

ORDINANCE 2013-1

AN ORDINANCE OF THE MONTGOMERY COUNTY BOARD OF COMMISSIONERS AMENDING CHAPTER 155, THE WIND ENERGY CONVERSION SYSTEMS

WHEREAS, Chapter 155 of the Montgomery County Code regulates Wind Energy Conversion Systems, which provide clean energy to the Montgomery County residents;

AND WHEREAS, Chapter lacks provisions relating to post –construction requirements such as road repairs, as –built plans requirements, and change in ownership;

AND WHEREAS, the Commissioners find that such provisions are necessary to relieve the burden on taxpayers to fund post-construction road repairs, and to maintain accurate public records;

NOW, THEREFORE, BE IT ORDAINED BY THE MONTGOMERY COUNTY BOARD OF COMMISSIONERS, that Section §155.09(b) of the Montgomery County Code, should be amended to read as follows:

“§ 155.09 COUNTY ROADS AND DRAINAGE

(b) *Agreement Individually Negotiated.* A county Road Use and Drainage Repair Agreement will be negotiated for each WECS between Applicant, Owner, or Operator and the Board based on the project scope and specifics for each WECS project in the County. And such agreement will contain the following terms:

1. *Post-Construction Requirements:* Post-construction, the applicants will comply with the following provisions:

(A) *Road Repairs:* Any road damage caused by the transport of any matter or material utilized in any way regarding the WECS, in the construction of the WECS, the installation of the same, and/or the removal and decommissioning of the same, shall be repaired to the satisfaction of the Montgomery County Highway Department Superintendent (as per the Road Use and

Maintenance Agreement). The Superintendent may choose to require other remediation of road(s) upon completion of the WECS or said Superintendent is authorized to collect fees for oversized load permits.

(B) *Performance Bond*: A corporate surety bond in an amount to be determined by a professional highway engineer selected by the Board of County Commissioners will be required by the Superintendent to ensure Montgomery County that future repairs are completed to the satisfaction of the Board of County Commissioners. The cost of such bond shall be paid by the WECS applicant, and/or operator and said bond shall remain in full force and effect until the Decommissioning Plan and Decommissioning Agreement are fully completed as prescribed by this Chapter and the Decommissioning Agreement.

2. *As-Built Plans Requirement*: Upon completion of all development, the exact measurements of the location of utilities, structures and components erected during the development are necessary for public record and shall therefore be recorded. The applicant, owner, and/or operator shall submit a copy of the Final Construction Plans (as build plans), if amended, said Plans shall be submitted as amended, to the Building Commissioner and Highway Superintendent with the exact measurements shown thereon. The Building Commissioner, after being satisfied that the measurements are substantially the same as indicated in the originally approved final plan(s) or as the same were from time to time amended, shall approve, date and sign said Construction Plans for the WECS, which the applicant, owner, and/or operator shall then record.

3. *Change in Ownership*: It is the duty and responsibility of a WECS applicant, WECS owner or WECS operator, and any subsequent WECS owner and WECS operator, in addition to the notice requirements of any WECS plan(s) and WECS agreement(s) to notify by written affidavit the Building Commissioner of any change in the ownership of the WECS or any part of the ownership thereof, and/or any change of any description whatsoever in the operation of the WECS during the life of the WECS, to and through

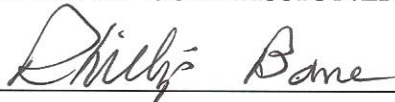
the time that the final Decommissioning Plan and Decommissioning Agreement are concluded and all applicable acceptances, releases and performance standards of any description have been met, concluded, and accepted by the proper local, state, federal or private authority, department, agency, and person(s), and all financial payments or financial obligations are fully satisfied and all appropriate parties are in receipt thereof. In order for the owner and/or operator to inform said Building Commissioner of the required information regarding changes as herein provided, said notices shall be sent by certified mail with certified funds for any required recording fees and any other applicable fees to the Building Commissioner."

IT IS FURTHER ORDAINED that all other provisions of Chapter 155, which are not expressly amended by this ordinance shall remain in full force and effect.

IT IS FURTHER ORDAINED that this ordinance shall become effective on February 11, 2013.

Adopted this 11th day of February, 2013.

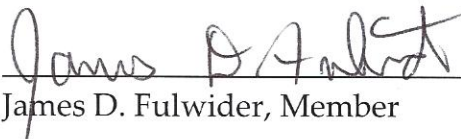
MONTGOMERY COUNTY, INDIANA,
BOARD OF COMMISSIONERS



Phil Bane, President



Terry Hockersmith, Vice President



James D. Fulwider, Member

Constituting a majority of the Montgomery
County Board of Commissioners

ATTEST:

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Michelle Cash, Auditor