

**Exhibit “A”**

**MIAMI COUNTY, INDIANA  
WIND ENERGY CONVERSION SYSTEMS  
SITING ORDINANCE**

**2-16 PURPOSE AND INTENT**

**2-16.1 Purpose**

The purposes of this Ordinance are to:

- A. Assure that any development and production of wind-generated electricity in Miami County is safe and effective;
- B. Facilitate economic opportunities for local residents; and
- C. Promote the supply of wind energy in support of Indiana's alternative energy sources potential and other such economic development tools.

**2-16.2 Intent**

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

**2-16-1 APPLICABILITY**

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

**2-16-2 PROHIBITION**

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

**2-16-3 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 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 ordinances 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.

**2-16-4 COUNTY REGULATIONS**

**2-16-4.1 Location**

Commercial, non-commercial, and Micro WECS will be permitted, or not permitted within the County as prescribed by the Miami County Zoning Ordinance Table of Uses. However, generally Commercial, non commercial, and Micro WECS are permitted within the following zoning classifications. Please refer to the Table of Uses for further information.

(a) Commercial WECS

Permitted in A-1, A-2, and A-3

Special Exception required for B-1, B-2, B-3, and 1-1

Prohibited in all other areas

(b) 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 1-2

Prohibited in all other areas

(c) Non-commercial WECS (greater than 200 ft in height)

Special exception required for A-1, A-2, A-3, B-1, B-2, B-3,1-1,1-2

Prohibited in all other areas

(d) Micro WECS

Permitted in A-1, A-2, A-3,1-1,1-2

Special Exception required for B-2, B-3

(e) Meteorological Tower

Permitted in A-1, A-2, A-3

Special Exception required for B-2, B-3,1-1,1-2

**2-16-4.2 Height**

A. 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.

B. 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.

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

**2-16-5 SET BACK REQUIREMENTS**

**2-16-5.1 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 WECS Tower to the property line	The length of one blade of the WECS Tower being placed on such property  (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 (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.
Residential dwellings, measured from the center of the WECS Tower to the nearest corner of the structure	One thousand (1,000) feet
Public road right-of-way, measured from the center 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 three hundred and fifty (350) feet
Other rights-of-way, such as railroads and public utility easements, measured from the center 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 three hundred and fifty (350) feet
Public conservation lands, measured from the center 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 US Army Corps of Engineers, measured from the center of the WECS Tower to the nearest point of the wetland in question	As determined by a permit obtained from the Army Corps of Engineers
All Rivers and Reservoirs measured from the center of the WECS Tower to the shoreline	One-half mile
Incorporated limits of a municipality or platted community measured from the center of the WECS Tower to the corporate limits	Fifteen hundred (1,500) feet
Above-ground electric transmission line, measured from the center of the WECS Tower	1.1 times the total height (where the blade tip is at its highest point)

<sup>1</sup>The setback for residential dwellings shall be reciprocal in that no residential dwelling shall be constructed within one thousand (1,000) feet of a COMMERCIAL WECS TOWER, MEASURED FROM THE CENTER OF THE WECS tower to the nearest corner of the structure.

<sup>2</sup>The setback shall be measured from future public rights-of-way width if a planned public road improvement or expansion is known at the time of application.

**2-16-5.2 Commercial WECS Power Collection and Transmission System**

**A. WECS Substation**

For all substations, setbacks from property lines are waived if the affected adjoining landowners, sharing the common property line are all Participating Landowners.

**B. 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.

**2-16-5.3 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 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
Residential dwellings, 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 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 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 WECS Tower to the nearest point of public conservation land in question	Seven hundred and fifty (750) feet
Wetlands, as defined by the US Army Corps of Engineers, measured from the center of the WECS Tower to the nearest point of the wetland in question	As determined by a permit obtained from the Army Corps of Engineers
All Rivers and Reservoirs measured from the center of the WECS Tower to the shoreline	One-half mile
Above-ground electric transmission line, measured from the center of the WECS Tower	1.1 times the total height (where the blade tip is at its highest point)

<sup>3</sup> The setback shall be measured from future public rights-of-way width if a planned public road improvement or expansion is known at the time of application.

**2-16-5.4 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 of public right-of-way easement for any above ground telephone, electric transmission or distribution lines.

