

ORDINANCE NO. 2023-_____
AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF CARROLL COUNTY, INDIANA

WHEREAS, the County of Carroll by adoption of its Zoning Ordinance on February 2, 1971 intended to adopt an ordinance which would establish comprehensive zoning regulations for Carroll County, Indiana, providing for the administration and penalties for violation thereof and for the repeal of all conflicting ordinances.

WHEREAS, since the adoption of the ordinance it has been necessary to periodically revise and amend the Ordinance to meet the ever-changing needs of the County, and

WHEREAS, such revisions and amendments are to be made with reasonable regard to existing conditions, the character of building erected in each district, and most desirable use for which the land in each district may be adapted and the conservation of property values throughout the territory under the jurisdiction of the Carroll County, Indiana, Area Plan Commission, and

WHEREAS, the Area Plan Commission of Carroll County, Indiana, did develop language to amend the County Zoning Ordinance to make amendments to Article IV, Section 24, Wind and Alternative Energy Ordinance, to update language to meet current state recommended guideline for the installation and decommissioning of Wind Energy Conversion Systems (WECS), and did publish said proposed language, hold public hearings on the same, and have voted a favorable recommendation to the Commissioners.

NOW THEREFORE BE IT ORDAINED BY THE COMMISSIONERS OF THE COUNTY OF CARROLL that the Carroll County Zoning Ordinance is hereby amended in Article IV, Section 24, by first changing the numbering of current shown Section 24, to Section 25, as the section regarding Poultry and Rabbits was enacted in August, 2018, that being after the enactment of the original Wind and Alternative Energy Ordinance, enacted in 2009. Then amending Section 24.1, subsection e(6) by increasing all minimum setbacks distances for all WECS Towers from 1.1 times the total height (where the blade tip is at its highest point, to 1.2 times in all categories; subsection f(9) adding a new subsection (c) Light Mitigation; subsection g(3) changing the maximum noise level on non-commercial WECS from no more than 60 decibels to no more than 50 decibels; subsection g(5) changing the first sentence to read- All signs pertaining to a WECS Project must comply with the following Sign Standards. ; adding a new subsection g(6) regarding Drainage Infrastructure; subsection i(1) delete the original language and replace with new language as i(1) and i(2) Decommissioning plan.

SEVERABILITY: Any provision herein contained which is found by a court of competent jurisdiction to be unlawful or which by operation shall be inapplicable, shall be deemed omitted but the rest and remainder of this ordinance, to the extent feasible, shall remain in full force and effect.

EFFECTIVE DATE: This ordinance shall become effective immediately upon passage and publication as provided by law.

ADOPTED BY THE COMMISSIONERS OF CARROLL COUNTY, INDIANA THIS
_____ DAY OF _____, 2023.

COMMISSIONER, CARROLL COUNTY, INDIANA

COMMISSIONER, CARROLL COUNTY, INDIANA

COMMISSIONER, CARROLL COUNTY, INDIANA

ATTEST:

CLERK-TREASURE

AYE

NAY

Proposed Amendments to Wind & Alternative Energy Ordinance

Adopted November 16, 2009

(For all new installations after the date of adoption of the Amendments.)

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- e.(6) Setbacks. Minimum setback distances for ALL WECS TOWERS.

Minimum setback Required Non-Commercial, Micro, Micro-WECS and Meteorological Towers

Change the minimum setbacks from 1.1 times the total height (where the blade tip is at the highest point), to 1.2 times in all three categories.

Minimum setbacks Required, Commercial

Change the minimum setbacks from 1.1 times the total height (where the Blade tip is at the highest point), to 1.2 times from property lines and road right-of-way. (No change from residential dwellings.)

(Page 3)

Change the minimum setbacks from 1.1 times the total height (where the Blade tip is at the highest point), to 1.2 times for Non-Commercial and Commercial WECS.

(Page 5)

- f (9) Lighting.

