

ORDINANCE 2019-03
AN ORDINANCE AMENDING THE
CASS COUNTY ZONING ORDINANCE
WIND ENERGY CONVERSION SYSTEM REGULATIONS

WHEREAS, the General Assembly of the State of Indiana granted powers to the counties to adopt zoning ordinances for their jurisdiction according to IC 36-7-4-600 series; and

WHEREAS, the County of Cass County, Indiana adopted the Cass County Zoning Ordinance which became effective on October 3, 1986, and has had subsequent amendments as listed on the title page of the Cass County Zoning Ordinance; and

WHEREAS, The General Assembly of the State of Indiana granted powers to counties to amend the text of an adopted zoning ordinance according to IC 36-7-4-602 (b), and Section 906 of the Cass County Zoning Ordinance allows for the amendment of said Ordinance; and

WHEREAS, the Cass County Plan Commission held a public hearing on Tuesday March 5, 2019, on the proposed textual amendments to the Cass County Zoning Ordinance regarding the Wind Energy Conversion System Regulations in Article 5, Development Standards and all related sections; and

WHEREAS, The Cass County Plan Commission did send a favorable recommendation for the text amendments to the Cass County Board of Commissioners; and

WHEREAS, The Cass County Board of Commissioners considered the amendments to the Wind Energy Conversion System Regulation on April 1, 2019 and returned them to the Cass County Plan Commission with further changes; and

WHEREAS, The Cass County Plan Commission did consider the changes to the amendments on May 7, 2019 and with an unanimous vote in favor of the amendment changes which by IC 36-7-4-600 states that the ordinance is now adopted; and

WHEREAS, the Cass County Board of Commissioners believes there is merit in amending the Ordinance, in order to promote the public health, safety, comfort, morals, convenience and general welfare of the community; now therefore, be it

ORDAINED by the Cass County Board of Commissioners of Cass County, Indiana, as follows:

SECTION 1: That the Cass County Zoning Ordinance be amended according to the amendments, as follows:

Zoning Ordinance:
523 Wind Energy Conversion Systems

Proposed Language Change:

Table A:	AG	RR	R1	B1	B4	AB	I1	I2	CG	Buffer Class	Parking Class
17. Commercial WECS	P	X	X	X	X	X	X	X	X	B	C

523 WIND ENERGY CONVERSION SYSTEM FARM STANDARDS: PURPOSE AND INTENT

The purposes of this Section is to assure that any development and production of wind-generated electricity in Cass County is safe and effective, facilitate economic opportunities for local residents, and promote the supply of wind energy in support of Indiana’s alternative energy sources potential and other such economic development tools. It is the intent of the Wind Energy Conversion Systems (WECS) siting regulations to provide a regulatory scheme for the construction and operation of WECS in the county; subject to reasonable restrictions these regulations are intended to preserve the health and safety of the public.

523.01 APPLICABILITY

The provisions of this Section are applicable to those districts which allow wind energy conversion systems (WECS), 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 application 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 any WECS and/or WECS Project.

523.02 PROHIBITION

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

523.03 CONFLICT WITH OTHER REGULATIONS

Nothing in this Section is intended to preempt other applicable state and federal laws or regulations, 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, repeal, or annul any other ordinance, rule, or regulation, statute or other provision of law. In the event that any provision of these regulations imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provisions that are more restrictive or that imposes higher standards shall govern.

523.04 REGULATIONS

A. Location

Commercial, Non-commercial, and Micro WECS will be permitted, or not permitted, in various districts as stated in Table A: District Use Standards.

B. Height

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.
2. Commercial WECS or Operational Support Meteorological Towers: For Commercial WECS Towers and Operational Support Meteorological Towers the height shall not exceed six hundred (600) feet measured to the tip of the blade, if height limitations imposed by Federal Aviation Administration rules and regulations or the Department of Defense are stricter than this ordinance those rule and regulations apply.
3. Micro WECS Tower shall be under sixty (60) feet in height.