**2-16-5.5 Minimum setback distances for all Meteorological Towers**

<u>Distance from a...</u>	<u>Minimum Setback Distance</u>
Property line, measured from the center 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
Residential dwellings, measured from the center 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 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 <sup>4</sup>
Other rights-of-way, such as railroads and public utility easements, measured from the center 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

<sup>4</sup> The setback shall be measured from future public rights-of-way width if a planned public road improvement or expansion is known at the time of application.

**2-16-5.6 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 of public right-of-way easement for any above ground telephone, electric transmission or distribution lines.

**2-16-6 SAFETY DESIGN AND INSTALLATION STANDARDS**

**2-16-6.1 Equipment Type**

- A. Turbines - All turbines shall be constructed of commercially available equipment.
- B. Meteorological Towers - All Meteorological Towers may be guyed
- C. Experimental, or prototype equipment - Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the Board of Zoning Appeals per the variance process established by the zoning ordinance.

**2-16-6.2 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, Germanischer Lloyd Energie, or an equivalent third party.

**2-16-6.3 Controls and Brakes**

- A. Braking System - All WECS Towers shall 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.
- B. Operation mode - All mechanical brakes shall be operated in a fail-safe mode.

**2-16-6.4 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 Tower shall be located underground whenever possible.
- C. 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.

**2-16-6.5 Color and finish**

In addition to all applicable Federal Aviation Administration requirements, the following shall also apply;

- A. Wind turbines and towers - All wind turbines and towers that are part of a 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.

**2-16-6.6 Warnings**

- A. Commercial WECS - The following notices shall be posted for all Commercial WECS:
  1. A sign or signs shall be posted on the pad-mounted transformer and the substation(s) warning of high voltage.
  2. Private roads providing access to Commercial WECS shall have posted an Emergency 911 address road sign
  3. A sign shall be posted on the WECS tower listing an emergency telephone number
- B. Guy wires and anchor points - For all guyed towers, one of the following warning mechanisms shall be used for each anchor point:
  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.
  2. Visible Fencing - Visible fencing not less than four (4) feet in height installed around anchor points of guy wires.

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

1. "No Trespassing" signs shall be attached to any perimeter fence
2. "Danger" signs shall be posted at the height of five (5) feet on WECS Towers and accessory structures
3. A sign shall be posted on the WECS Tower showing an emergency telephone number.
4. The manual electrical and/or over speed shutdown disconnect switch(es) shall be clearly labeled.

D. Meteorological Towers - Consideration shall be given to paint aviation warnings as required by the Federal Aviation Administration on Meteorological Towers.

#### **2-16-6.7 Climb Prevention**

All Commercial WECS Tower designs shall include features to deter climbing or be protected by anti-climbing devices such as;

- A. Fences with locking portals at least six (6) feet in height; or
- B. Anti-climbing devices fifteen (15) feet vertically from the base of the WECS Tower; or
- C. Locked WECS Tower doors.

#### **2-16-6.8 Blade Clearance**

The minimum distance between the ground and any protruding blade(s) utilized on all Commercial WECS Towers shall be twenty-five (25) feet 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 (15) feet, as measured at the lowest point of the arc of the blades provided the rotor blade does not exceed 20 feet 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.

#### **2-16-6.9 Lighting**

- A. 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.
- B. 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.

#### **2-16-6.10 Materials handling, storage, and disposal**

- A. Solid wastes - All solid wastes whether generated from supplies, equipment, parts, packaging, operation, or maintenance of the WECS, including old parts and equipment related to the construction, operation and/or maintenance of the 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.

**2-16-7 OTHER APPLICABLE STANDARDS****2-16-7.1 Guyed wire anchors**

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

**2-16-7.2 Sewer and water**

All facilities or structures that are part of the WECS Project shall comply with the existing septic and well ordinances as required by the Miami County Health Department and/or the State of Indiana Department of Public Health.

**2-16-7.3 Noise and Vibration**

The noise level of Non-commercial WECS shall be no greater than sixty (60) decibels measured from the nearest residence. 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.

**2-16-7.4 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.

**2-16-7.5 Signage**

All signs pertaining to a WECS Project must comply with existing Miami County Zoning requirements with the following stipulations;

- A. Surface area - No sign shall exceed sixteen (16) square feet in surface area
- B. Height - No sign shall exceed eight (8) feet in height
- C. 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.
- D. 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.
- E. 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.

**2-16-7.6 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.

**2-16-7.7 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 Board of Zoning Appeals.

**2-16-8 OPERATION AND MAINTENANCE****2-16-8.1 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 Building Inspector and Plan Staff to determine whether the physical modification requires re-certification.

