

ORDINANCE NO. 2024-10D

**AN ORDINANCE AMENDING TITLE 15, CHAPTER 156 OF
THE CODE OF ORDINANCES OF HANCOCK COUNTY, INDIANA
REGARDING WIND ENERGY CONVERSION SYSTEMS (WECS)**

WHEREAS, it is the role of the Hancock County (the “County”) Area Plan Commission (“Plan Commission”) to make recommendations to the Hancock County Board of Commissioners (“Commissioners”) regarding amendments to the Hancock County zoning ordinance; and

WHEREAS, the Commissioners previously adopted Ordinance No. 2010-2D, which amended Chapter 156 of the Code of Ordinances of Hancock County (the “Code”) and established a new section, §156.080, which set guidelines and procedures for siting Commercial, Non-Commercial, Small and Micro scale Wind Energy Systems (WECS) within the County; and

WHEREAS, the Plan Commission, after holding a public hearing on September 24, 2024, has recommended to the Commissioners, that this ordinance be adopted in furtherance of the goals of the County’s comprehensive plan, to, at this time, prohibit Commercial scale WECS and remove references from the Code related to Commercial scale WECS in order for consideration to be given to setting procedures and guidelines for Commercial scale WECS as part of the forthcoming Unified Development Ordinance; and

WHEREAS, the Commissioners believe that the changes recommended by the Plan Commission to the Code are in the best interest of the health, safety, and welfare of the citizens of Hancock County and the efficient management of land uses within said County.

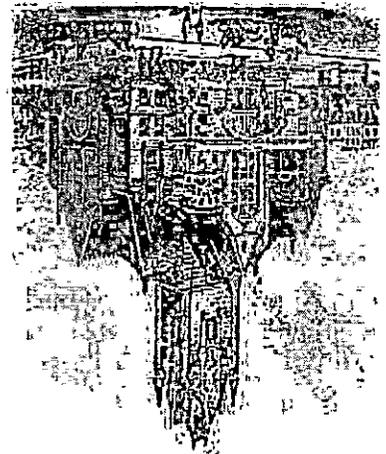
NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Hancock County, Indiana, as follows:

SECTION I

Title 15, Chapter 156, §156.021 (B) shall be amended to reflect the revision to the Land Use Matrix chart, as illustrated below, to delete the line for WECS Commercial.

LAND USE MATRIX															
PRIMARY LAND USE	ZONING DISTRICT														
<i>P = Permitted Use</i>	A	RR	R1.0	R2.5	R3.5	R5.0	RMH	RM	CN	CC	CR	IN	IBP	IL	IG
<i>S = Special Exception Use</i>															
Communications/Utilities Uses															
WECS/Commercial	S												S	S	S

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CERTIFICATION

Hancock County Area Plan Commission

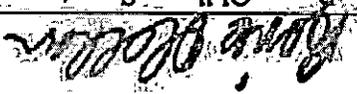
Project Name: Wind Energy Ordinance Amendment – Removing Commercial Scale
Petitioner: Hancock County Area Plan Commission
Certification Date: 24 September 2024

I, Renee Oldham, being the Secretary of the Hancock County Area Plan Commission of Hancock County, Indiana, do hereby certify that the attached zoning ordinance text amendment is a true and accurate record of the meeting of the Plan Commission on September 24, 2024.

- The proposal to amend the wind energy regulations in the zoning ordinance to remove commercial-scale received a favorable recommendation by a vote of eight (8) ayes and zero (0) nays.

The attached ordinance is hereby certified to the Board of Commissioners, Hancock County, Indiana.

HANCOCK COUNTY AREA PLAN COMMISSION
HANCOCK COUNTY, INDIANA


Renee Oldham, Secretary

SECTION II

Subsection (C)(4) of Title 15, Chapter 156, § 156.023 (AGRICULTURAL), shall be amended and restated as follows:

(C)(4) *Communications/utilities uses.*

- (a) Sewage treatment plant.
- (b) Telecommunications facility/tower.
- ~~(e) WECS/Commercial.~~
- (c) SES/Medium-scale.

