

**SOLAR ENERGY PROJECT
ORDINANCE**

ORDINANCE NUMBER 2021-03

WHEREAS, the Board of Commissioners of Gibson County, State of Indiana wishes to establish safety regulations for solar energy projects in the County.

NOW THEREFORE BE IT ORDAINED by the Board as follows:

Solar Energy Conversion Systems

1. **Purpose.** This section is intended to develop standards for Solar Energy Conversion Systems (“SECS”), to facilitate economic opportunities for Gibson County, and assure that development and production of solar energy in Gibson County is safe and effective.

2. **Application.** This section applies to ground-mounted SECS. This section does not apply to roof-top or integrated solar installations on buildings or facilities and all such installations remain subject to applicable safety codes. Any solar energy system intended to be installed over, in, or on water systems, natural or otherwise, are regulated in the same manner as similar ground-mounted systems with any additional applicable review due to the water-based installation. No person may operate a SECS project within the boundaries of the County unless a permit has been approved, and financial assurances for reclamation have been posted, pursuant to this Ordinance. A separate permit will be required for non-adjoining parcels which are not part of the same Tier of project. Nothing in this Ordinance is intended to supersede any requirement of federal or state law, except that when permitted this Ordinance may impose stricter requirements, in whole or in part, than may be imposed by any other federal, state, or county authority.

3. **Solar Energy Conversion Systems Distinctions.** Only Photovoltaic and Thermal SECS may be installed in Gibson County. Concentrated Solar Power systems may not be installed in Gibson County. SECS projects are divided into three tiers:
 - a. SECS-1 (Tier 1) – Project covering greater than twenty (20) acres for production of electricity sold to utility transmission lines.
 - b. SECS-2 (Tier 2) – Project covering more than one (1) acre and up to twenty (20) acres situated on one or more landowner’s property generating electricity used primarily for on-site use.
 - c. SECS-3 (Tier 3) – Project covering one acre or less and owned by one landowner generating electricity exclusively behind the meter for single property owner.Acreage for SECS is measured from a permitted fence surrounding the total solar generation facilities including any substations, energy storage or electrical support buildings. Any solar energy generation facilities intended to be operated as an

integrated system shall be regulated according to the aggregate total acreage. Any subsequent phase of an approved project shall meet the criteria required of the total acreage of all phases.

4. Approval Process.

- a. All SECS Tier 1, Tier 2, and Tier 3 projects subject to this Ordinance (“Ordinance”) shall make an application to the Board of Commissioners or its appointee (“Administrator”) and shall comply with all requirements of this Ordinance.
- b. Tier 3 projects need submit only the following materials with its Permit application: Section 2.10(M)(5)(a), (b), (d).

5. Application for a Permit. A completed application for a SECS Tier 1 or 2 Permit prepared by the Applicant shall be filed with for review by the Administrator. Assuming compliance with these application requirements, reasonably exercised by the Administrator a Permit (“Permit”) shall issue within forty-five (45) days after submittal of a complete application, with initial comments on completeness of application to be provided by the Administrator within twenty (20) days of receipt. If the Applicant is not the owner of the real property on which the Project (defined below) is sited, all property owners of the real property where the Project is to be located must be Co-Applicants, which may be in the form of an Affidavit of Consent signed by an officer of the Applicant.

If the Administrator does not within such forty-five (45) day period issue the Permit or denies the Permit, Applicant may file a written appeal with the Administrator from the later of ten (10) days from (a) expiration of the forty-five (45) day review period or (b) receipt of written notice of such denial. The Administrator shall respond in writing to such appeal within twenty (20) days thereafter. A failure of the Administrator to issue the Permit within such twenty (20) day appeal period shall afford Applicant a right to seek judicial review with a Court of competent jurisdiction in Gibson County, Indiana, with such Court being deemed to have subject matter jurisdiction.

A Permit shall remain in full force and effect for the life of the project set out in the Application (“Project”).

The application shall include the following items submitted in both hard copy and electronic format:

- a. Project Summary. An initial Project summary including a description of the Project stating the approximate total name plate generating capacity and the name plate generating capacity of blocks of solar panels, the total acreage included in the Project and the GIS coordinates of the general outline of the Project area, the potential equipment manufacturers and type of solar energy conversion system to be used, the approximate number of solar panel blocks, the size and maximum height of the solar panel blocks, and description of substations, power inverters, maintenance structures, storage yards, permanent solar resource monitoring

structures and equipment, and other buildings that are a direct functional part of the Project. If any part of the Project will include battery storage, the kinds of batteries to be used, the manufacturer, and the type of installation shall also be included.