**2-16-8.2 Interference**

Prior to construction, a communications study to minimize interference with public or public serving microwave transmissions shall be completed. If necessary, the applicant, owner and/or operator shall 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 comply with the following;

- A. Pre-construction - The applicant shall complete a communications study prior to construction so as to minimize interference with any public or private serving utility microwave transmissions.
- B. Post-construction - If, after construction of the WECS, the owner 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.
- C. Failure to remedy a complaint - 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. This does not apply to interference with private telecommunications systems.

**2-16-8.3 Maintenance Records**

At least annually, the operator of a Commercial WECS will provide to the Miami County Building Inspector 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 Building Inspector not receive such annual certification, the Building Inspector will send a notice to the WECS operator requesting the certification letter within thirty (30) days. If after the thirty (30) days, the Building Inspector has not received the required maintenance certification, then the Building Inspector may hire, at the WECS Operator's expense, a qualified inspector to perform an inspection of the WECS System.

**2-16-8.4 Declaration of public nuisance**

Any WECS thereof declared to be unsafe by the Miami County Building Inspector 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.

**2-16-9 DECOMMISSIONING PLAN**

Prior to receiving an Improvement Location Permit and Building Permit, 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.

**2-16-9.1 Content**

A decommissioning plan shall include, at a minimum, language to the following:

- A. Assurance - Written assurance that the WECS will be properly decommissioned upon the project life or in the event that the WECS Project is abandoned.
- B. Cost estimates - The applicant shall provide a contractor cost estimate for demolition and removal of the WECS. The cost estimate shall be made 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.
- C. Financial Assistance - 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 or 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.
- D. Abandonment by the owner or operator - In the event of abandonment by the owner or operator, the applicant will provide an affidavit to Miami County representing that all easements and/or leases for WECS Towers shall contain terms that provide financial assurances, including access to the salvage value of the equipment, for the property owners to ensure that the WECS Towers are properly decommissioned within one (1) year of expiration or earlier termination of the WECS Project.

**2-16-9.2 Discontinuation and abandonment**

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 Miami County Building Inspection Department outlining the steps and schedule for returning the WECS to service.

**2-16-9.3 Removal**

An applicant's obligations shall include removal of all physical material pertaining to the project improvements to no less than a depth of four (4) feet below ground level within (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 or by Miami County at the owner's expense.

**2-16-9.4 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 (60) days, for the good faith negotiations to resolve the alleged default(s).

**2-16-9.5 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 approval, the permittee or grantor 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.

**2-16-10 LIABILITY INSURANCE**

The owner or operator of any WECS shall maintain a current general liability policy covering bodily injury and property damage and 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 copy of the policy and renewals will be provided to the County.

**2-16-11 APPLICATION PROCEDURES**

Permits and variances shall be applied for and reviewed under the procedures established by this Ordinance and shall include the following information:

**2-16-11.1 Applications for All Wind Energy Conversion Systems**

An application for all WECS shall include the following information:

- A. Contact information of project applicant - The name(s), address(es), and phone number(s) of the applicant(s), as well as the description of the applicant's business structure and overall role in the proposed project.
- B. Contact information of the current project owner - The name(s), address(es), and phone number(s) of the owner(s), as well as the description of the owner's business structure and overall role in the proposed project, and including documentation of land ownership or legal control of the property on which the WECS is proposed to be located. The Plan Staff shall be informed of any changes in ownership.
- C. Contact information of the project operator - The name(s), address(es), and phone number(s) of the operator(s), as well as the description of the operator's business structure and overall role in the proposed project.
- D. Legal Description - The legal description, address, and general location of the project.
- E. Project Description - A WECS Project Description, including to the extent possible, information on each turbine proposed, including:
  - 1. Number of turbines;
  - 2. Type;
  - 3. Name plate generating capacity;

4. Tower height
  5. Rotor diameter
  6. Total height
  7. Anchor base
  8. The means of interconnecting with the electrical grid
  9. The potential equipment manufacturer(s) and
  10. All related accessory structures.
- F. A 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.
- G. Engineering certification - For all WECS, the manufacturer's engineer or another qualified registered professional engineer shall certify, as part of the building permit application, that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions. 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.
- H. 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.
- I. Any other item reasonably requested by the Plan Commission Staff.