SECTION III

Subsection (C)(2) of Title 15, Chapter 156, § 156.035 (INDUSTRIAL BUSINESS PARK), shall be amended and restated as follows:

(C)(2) *Communications/utilities uses.*

- (a) Meteorological tower.
- (b) Sewage treatment plant.
- (c) Telecommunications facility/tower.
- ~~(d) WECS/Commercial.~~
- (d) WECS/Non-commercial.
- (e) SES/Medium-scale.

SECTION IV

Subsection (C)(3) of Title 15, Chapter 156, § 156.036 (INDUSTRIAL LIGHT), shall be amended and restated as follows:

(C)(3) *Communications/utilities uses.*

- (a) Sewage treatment plant.
- (b) Telecommunications facility/tower.
- ~~(e) WECS/Commercial.~~
- (c) SES/Medium-scale.

SECTION V

Subsection (C)(3) of Title 15, Chapter 156, § 156.037 (INDUSTRIAL GENERAL), shall be amended and restated as follows:

(C)(3) *Communications/utilities uses.*

- (a) Sewage treatment facility.
- (b) Telecommunications facility/tower.
- ~~(e) WECS/Commercial.~~
- (c) SES/Medium-scale.

SECTION VI

Section 156.080, subsection (B) shall be amended and restated as follows:

(B) *Applicability.* The provisions of this section are applicable to all zoning districts which:

- (1) Allow wind energy conversion systems (WECS); or**
- (2) Allow electricity generation for private use.**

SECTION VII

Section 156.080, subsection (C) shall be amended and restated as follows:

(C) *Prohibition.* No entity or person shall:

(1) construct, operate, or locate a WECS within Hancock County without having fully complied with the provisions of this section; or

(2) construct, operate, or locate a commercial WECS, which is defined as a system, of any height, primarily designed to collect wind energy for distribution and resale to a utility. A commercial WECS is also defined as:

- (a) Two or more non-commercial WECS towers located on the same parcel of ground;**
- (b) Four or more small WECS towers located on the same parcel of ground; or**
- (c) One non-commercial WECS tower and two or more small WECS towers located on the same parcel of ground.**

SECTION VIII

Section 156.080, under subsection (E) *Definitions*, the definition of ***WIND ENERGY CONVERSION SYSTEM (WECS)*** shall be amended and restated as follows, so as to remove the provision for *Commercial WECS*.

WIND ENERGY CONVERSION SYSTEM (WECS). All necessary devices that together convert wind energy into electricity and deliver that electricity to the applicant's property including, but not limited to, the rotor, nacelle, generator, tower, electrical components, foundation, transformer, electrical cabling for the WECS tower to the substations(s), switching stations, meteorological equipment, communications equipment, and all other required facilities and equipment relating to the WECS project.

- (a) **Micro-WECS.** A roof-mounted or wall-mounted system with a nameplate capacity not exceeding ten kilowatts designed to collect wind energy for on-site distribution to a farm, residence, school, or business. These systems shall not exceed ten feet above the highest point of the structure's roof and may not be located on the building's front elevation facing a public street.
- (b) **Non-commercial WECS.** A system primarily designed to collect wind energy for on-site distribution to a farm, school, business, or factory. For purposes of this section, a non-commercial WECS is also defined as not more than three small WECS towers on the same parcel of ground. Non-commercial WECS towers shall not exceed 140 feet or 200 feet in height according to the district regulations of this section.
- (c) **Small WECS.** A freestanding system anchored by a concrete footer or guy wires designed to collect wind energy for on-site distribution to a farm, residence, school, or business. Towers associated with a small-WECS shall not exceed 60 feet in height.

