3. The Drainage Agreement must address crop and field tile damages that could potentially be caused during construction and for a reasonable period after construction.

7.2.10. Erosion control plan. An erosion control plan developed in consultation with the Natural Resources Conservation Services (NRCS), and a storm water quality management plan.

7.2.11. Utility plan. A utility plan drawn to the same scale as the site layout plan illustrating the location of all on-site underground utility lines.

7.2.12. Avoidance and mitigation of damages to public infrastructure. In addition to complying with the Road Use and Maintenance Agreement, an applicant, owner, or operator proposing to use any county road(s), for the purpose of transporting any component of System or Tower shall comply with the following pre-construction requirements:

7.2.12.1. Identification of roads and services. Identify all roads and services, to the extent that any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it shall be approved by the Miami County Highway Superintendent.

7.2.12.2. Pre-construction survey. The applicant shall conduct a pre-construction baseline survey acceptable to the Miami County Highway Superintendent to determine existing road conditions for assessing potential future damage. The survey shall include photographs, or video, or a combination thereof, and a written agreement to document the condition of the public roadway.

7.2.13. Fire prevention and emergency response plan and requirements. A plan approved by the chief of the fire department having jurisdiction over the WECS that describes the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police or other responders in the event of fire or emergency.

7.3. Applications for Non-Commercial WECS. Applications for Non-Commercial WECS shall also include the following:

7.3.1. Demonstration of energy need. The primary purpose of the production of energy from a Non-Commercial WECS shall be to serve the energy needs of that tract. Applicants must demonstrate how much energy is needed and how the proposed size and number of the WECS Towers fulfill this need. Net-metering may be allowed, but shall not be the primary intent of the WECS.

7.3.2. Statement of Federal Aviation Administration compliance. A statement of compliance with all applicable Federal Aviation Administration rules and ordinances, including any necessary approvals for installations within close proximity to an airport.

7.3.3. Utility notification. 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. Off-grid systems shall be exempt from this requirement.

7.3.4. Compliance with National Electrical Code. 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. This information is frequently supplied by the manufacturer.

7.4. Applications for Commercial WECS.
In addition to the application requirements listed in Section 7, applications for Commercial WECS shall also include the following information:

7.4.1. A preliminary site layout plan. A preliminary site layout plan with distances drawn to an appropriate scale illustrating the following:

- 7.4.1.1** Property lines, including identification of adjoining properties;
- 7.4.1.2.** The latitude and longitude of each individual WECS Tower, along with individual identification of each WECS Tower;
- 7.4.1.3.** Dimensional representation of the structural components of the WECS Tower construction including the base and footings;
- 7.4.1.4.** WECS access roads;

- 7.4.1.5. Substations;
- 7.4.1.6. Electrical Cabling;
- 7.4.1.7. Ancillary equipment;
- 7.4.1.8. Primary structures within one-quarter (1/4) mile of all proposed WECS Towers;
- 7.4.1.9. Distances meeting set-back requirements;
- 7.4.1.10. Location of all public roads which abut, or traverse the proposed site;
- 7.4.1.11. The location of all above-ground utility lines within a distance of two (2) times the height of any proposed WECS structure;
- 7.4.1.12. The location of any historic or heritage sites as recognized by the Division of Historic Preservation and Archaeology of the Indiana Department of Natural Resources, within one (1) mile of a proposed WECS Tower;
- 7.4.1.13. The location of any wetlands based upon the delineation plan prepared in accordance with the applicable U.S. Army Corps of Engineers requirements and guidelines, within one (1) mile of a proposed WECS Tower; and
- 7.4.1.14. Topographic Map. A USGS topographical map, or map with similar data, of the property and the surrounding area, including any other WECS Tower within a ten (10) rotor distance, but no less than a one quarter (1/4) mile radius from the proposed project site, with contours of not more than five (5) foot intervals.

7.4.2. Noise profile.

7.4.3. Location of all known WECS Towers within one (1) mile of the proposed WECS Tower, including a description of the potential impacts on said WECS Tower and wind resources on adjacent properties.