C. Setback Requirements

1. Minimum setback distances for COMMERCIAL WECS TOWERS

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the WECS Tower to the property line	2.5 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 one thousand five hundred (1,500) feet. ² (i) 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 Landowner. ³
Residential dwellings, measured from the center of the WECS Tower to the nearest corner of the structure	2.5 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 one thousand five hundred (1,500) feet. ^{1,3}
Public road right-of-way, measured from the center of the WECS Tower to the edge of the right-of-way	1.5 times the total height of the WECS Tower, (where the blade tip is at its highest point) provided the distance is no less than nine hundred (900) feet. ²
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	1.5 times the total height of the WECS Tower (where the blade tip is at its highest point).

State and Federally owned public conservation lands measured from the center of the WECS Tower to the nearest point of the public conservation land in question	2.5 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 One thousand five hundred (1,500) feet.
Wetlands, as defined by the U.S. 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
Wabash or Eel River measured from the center of the WECS Tower to the shoreline	One-half (1/2) mile
Incorporated limits of a municipality, measured from the center of the WECS Tower to the corporate limits	One-half (1/2) mile
Above-ground electric transmission line, measured from the center of the WECS Tower	1.5 times the total height (where the blade tip is at its highest point)

1. The setback for residential dwellings shall be no less than 1.5 times the total height of the WECS tower provided that the distance is no less than 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.
2. 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.
3. If future residential dwellings or buildable land splits occur near a WECS Tower they shall keep the 2.5 times the total height of the WECS or no less than 1,500 feet setback or a Memorandum of Understanding (MOU) must be signed, notarized and recorded with the Deed.

a. Commercial WECS Power Collection and Transmission System

1. 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.
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.

2. Minimum setback distances for NON-COMMERCIAL and MICRO WECS TOWERS

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the WECS Tower to the property line	1.5 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 for that district
Residential dwellings, measured from the center of the WECS Tower to the nearest corner of the structure	1.5 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	1.5 times the total height of the WECS Tower (where the blade tip is at its highest point), provided that the distance is no less the required yard setback prescribed for that district ⁴
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	1.5 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 for that district
Public conservation lands, measured from the center of the WECS Tower to the nearest point of the 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 WECS Tower to the nearest point of the wetland in question	As determined by a permit obtained from the Army Corps of Engineers
Wabash or Eel River measured from the center of the WECS Tower to the shoreline	One half (1/2) of a mile
Above-ground electric transmission lines, measured from the center of the WECS Tower	1.5 times the total height of the WECS Tower (where the blade tip is at its highest point)

⁴The 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.

- a. Horizontal extension for Non-commercial and Micro WECS
The furthest horizontal extension (including guy wires) shall not extend into a required setback by the zoning district 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.

3. Minimum setback distances for all Meteorological Towers

Distance from a...	Minimum Setback Distance
Property line, measured from the center of the Meteorological Tower to the property line	1.5 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback (i) 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 Landowner.

Residential dwellings, measured from the center of the Meteorological Tower to the nearest corner of the structure	1.5 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	1.5 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback ⁵
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	1.5 times the total height of the Meteorological Tower, provided that the distance is no less than the required yard setback

⁵The 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.

a. Horizontal extension for all Meteorological Towers

The furthest horizontal extension (including guy wires) shall not extend into a required setback by the zoning district 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.

523.05 SAFETY DESIGN AND INSTALLATION STANDARDS

A. Equipment type

1. Turbines: all turbines shall be constructed of commercially available equipment.
2. Meteorological Towers: all Meteorological Towers may be guyed.
3. Experimental, or proto-type 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 this Ordinance.

B. Industry standards and other regulations

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

C. Controls and brakes

1. Braking system: all WECS Towers shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Stall regulation shall not be considered a sufficient braking system for over speed protection.
2. Operation mode: all mechanical brakes shall be operated in a fail-safe mode.

D. Electrical components

1. Standards: all electrical components of all WECS shall conform to applicable local, state and national codes, and any relevant national standards. Cables or lines in fields shall be

buried and trenched. Trenching depth shall be determined in the Road Use and Drainage agreements.

2. Collection cables: all electrical collection cables between each WECS Tower shall be located underground wherever possible.
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.