- b. Applicant and Co-Applicants. A description of the Applicant, Owner and Operator and if applicable each of their intermediate and ultimate parent companies, listing experience in similar projects shall be included. A list of names, addresses, email addresses and phone numbers of the Applicants, Owners and Operators and all Co-Applicants (to the extent known) shall also be provided.
- c. Maps. A map or maps of the Project site that shows the topography (at 10-foot contours), political and natural features of the Project site. The map shall include the individual land parcels by state tax parcel number and clearly identify the property participating in the Project. If more than one map is submitted, all maps shall be drawn at the same scale when possible. All maps shall be submitted in hard copy and electronic format.
- d. Site Plan. These specific requirements regarding submission of site plans supersede those set out in Section 2.10(G). The Applicant shall submit 5 copies of a site plan at an appropriate scale showing the proposed location of the Project facilities; proposed access roads; substations; maintenance structures; storage yards; electrical cabling (outside the Project fence); ancillary equipment; and any other structures that are a direct functional part of the Project. Each block of solar panels should be shown on the site plan with notation as to whether the panels use tracking devices or are stagnant. In addition, the site plan shall show primary structures within one quarter mile of any Project; property lines, including identification of non-participating adjoining properties; setback lines; public roads; County-regulated drains, open ditches or tiles including private tiles (to the extent known) located in a public right of way; location of all above-ground public utility lines (and private lines to the extent they are shown on plats of record); location of all existing underground utility lines within the Project area; recognized historic or heritage sites as listed by the Indiana Department of Natural Resources as National Register of Historic Places ("NRHP") and State Register of Historic Places ("SRHP") sites; floodplains; and any wetlands based upon a delineation prepared in accordance with the applicable U.S. Army Corps of Engineer requirements and guidelines. This site plan must also be distributed for information only to emergency management agencies, fire departments serving any part of the Project site, the County Sheriff, and the chief executive body of any municipal government whose boundary is within two (2) miles of the Project site within five (5) days after filing of a Permit application.
- e. Natural Resource Impact Report. The Applicant shall submit a Natural Resources Impact Report for the proposed Project site. The Natural Resources Impact Report shall include a detailed description of the potential natural resource analysis as a result of the construction, operation, and maintenance of the SECS that includes identification and analysis of: (a) topography, geology, vegetation, soil types,

wetlands and waters, threatened and endangered species and critical habitat, as applicable; (b) plan for compliance with applicable air and water quality standards; and (c) plan for compliance with any site specific recommendations made by IDNR or IDEM. The report shall include a study area map with identification of any areas of importance such as bat habitat, flood zones, wetlands and watercourses evaluated in the report. Notwithstanding the above, actual permits need not be issued at the time of Permit issuance.

- f. **Cost Reimbursement.** For Tier I projects only, a filing fee in the amount of \$50,000 must be submitted to pay the County for all reasonable expenses incurred by the County regarding Permit review and issuance. The filing fee is intended to address expenses and professional fees actually incurred including but not limited to all electrical, structural, mechanical, transportation engineers, financial consultants, attorneys and other professionals.

6. Submittals. Prior to the issuance of a Permit, the following requirements shall be satisfied and the following items submitted:

- a. **Decommissioning Agreement.** Pursuant to Sections 6d. and 10, a Decommissioning Agreement to ensure that the Project is properly decommissioned shall be provided prior to the issuance of a Permit. The Decommissioning Agreement shall include financial assurance that the Project facilities are properly decommissioned upon the end of the Project life or abandonment consistent with this section. The Decommissioning Security (as defined in Section 10a.) must be provided at the start of construction. The obligations with respect to decommissioning shall include removal and proper disposal of all physical material pertaining to the Project improvements to a depth of four (4) feet beneath the soil surface, and restoration of the area occupied by the Project improvements such that it is suitable for an equivalent land use to what existed immediately before construction of such improvements. The Decommissioning Agreement must include proper disposal of all hazardous material and Operator must provide to the Administrator at the time of disposal a certification of disposal issued by the entity providing the disposal service and/or the receiving disposal facility. All disposal must comply with local, state and federal law, rules and regulations in effect at the time of decommissioning.
- b. **Road Use Agreement.** A Road Use Agreement approved by the County Commissioners including a form of financial assurance acceptable to the County Commissioners for the repair or replacement of all damaged roads, bridges, signage, or other transportation structures during construction.
- c. **Safety and Security Plan.** A Safety and Security Plan which must include adequate provisions for site security and safety. If the plan includes using Gibson County services, it should include signatures of the proper authorities indicating they are aware of their role and capable of performing it. Coordination with local emergency responders and area hospitals must be included.