7.5. Applications for all Meteorological Towers. Applications for all Meteorological Towers shall also include the following information:

7.5.1. A copy of the agreement where the landowner has authorized the placement of a Meteorological Tower on their property.

7.5.2. A preliminary site layout plan with distances drawn to appropriate scale including the following:

- 7.5.2.1.** Property lines, including identification of adjoining properties;
- 7.5.2.2.** The latitude and longitude of each individual Meteorological Tower;
- 7.5.2.3.** Dimensional representation of the structural components of the tower construction, including base and footings;
- 7.5.2.4.** Ancillary equipment;
- 7.5.2.5.** Required setback lines;
- 7.5.2.6.** Location of all public roads which abut or traverse the proposed site;
- 7.5.2.7.** The location of all above-ground utility lines within a distance of 2 times the height of any proposed tower;
- 7.5.2.8.** The location of all underground utility lines; and
- 7.5.2.9.** Any other items reasonably requested by the Zoning Administrator.

SECTION 8. POST-CONSTRUCTION OPERATION AND MAINTENANCE REQUIREMENTS

8.1. Physical modifications. In general, any modification to any WECS or Meteorological Tower that alters the mechanical load, mechanical load path, or major electrical components shall require an Improvement Location Permit.

8.2. Interference. The Landowner and/or Operator shall mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals. If, after the Landowner or Operator receives a written complaint related to interference with the broadcast of residential television, telecommunication, communication or microwave transmissions, the owner or operator shall take reasonable steps to mitigate the interference. Interference with private telecommunications systems such as GPS shall be between the company and the complainant. If an agreement to remedy a known interference is not reached within ninety (90) days, appropriate action will be taken, which may result in requiring the WECS to become inactive.

8.3. Maintenance records. At least annually, the Operator will provide to the Zoning Administrator a letter certifying that all required and periodic maintenance has been performed during a particular calendar year and that the WECS is operating safely and efficiently. Should the Zoning Administrator not receive such annual certification, the Administrator will send a notice to the Operator requesting the certification letter within thirty (30) days. If after the thirty (30) days, the Zoning Administrator has not received the required maintenance certification, then the Zoning Administrator may hire, at the Operator's expense, a qualified inspector to perform an inspection of the WECS System.

8.4. Declaration of public nuisance. Any WECS or Meteorological Tower declared to be unsafe by the Miami County Zoning Administrator by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, 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 approved Decommissioning Plan, and shall, in addition be subject to the provisions of Section 13 of this Ordinance.

8.5. Materials handling, storage, and disposal.

8.5.1. Solid wastes. All solid wastes whether generated from supplies, equipment, parts, packaging, operation, or maintenance, including old parts and equipment related to the construction, operation and/or maintenance shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.

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

8.6. Noise. The noise level of Non-commercial WECS shall be no greater than sixty (60) decibels measured from the property lines of any adjoining property owned by a Non-participating Landowner. This level may only be exceeded during short-term events such as utility outages and/or severe wind storms. All other noise and vibration levels shall be in compliance with all county, state, and federal ordinances.

8.7. Shadow Flicker. A shadow flicker is the effect of the sun (low on the horizon) shining through the rotating blades of a wind turbine, casting a moving shadow. At no time shall a wind turbine's tower, nacelle, or blades create a shadow flicker on any adjoining property owned by a Non-participating Landowner.

8.8. Sewer and water. All sewer and water facilities and structures shall comply with all local, state, and federal laws, ordinances and regulations.

8.9. Drainage. All facilities and structures shall comply with all local, state, and federal laws, ordinances, and regulations, and the drainage agreement described in Section 7.2.9.

8.10. Road repairs. Any road damage caused by the construction of project equipment, the installation of the same, or the removal of the same, shall be repaired as per the Road Use and Maintenance Agreement approved by the County Commissioners described in Section 7.2.9.