SECTION IX

Section 156.080, subsection (F)(3) shall be amended and restated as follows:

(F)(3) Height. In addition to the provisions of §156.021(B), a special exception use permit shall be required for meteorological towers or non-commercial WECS towers exceeding 140 feet in height in the Residential, Commercial, Institutional, and Industrial Business Park (IBP) zoning districts, or 200 feet in height in the Agricultural, Industrial Light (IL), and Industrial General (IG) zoning districts.

SECTION X

Section 156.080, subsection (G) shall be amended and restated as follows:

(G) Minimum setback requirements. In addition to the provisions of division (F) above, the following setback standards shall apply to all meteorological towers and WECS:

(1) Meteorological towers. The minimum setback distances for meteorological towers shall be as follows:

Distance from a:	Minimum Setback Distance
Property line, measured from the center of the tower to the property line:	1.1 times (1.1 x) the total height, provided that the distance is no less than the required yard setback. This requirement may be waived by the affected adjoining landowners(s) in a recorded agreement to the satisfaction of the Planning Director.
Residential dwelling, measured from the center of the tower to the nearest wall, roofline, or corner of the structure:	1.1 times (1.1 x) the total height.
Road right-of-way, measured from the center of the tower to the edge of the designated right-of-way:	1.1 times (1.1 x) the total height, provided that the distance is no less than the required yard setback.
Other easements, such as railroads and utility easements, measured from the center of the tower to the edge of the right-of-way:	1.1 times (1.1 x) the total height, provided that the distance is no less than the required yard setback.

(2) *Micro, non-commercial, and small WECS.* The minimum setback distances for micro-WECS, non-commercial WECS, and small WECS shall be as follows:

Distance from a:	Minimum Setback Distance
Property line, measured from the center of the WECS to the property line:	1.1 times (1.1 x) the total height, provided that the distance is no less than the required yard setback prescribed for that zoning district.
Residential dwelling, measured from the center of the WECS to the nearest wall, roofline, or corner of the structure:	1.1 times (1.1 x) the total height.
Road right-of-way, measured from the center of the WECS to the edge of the designated right-of-way:	1.1 times (1.1 x) the total height, provided that the distance is no less than the required yard setback prescribed for that zoning district.
Other easements, such as railroads and utility easements, measured from the center of the WECS to the edge of the right-of-way:	1.1 times (1.1 x) the total height, provided that the distance is no less than the required yard setback prescribed for that zoning district.
Public conservation land, measured from the center of the WECS to the nearest point of the public conservation land in question:	Seven hundred fifty feet (750').

Wetland, as defined by the U.S. Army Corps of Engineers, measured from the center of the WECS to the nearest point of the wetland in question:	As determined in writing from the Army Corps of Engineers.
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(3) Residential reciprocity. The setback for a residential dwelling shall be reciprocal in that no residential dwelling shall be constructed within 1.1 times (1.1 x) the height of a meteorological tower; or 1.1 times (1.1 x) the height of a micro or small WECS. No variance from these development standards may be granted in conflict with the rules established by the Federal Housing Administration.

(4) Road right-of-way setback. The setback for road rights-of-way shall be measured from the designated right-of-way line pursuant to the adopted Comprehensive Plan and/or Thoroughfare Plan of Hancock County.

SECTION XI

Section 156.080, subsection (H)(7) shall be amended and restated as follows:

(H)(7) Blade clearance. The minimum distance between the ground and any protruding blades(s) utilized on all WECS shall be a minimum of 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.

SECTION XII

Section 156.080, subsection (J) shall be amended as follows:

Delete subsection (J)(4) titled, *Development signs*;

Delete subsection (J)(6) titled, *Warning and contact information*, and renumber accordingly.