Add new subsection

(c) Light Mitigation. Except as allowed by I.C. 36-7-4-1109, and to the extent permissible under federal law or regulations, a wind power device on property in a unit must be equipped with a wind turbine light mitigation technology, (defined as any technology used in connection with a wind power device to shield, limit, or otherwise mitigate, the amount, intensity, character, or visibility of light emitted from the wind power device) unless:

- (i) the Federal Aviation Administration denies the project owner's application to use a wind turbine mitigation technology;*
- (ii) the wind turbine mitigation technology application is pending review by the appropriate federal agencies; or*
- (iii) the project owner determines that the use of a wind turbine light mitigation technology is economically feasible.*

- g (3) Noise and vibration.

Change the maximum noise level of Non-Commercial WECS from no more than sixty (60) decibels to no more than fifty (50) decibels measured from the nearest residence.

- g(5) Signage.

Change the first sentence as follows: All signs pertaining to a WECS Project must comply with the following Sign Standards.

(Page 6) add g(6) *Drainage Infrastructure.* *Except as otherwise allowed by I.C. 36-7-4-1109, all damages to waterways, drainage ditches, field tiles, or other drainage related infrastructure caused by the construction, installation, or maintenance of a wind power device must be completely repaired by the project owner or remedied with the installation of new drainage infrastructure so as not to impede the natural flow of water. All repairs must be completed within a reasonable period of time and:*

- (i) to the satisfaction of the unit; and*
- (ii) as stated in an applicable lease or another agreement with the land owner;*

Subject to applicable federal, state, and local drainage laws and regulations.

i. **Decommissioning Plan.**

Delete all language of section (1) and replace as follows:

- (1) *Except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a wind power device in a unit unless the project owner submits to the permit authority a decommissioning and site restoration plan, and posts a surety bond, or equivalent means of security acceptable to the permit authority, including a parent company guarantee or an irrevocable letter of credit, but excluding cash, in an amount equal to the estimated cost of decommissioning the wind power device, as calculated by a third party licensed or registered engineer, or other person with suitable experience in the decommissioning of wind power devices, as agreed upon by the project owner and the permit authority. The required bond or other security shall be posted in increments such that the total amount of the bond or security posted is as follows:*
- (i) An amount equal to twenty-five percent (25%) of the total estimated decommissioning costs no later than the start date of the wind power device's full commercial operation. For purposes of this subdivision, the total estimated decommissioning costs shall be reevaluated by a third party licensed or registered engineer (or by another person with suitable experience in the decommissioning of wind power devices, as agreed upon by the project owner and the permit authority) in connection with the:*
 - (A) fifth anniversary; and*
 - (B) tenth anniversary;*
- of the start date of the wind power device's full commercial operation, and the total amount of the bond or security posted under this subdivision shall be adjusted as necessary after such evaluation.*

(ii) An amount equal to fifty percent (50%) of the total estimated decommissioning costs not later than the fifteenth anniversary of the start date of the wind power device's full commercial operation. For purposes of this subdivision, the total estimated decommissioning costs shall be reevaluated by a third party licensed or registered engineer (or by another person with suitable experience in the decommissioning of wind power devices, as agreed upon by the project owner and the permit authority) in connection with the fifteenth anniversary of the start date of the wind power device's full commercial operation, and the total amount of the bond or security posted under this subdivision shall be adjusted as necessary after the reevaluation.

(iii) An amount equal to one hundred percent (100%) of the total estimated decommissioning costs no later than the twentieth anniversary of the start date of the wind power device's full commercial operation. For purposes of this subdivision, the total estimated decommissioning costs shall be reevaluated by a third party licensed or registered engineer (or by another person with suitable experience in the decommissioning of wind power devices, as agreed upon by the project owner and the permit authority):

*(A) in connection with the twentieth anniversary of the start date of the wind power device's full commercial operation;
and*

(B) at least once every succeeding five (5) year period after the twentieth anniversary of the start date of the wind power device's full commercial operation;

and the total amount of the bond or security posted under this subdivision shall be adjusted as necessary after each reevaluation.

- (2) For purposes of this section, the estimated cost of decommissioning a wind power device, as calculated by a licensed or registered professional engineer (or by another person with suitable experience in the decommissioning of wind power devices, as agreed upon by the project owner and the permit authority) shall be net if any estimated salvage value attributable to the wind power device at the time of decommissioning, unless the unit and the project owner agree to include any such value in the estimated cost.*