- d. Glint and Glare Study. A glint and glare study, which provides that the Project will minimize glint and glare, shall be submitted.
- e. Economic Development Agreement. For any Project seeking tax abatement or other economic considerations for the Project from the County, the Applicant shall submit an Economic Development Agreement and a Decommissioning Agreement approved by the County Commissioners. The Economic Development Agreement must be developed in consultation with the Gibson County Economic Development Corporation and the County Council. The Economic Development Agreement shall include, as applicable, estimated property taxes and any tax abatement, any economic development payments, and overall cost and tax revenue impact on the County as well as the estimated current economic impact of the Project area in its current use.
- f. Additional Assurances. The Applicant shall provide a notarized statement acknowledging and affirming the following with respect to the Project:
 - 1) All duties and obligations of each of the Applicant, Owner, and Operator shall be binding upon successors in interest, and assigns. Written notice shall be given to the County Commissioners at least thirty (30) days after any transfer of any ownership interest in the Project. Any financial assurances imposed by the County shall remain in full force and effect upon any transfer, assignment, or conveyance of an ownership interest until the successor in interest delivers an accepted replacement obligation. The transfer of the interest of the Owner(s) shall be allowed without advance approval so long as the financial assurance posted by the Applicant or Operator covers the successors in interest of the Owner(s).
- g. Insurance Requirements. To the extent that such policies are available in the marketplace, the Owner or Operator of the Project shall maintain liability policies covering (1) bodily injury and property damage and (2) environmental contamination arising from construction, operation, maintenance, and decommissioning of the Project. Limits on the bodily injury and property damage policy shall be of at least \$2 million per occurrence and \$5 million in the aggregate with a deductible of no more than \$100,000 (a combination of general liability and umbrella/excess liability policies allowed to satisfy limits) and on the environmental contamination policy shall be of at least \$1 million per occurrence and \$2 million in the aggregate with a deductible of no more than \$100,000. All such policies shall provide the County and any municipality in which the Project is located with additional insured status and a certificate of insurance shall be provided to the County at the time of any required Administrative Fee, as set forth in i. below.
- h. Signage and Contact. The Applicant shall establish a twenty-four (24) hour toll-free phone number for the registering of complaints and concerns. This number shall be posted at every road intersection throughout the Project area before a Permit is issued and before any construction or earth moving can commence. If efforts to remedy legitimate complaints are not initiated within forty-eight (48)

hours, the County may address these complaints with any expenses incurred to be reimbursed by the Applicant.

- i. **Drainage Plan.** A Drainage Plan shall be approved by the Gibson County Drainage Board and including a form of financial assurance acceptable to the County for the repair or replacement of all damaged drains, ditches, and tiles (if in the public right of way) prior to the initiation of construction. The Drainage Plan shall state that any newly constructed access roads shall not impede the flow of water and will comply with all County ordinances related to drainage and the management of stormwater.
- j. **Administrative Fee.** Applicant shall pay an Administrative Fee in the amount of \$10,000 on the tenth anniversary of the Permit issuance and on each ten-year anniversary thereafter to the Administrator, and shall further submit an updated insurance certificate in the form set out in f. above.

7. Construction Standards. Prior to and during construction, the SECS Applicant, Operator, and Owner shall be responsible for:

- a. Implementing reasonable dust control measures during construction.
- b. Complying with existing septic and well regulations as required by the County Health Department and the Indiana Department of Health.
- c. Repairing all damages to County owned or regulated roadways, waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction or maintenance of the SECS per the executed Road Use Agreement.
- d. Installing permanent, visible markers where directional boring is used. Markers shall be placed within the line of sight indicating directional changes and borings.

8. Development Standards.

- a. All installed equipment shall conform to applicable industry standards and the application shall include certificates of design compliance of the proposed equipment from nationally recognized third parties in the business of certifying compliance.
- b. All solar panel blocks shall be uniform in design and appearance.
- c. All electrical components of the Project shall conform to applicable local, state, and national codes, and relevant national and international standards.
- d. A visible warning sign concerning voltage must be placed at the base of all pad mounted transformers and substations.
- e. All solar panels for the Project must be fenced in with a fence not less than six (6) feet in height.
- f. The Administrator may only issue a permit upon a finding that the SECS Project shall not interfere with (i) television signals; (ii) microwave signals; (iii) agricultural global positioning systems; (iv) military defense radar; (v) radio reception; or (vi) weather and doppler radar.
- g. A screening plan shall be implemented which shall consist of opaque fencing, new vegetation, utilizing existing natural screening or a combination thereof. To the

extent that solar panels are established more than 200 feet from the foundation of an existing residence of a Non-Participating landowner, this standard shall not apply.