E. Color and finish

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

1. Wind turbines and towers: all wind turbines and towers that are part of a WECS shall be white, grey, or another non-obtrusive color.
2. Blades: all blades shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing.
3. Finishes: finishes shall be matte or non-reflective.
4. Exceptions: exception may be made for all Meteorological Towers, where concerns exist relative to aerial spray applicators.

F. Warnings

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

- a. "No Trespassing" signs shall be attached to any perimeter fence.
 - b. "Danger" signs shall be posted at the height of five (5) feet on WECS Towers and accessory structures.
 - c. A sign shall be posted on the WECS Tower showing an emergency telephone number.
 - d. The manual electrical and/or over speed shutdown disconnect switch(es) shall be clearly labeled.
4. Consideration shall be given to paint aviation warnings as required by the Federal Aviation Administration on all Meteorological Towers.

G. Climb prevention

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

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

H. Blade clearance

The minimum distance between the ground and any protruding blades(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.

I. Lighting

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

J. Materials handling, storage and disposal

1. 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.

2. 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.

K. Anti-Icing Technology

A Utility-grade wind turbine system shall utilize best industry accepted standards for protecting against shedding of significant pieces of ice capable of damaging nearby buildings, public roads, railroads or above-ground utilities.

L. Top Soil Preservation Plan: there shall be an installation plan approved by the Zoning Administrator that adequately preserved and provides for the restoration of topsoil for all staging and construction activities.

523.06 OTHER APPLICABLE STANDARDS

A. Guyed wire anchors

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

B. Sewer and water

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

C. Noise and vibration

The noise level of Non-commercial WECS shall be no greater than sixty (60) decibels measured from the nearest property line. Commercial WECS shall be no greater than sixty (60) decibels for a Non-participating property measured from the nearest property line. 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 regulations. All noise concerns shall be documented, and mitigation will be determined by the County Commissioners and consulted with the Wind Company.

D. Utility interconnection

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

E. Signage

All signs pertaining to a WECS Project must comply with Section 505, Sign Standards, with the following exceptions.

1. Surface area
No sign shall exceed sixteen (16) square feet in surface area.
2. Height
No sign shall exceed eight (8) feet in height.
3. 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.
4. 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.
5. Other signs and logos
No other advertising signs or logos shall be placed or painted on any structure or facility that is part of the WECS Project.

F. Feeder lines

Feeder lines installed as part of any WECS shall not be considered an essential service. All communications and feeder lines installed as part of any WECS shall be buried underground wherever possible.

G. 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 express, written permission by the Board of Zoning Appeals.

H. Flicker

There shall be no more than thirty (30) min a day and no more than thirty (30) hours a year on a residential structure. All flicker concerns shall be documented, and mitigation will be determined by the County Commissioners and consulted with the Wind Company. Mitigation may even entail stopping the WECS Towers rotation during hours of documented flicker.

523.07 OPERATION AND MAINTENANCE

A. 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 discuss with the Planning Department and Building Commissioner to determine whether the physical modification requires re-certification.

B Interference

Prior to construction, a communications study to minimize interference with public or public serving utility microwave transmissions, Airports, and Air Reserve Bases 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:

1. Pre-construction: The applicant shall complete a communications study prior to construction so as to minimize interference with any public or public serving utility microwave transmissions.
2. 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, Airport, or Air Reserve Base, the owner or operator shall take reasonable steps to mitigate said interference. Interference with private telecommunications systems such as GPS shall be between the company and the complainant.
3. 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.

C. Maintenance Records

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

D. Declaration of public nuisance

Any WECS thereof declared to be unsafe by the Cass County Building Commissioner 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.

523.08 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.

A. Content

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

1. Assurance: Written assurance that the WECS will be properly decommissioned upon the project life or in the event that the WECS Project is abandoned.
2. Cost estimates: The applicant shall provide a contractor cost estimate for demolition and removal of the WECS. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning WECS.
3. Financial assurance: Applicant will provide financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, 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 Cass County. Review of estimate cost every five (5) years and the financial assurance reflect changes.
4. Abandonment by the owner or operator: In the event of abandonment by the owner or operator, the applicant will provide an affidavit to Cass 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.