#### **2-16-11.2 Applications for Non- Commercial Wind Energy Conversion Systems**

In addition to the application requirements listed in 1.11.1, Applications for All Wind Energy Conversion Systems, applications for Non- commercial WECS shall also include the following information:

- A. 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. The applicant(s) shall demonstrate how much energy is needed and how the proposed size and number of the WECS Towers fulfills this need. Net-metering may be allowed, but shall not be the primary intent of the WECS.
- B. 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.
- C. 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.

D. 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.

### **2-16-11.3 Applications for Commercial Wind Energy Conversion Systems**

In addition to the application requirements listed in 2-16-11.1, Applications for All Wind Energy Conversion Systems, applications for Commercial WECS shall also include the following information:

A. A preliminary site layout plan - In place of the site layout plan described in 2-16-11.1(F), Applicants for All Wind Energy Conversion Systems, an application for a Commercial WECS shall include a preliminary site layout plan with distances drawn to an appropriate scale illustrating the following:

1. Property lines, including identification of adjoining properties;
2. The latitude and longitude of each individual WECS Tower, along with individual identification of each WECS Tower;
3. Dimensional representation of the structural components of the WECS Tower construction including the base and footings;
4. WECS access roads;
5. Substations;
6. Electrical Cabling;
7. Ancillary equipment;
8. Primary structures within one quarter(1/4) mile of all proposed WECS Towers;
9. Distances from each individual WECS Tower to each setback requirement;
10. Location of all public roads which abut, or traverse the proposed site;
11. The location of all above-ground utility lines within a distance of two (2) times the height of any proposed WECS structure;
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; and
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.

B. 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.

C. Noise profile

D. 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.

E. Copy of the Communications Study

#### **2-16-11.4 Applications for all Meteorological Towers**

Applications for all Meteorological Towers shall include the following information:

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

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

1. Property lines, including identification of adjoining properties;
2. The latitude and longitude of each individual all Meteorological Tower;
3. Dimensional representation of the structural components of the tower construction, including base and footings;
4. 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 Electrical cabling;
5. Ancillary equipment;
6. Required setback lines;
7. Location of all public roads which abut or traverse the proposed site;
8. The location of all above-ground utility lines within a distance of 2 times the height of any proposed tower
9. The location of all underground utility lines; and
10. Any other items reasonably requested by the Plan Commission Department.

C. Variance approval if any Non-commercial all Meteorological Tower is greater than 200 feet in height

#### **2-16-11.5 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.

#### **2-16-11.6 Fees**

A. Commercial WECS Towers, Non-commercial WECS Towers, Micro WECS Towers, Meteorological Towers, and any accessory buildings, As prescribed by the County's Official Schedule of Fees.

- B. Aggregated WECS Projects - Applications will be assessed a fee for each construction phase within a single project, as prescribed by the County's Official Fee Schedule.

#### **2-16-11.7 Permits**

A. Commercial WECS Towers, Non-commercial WECS Towers, Micro WECS Towers, Meteorological Towers, and any accessory buildings

1. All application requirements as stated in Chapter 2-16-11 APPLICATION PROCEDURES, shall be completed before any Improvement Location Permit or Building Permit is issued.
2. A copy of all Memorandum of Agreements signed by Participating Landowners authorizing the placement of identified WEC Towers on landowners property and/or adjoining properties.
3. A fully executed setback waiver agreement, if applicable, signed by Non-participating Landowners for adjoining properties.

B. Aggregated WECS Projects - For aggregated projects, Improvement Location Permits and Building Permits will be issued individually for each WECS Tower or Meteorological Tower.

#### **2-16-12 PRE-CONSTRUCTION REQUIREMENTS**

Prior to the issuance of any Improvement Location Permit, the following shall be submitted to and reviewed by the Planning Staff, who shall certify that the following are in compliance with all applicable ordinances.

##### **2-16-12.1 FAA permit application**

A Federal Aviation Administration permit application

##### **2-16-12.2 Decommissioning Plan**

A decommissioning plan as prescribed in 2-16-9 of this ordinance

##### **2-16-12.3 Economic Development, Drainage, and Road Use and Maintenance Agreements**

An Economic Development Agreement, a Drainage Agreement, and a Road Use and Maintenance Agreement approved by the County Commissioners. The Economic Development Agreement shall be developed in conjunction with the Miami County Economic Development Authority office and copies provided to the Plan Staff. These agreements must be signed before any Building Permit is issued. The Drainage Agreement must prescribe or reference provisions to address crop and field tile damages caused during construction and up to negotiated period after construction.