8.11. As-built plans requirement. Upon completion of all construction, documents showing the exact measurements of the location of utilities and structures erected shall therefore be recorded in the office of the Recorder of Miami County. The Applicant shall submit a copy of the final construction plans (as-built plans) to the Zoning Administrator with the exact measurements thereon shown. The Zoning Administrator, after being satisfied that the measurements are substantially the same as indicated on the originally approved final plan(s), shall approve, date and sign said construction plans for the project, which the Applicant shall then record.

8.12. Change of ownership. It is the responsibility of the Owner and Operator to inform the Zoning Administrator of all changes in ownership and/or operation during the life of the WECS or Meteorological Tower, so that the Zoning Administrator is assured that new Owner and/or Operator will be in compliance with all provisions of this Ordinance., including but not limited to those obligations contained in Sections 8, 9, and 10, and those described in any and all plans and agreements submitted in support of applications filed hereunder.

SECTION 9. DECOMMISSIONING PLAN

A decommissioning plan shall estimate the anticipated means and cost of removing a WECS at the end of its serviceable life or upon becoming a discontinued or abandoned use to ensure that the WECS is properly decommissioned, and shall include the following:

9.1. Cost estimates. The Applicant shall provide a cost estimate for demolition and removal of the WECS prepared by a competent party, such as a professional engineer, a contractor capable of decommissioning, or a person with suitable experience or experience with decommissioning WECS.

9.2. 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, letter of credit, or other security acceptable to the County, for the cost of decommissioning each WECS Tower and related improvements constructed under the permit. Said security will be released when each WECS Tower is properly decommissioned as determined by Miami County.

SECTION 10. DISCONTINUATION AND ABANDONMENT

10.1. Presumption. All WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to, and approved by, the Zoning Administrator outlining the steps and schedule for returning the WECS to service.

10.2. Removal. An Applicant's obligations shall include, above and below ground, removal of all physical material pertaining to the project improvements to no

less than a depth of ten feet (10') below ground level within three hundred sixty-five (365) days of the discontinuation or abandonment of the WECS or WECS Project, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements. Removal obligations shall be completed by the owner at the owner's expense.

10.3. Costs incurred by the County. If the County removes a WECS Tower and appurtenant facilities, it may sell the salvage to defray the costs of removal. By obtaining an Improvement Location Permit, the Landowner grants a license to Miami County to enter the property to remove a WECS Tower and appurtenant facilities pursuant to the terms of an approved decommissioning plan.

SECTION 11. LIABILITY INSURANCE

At all times, the Owner or Operator of any WECS or Meteorological Tower shall maintain a general liability policy covering bodily injury and property damage and a certificate of liability insurance will be required, naming Miami County as an additional insured, with dollar amount limits of at least \$2 million per occurrence and \$5 million in the aggregate. A certificate of insurance and copy of the policy and any renewal policies shall be provided by the insurer to the Zoning Administrator upon each renewal and/or change to said policy.

SECTION 12. CONFLICT WITH OTHER REGULATIONS

Nothing in this Ordinance is intended to preempt other applicable state and federal laws or ordinances, including compliance with all Federal Aviation Administration rules and regulations, and shall comply with the notification requirements of the Federal Aviation Administration. Nor is anything contained herein 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 this Ordinance imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provisions that are more restrictive or that impose higher standards shall govern.

SECTION 13. ENFORCEMENT AND VIOLATIONS

13.1. This Ordinance may be enforced by following the enforcement procedures contained in the Miami County Zoning Ordinance.

13.2. In addition to all other remedies that are available under the Miami County Zoning Ordinance or Indiana law, any person who violates this Ordinance or fails to comply with any of its provisions may be fined by the Zoning Administrator the sum or up to One Hundred Dollars (\$100.00) per day for each day that such violation continues unabated.

SECTION 14. REPEAL OF PRIOR ORDINANCE AND EFFECTIVE DATE

This Ordinance shall become effective upon publication of notice of its adoption as required by law, at which time Ordinance No. 01-19-2021 B shall be repealed.


Adopted by the Miami County Board of Commissioners this 16th day
of August, 2021.



Alan Hunt, Chairman



Fred Musselman, Vice-Chairman



Brenda G. Weaver

Attest:



Mary Brown, Miami County Auditor