B. Discontinuation and abandonment

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

C. 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 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 or by Cass County at the owner's expense.

D. Written notices

Prior to implementation of the existing procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the owner and/or

operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).

E. 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 Cass County to enter the property to remove a WECS Tower and appurtenant facilities pursuant to the terms of an approved decommissioning plan.

523.09 LIABILITY INSURANCE

The owner or operator of any WECS shall maintain a current general liability policy covering bodily injury and property damage and may be required to name Cass County as an additional insured with dollar amount limits of at least \$2 million per occurrence and \$5 million in the aggregate and with a deductible of no more than \$5 thousand. A copy of the policy and renewals will be provided to the County.

523.10 PROCEDURES AND FEES

Procedures and fees shall be provided within the Developer Guidebook.

523.11 PRE-CONSTRUCTION REQUIREMENTS

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

A. FAA permit application

A Federal Aviation Administration permit application.

B. Decommissioning plan

A decommissioning plan as prescribed in 523.08 of this Section.

C. 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 agreements shall be developed in conjunction with the Cass County Economic Development office and copies provided to the Planning Department. 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 up to five (5) years after construction.

1. Drainage

Developer shall submit a drainage location map and existing conditions report within 100 feet of tower construction and from the center of all transportation routes used. These documents must make note of all known regulated or private open and tiled drains. Drainage preconstruction upgrade and post construction restoration schedule must be provided. These

documents must be provided to the County Commissioners sixty (60) days prior to the project commencement.

2. Roads

Road Use and road condition report construction location be submitted. Road preconstruction and post construction restoration schedule must be provided. These documents must be provided to the County Commissioners sixty (60) days prior to the project commencement.

D. Erosion control plan

An erosion control plan developed in consultation with the Natural Resources Conservation Services (NRCS), and any storm water quality management plan adopted by the applicable jurisdiction.

E. Utility plan

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

F. 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.

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 Cass County Highway Superintendent.
2. Pre-construction survey: The applicant shall conduct a pre-construction baseline survey acceptable to the Cass 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.

G. Assurance

Prior to construction the developer/company will put in place two (2) forms of financial assurance one Repair bond and one performance bond for road and drainage pre-construction and post construction. These must be issued and adopted by the County Commissioners prior to the project commencement.

523.12 CONSTRUCTION REQUIREMENTS

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

A. Dust control

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

B. Drainage

Reasonable storm water best management practices as required by the Soil and Water Conservation Office and in some cases with the approval of a Drainage Plan/Agreement on file with the Cass County Surveyor.

C. Roads

If there is a road closure or limited access to a road, you must notify and work with the Highway Superintendent.

523.13 POST-CONSTRUCTION REQUIREMENTS

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

A. 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 Cass 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 professional engineer may be required by the Cass 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.

B. As-Built Plans Requirement

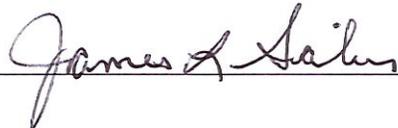
Where upon completion of all development, the exact measurements of the location of utilities and structures erected during the development are necessary for public record and shall therefore be recorded. The applicant, owner, or operator shall submit a copy of the Final Construction Plans (as-built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

C. Change in ownership

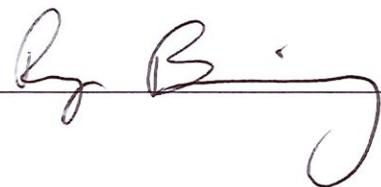
It is the responsibility of the owner or operator listed in the application to inform the Planning Department of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.

SECTION 2: That this amendment be in full force and effect upon its passage by the Cass County Board of Commissioners.

Adopted this 7th day of May 2019.


James Sailors, President


Ralph Anderson, Member


Ryan Browning, Member

ATTEST:


Cheryl Alcorn, Cass County Auditor

Ordinance #2019-