##### **2-16-12.4 Erosion control plan**

An erosion control plan developed in consultation with the Natural Resources Conservation Services (NRCS, and any storm water quality management plan required.

##### **2-16-12.5 Utility plan**

A utility plan drawn to the same scale as the site layout plan illustrating the location of all Location of all underground utility lines associated with the total WECS Project.

**2-16-12.6 Avoidance and mitigation of damages to public infrastructure**

In addition to complying with the approved 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 a Commercial WECS Project and/or equipment for construction, operation or maintenance of a Commercial WECS Project, shall comply with the following pre-construction requirements.

- A. 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.
- B. 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 facility.

**2-16-13 CONSTRUCTION REQUIREMENTS**

During construction, the applicant shall demonstrate that the following requirements are being met:

**2-16-13.1 Dust Control**

Reasonable dust control measures shall be required by the County during construction of a Commercial WECS Project.

**2-16-13.2 Drainage**

Reasonable storm water best management practices as required by the approved Drainage Plan/Agreement on file with the Miami County Surveyor.

**2-16-14 POST-CONSTRUCTION REQUIREMENTS**

Post-construction, the applicant shall comply with the following provisions:

**2-16-14.1 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. The Miami County Highway Superintendent may choose to require either remediation of road repairs 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 a the County Commissioners, Highway Superintendant, and/or a professional engineer may be required by the Miami County Highway Superintendent 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.

**2-16-14.2 As-Built Plans Requirement**

Where upon completion of all development, the exact measurements of the location of utilities and structures erected during the development are necessary for public record and shall therefore be recorded. The applicant, owner, or operator shall submit a copy of the Final Construction Plans (as-built plans), as amended, to the Building Inspector with the exact measurements thereon shown. The Building Inspector, 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, owner, or operator shall then record.

### **2-16-14.3 Change of ownership**

It is the responsibility of the owner or operator listed in the application to inform the Plan Commission Staff of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.

### **2-16-15 DEFINITIONS**

**METEOROLOGICAL TOWER** - Towers which are 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 applications to monitor weather conditions.

**METEOROLOGICAL TOWER, OPERATIONAL SUPPORT** - Towers which are erected primarily to measure wind speed and direction plus other data in support of an operating WECS, excluding towers and equipment used by airports, the Indiana Department of Transportation, or other similar applications to monitor weather conditions.

**NON-PARTICIPATING LANDOWNER** - A person(s) or entity who has NOT entered into any final contractual agreement with a Wind Energy Conversion System (WECS) company, entity or person(s) (i) for the purposes of developing a WECS Project on or near such person(s) or entity's land and/or (ii) to receive certain economic benefits to accrue from the operation of the WECS Project.

**PARTICIPATING LANDOWNER** - A person(s) or entity who owns land and has entered into a fully executed contractual agreement with a Wind Energy Conversion System (WCES) company, entity or person(s) (i) for the purposes of developing a WECS Project on or near such person(s) or entity's land and/or (ii) to receive certain economic benefits to accrue from the operation of the WECS Project.

**SUBSTATION (WECS)** - A structure containing apparatus that connects the below- or above-ground electrical collection lines of the WECS to the electric utility grid, with or without increasing the voltage.

**"WECS' WIND ENERGY CONVERSION SYSTEM** - 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.

**A. 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.

**B. 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.

**C. 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.

**WECS PROJECT** - A collection of multiple WECS (as defined) as specified in the application for an Improvement Location Permit pursuant to Chapter 2-16-11 of this Ordinance.

**WECS TOWER** - The support structure to which the nacelle and rotor are attached, free standing or guyed structure that supports a wind turbine generator.

## MIAMI COUNTY WIND ORDINANCE

### WECS FEE SCHEDULE

WECS Permits\* WEC# \_\_\_\_\_

Commercial WECS Farm application fee of \$20,000.00+\$1750.00 per mega watt.  
Includes Improvement Location Permit

Building permit \$200.00 per tower

Non-Commercial WECS

Improvement location permit -\$300.00 per tower

Building permit - \$100.00 per tower

Micro WECS

Improvement location permit \$100.00

Building permit \$50.00

\*- If Special Exception or Variance is required the fee for Special Exception or Variance is added to the fees listed above.