SECTION XIII

Section 156.080, subsection (K)(2) shall be amended and restated as follows:

(K)(2) Noise and vibration. The noise level of micro-WECS, non-commercial WECS or small WECS shall not exceed 55 decibels (A-weighted) and shall not exceed 50 decibels (C-weighted) if it is determined that a pure tone noise is generated by the project. This level may only be exceeded during short term events, such as utility outages, and/or severe wind storms. In the event of a written complaint received by the Planning Director, the owner/operator shall be responsible for contracting with a licensed or certified noise analyst to verify compliance with the standard. If an agreement to remedy the complaint is not

reached within 90 days, appropriate action will be taken by the Planning Director and/or Board of Zoning Appeals, which may result in requiring the WECS to become decommissioned and taken out of service.

SECTION XIV

Section 156.080, subsection (K)(3)(b) shall be amended and restated as follows:

(K)(3)(b) *Post-construction.* If after construction of the WECS, the Planning Director, owner, or operator receives a written complaint related to interference with the broadcast of residential television, telecommunications, communication or microwave transmissions, the owner or operator shall eliminate said interference. Interference with the private telecommunications systems such as GPS shall be between the company and the complainant.

SECTION XV

Section 156.080, subsection (L)(3) shall be amended and restated as follows:

(L)(3) *Financial assurance for non-commercial WECS.* Financial assurance in an amount not less than the aforementioned cost estimate in the form of a bond, irrevocable letter of credit acceptable to the Hancock County Board of Commissioners, or other security acceptable to Hancock County. The security shall be released when the WECS has been decommissioned according to the decommissioning plan as determined by the Planning Director.

SECTION XVI

Section 156.080, subsection (O) shall be amended as follows:

Delete subsection (O)(3), titled *Commercial WECS*; and delete subsection (O)(3)(a) titled, *Preliminary site layout plan*. Renumber subsection (O) accordingly.

SECTION XVII

Section 156.080, subsection (P) shall be amended as follows:

Delete subsection (P)(5) titled, *Final site layout plan*;

Delete subsection (P)(6) titled, *Avoidance and mitigation of damages to public infrastructure*; delete subsection (P)(6)(a) titled, *Identification of roads and services*; and delete subsection (P)(6)(b) titled, *Pre-construction survey*.

SECTION XVIII

Section 156.080, subsection (Q) shall be amended as follows:

Delete subsection (Q)(1) titled, *Dust control*. Renumber subsection (Q) accordingly.

SECTION XIX

Section 156.080, subsection (S) shall be amended and restated as follows:

(S) Summary of submittal requirements for WECS applications.

APPENDIX: SUMMARY OF SUBMITTAL REQUIREMENTS FOR WECS APPLICATIONS	WECS/Micro and Small	WECS/Non-Commercial
Applications for Special Exceptions and ILPS		
Contact information/applicant	●	●
Contact information/project owner	●	●
Contact information/project operator	●	●
Legal description	●	●
Project description	●	●
Site layout plan	●	●
Engineering certification	Small, only	●
Proof wildlife agencies	Small, only	●
Plan release fire/building safety	Small, only	●
Demonstration of need		●
FAA compliance		●
Utility notification	If connected to utility	●
National Electrical Code	●	●
Pre-Construction ILP Requirements In Addition to Above		
Decommissioning plan	Small, only	●
Drainage, road and maintenance agreements		●
Erosion control plan	Small, only	●
Utility plan	●	●
Construction Requirements		
Drainage BMPS	Small, only	●
Post-Construction Occupancy Permit		
Road repairs and bonds	Small, only	●
As-built plans	Small, only	●
Occupancy permit	Small, only	●

SECTION XX

This Ordinance shall be in full force and effect from and after its passage and publication as prescribed by law.

Adopted this 15th day of October, 2024.

BOARD OF COMMISSIONERS OF HANCOCK COUNTY, INDIANA

absent
John Jessup

Gary McDaniel
Gary McDaniel

Bill Spalding
Bill Spalding

Attest:

Debra A. Carnes
Debra Carnes, Hancock County Auditor

This instrument was prepared by Rhonda Cook, BRAND & MORELOCK, 6 West South Street, Greenfield, IN 46140.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Rhonda Cook.