9. Setback and Height Restrictions.

- a. No part of the Project shall be construed in any required setback, dedicated public easement or dedicated public right-of-way without prior written authorization from the County Commissioners.
- b. No solar panel may be located less than twenty-five (25) feet on all sides from any Non-Participating landowner property line.
- c. No solar panel shall be located less than one hundred fifty (150) feet from the foundation of any existing residence of a Non-Participating landowner.
- d. No solar panel may exceed 25' in height at its highest extended rotation.
- e. Applicant shall give notice to the owner of any private certified landing strip if required by law. Setbacks will be determined based upon the agreement of the landing strip owner, Applicant and Administrator which will take into consideration the guidelines provided in a U.S. Department of Transportation FAA Advisory Circular dated February 24, 2014, as may be updated.

10. Post Construction and Continued Maintenance.

- a. Decommissioning Security. Pursuant to the Decommissioning Agreement, at the time of making application for a Permit, the Applicant shall deliver to the Administrator a pro forma performance or surety bond, letter of credit or other form of financial assurance that is acceptable to the County (the "Decommissioning Security") securing performance of the decommissioning obligations, the amount of which (in U.S. dollars) shall be equal to 25% of the Restoration Costs in the first five (5) years, 50% for the next five (5) years, and 100% at year ten (10) and beyond. The Restoration Costs shall consider and deduct up to 100% of the net salvage value of the Project. The Restoration Costs and Decommissioning Security shall be re-evaluated every five (5) years commencing with the five (5) years after the issuance of the initial Decommissioning Security. A new Decommissioning Security in the revised amount, if any, shall be provided within sixty (60) days of the approval of the updated Restoration Costs. As set out in Section 6a., the actual Decommissioning Security shall be posted at the time of start of construction of the Project.
- b. Waste Removal. All solid waste whether generated from supplies, equipment, parts, packaging, or operation or maintenance of the facility, including old parts and equipment, shall be removed from the site in a timely manner. All hazardous waste generated by the operation and maintenance of the facility, including but not limited to lubricating materials, shall be handled in a manner consistent with all local, state and federal rules and regulations.
- c. Modifications. Any physical modification to the Project that alters the mechanical load, mechanical load path, nameplate generating capacity, size or location or

major electrical components shall require a new improvement location permit and/or if there is more than a 2% increase in total acreage of the Project. Like-kind replacements that do not have the effects listed above do not require new permitting.

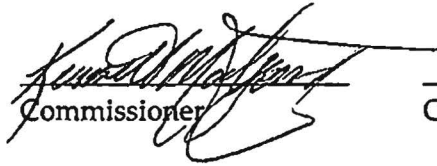
- d. Complaints. If, after construction, the Applicant receives a written complaint related to interference caused with local broadcast residential television, telecommunication, communication or microwave transmissions, the Applicant shall promptly resolve the complaint.
- e. As-Built Plans. The Applicant shall deliver to the Administrator and to all providers of emergency services serving the Project area a copy of the as-built site map. Upon request by the local fire department, the Applicant shall cooperate with the local fire department to develop or update the fire department's emergency response plan. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.
- f. Records of Ground Disturbance and Road Usage. Within one hundred twenty (120) days of Project completion, the Applicant shall submit to the County Surveyor a site map detailing all ground disturbed through construction activity, surface and subsurface as-built infrastructure and all routes over which trucks and equipment traveled. The scale and format of the submitted map shall conform to the County Surveyor's specifications.
- g. Liability for Drainage. For a period of two (2) years following the completion of construction the Applicant shall be liable for all costs of repair to County drain tiles, regulated drains and ditches and other county regulated surface and subsurface structures and private tiles located in the public right-of-way within fifty (50) feet of the routes and disturbed ground.
- h. Abandonment. A SECS or any individual solar panel block constituting a portion of the Project is presumed at the end of its useful life and/or abandoned if the SECS or the individual solar panel block generates no electricity for a continuing period of twelve (12) months. This presumption may be rebutted by submitting to the Administrator for approval and within ninety (90) days of submission obtaining approval thereof of a plan outlining the steps and schedules for returning the SECS or individual solar panel block to service. Any SECS or individual solar panel block which pursuant to the terms hereof has either reached the end of its useful life and/or been abandoned pursuant to the terms hereof shall be subject to removal pursuant to the Decommissioning Agreement.
- i. Unsafe Structures. Any SECS or associated structure thereof declared to be unsafe by the Administrator by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair or rehabilitation within twelve (12) months or be deemed abandoned and at the end of its useful life and subject to Decommissioning. Nothing herein prevents the Administrator issuing an immediate cease use order as to any structure that it determines is unsafe during the repair or rehabilitation period.

11. **Post Construction Modifications.** Any post-construction proposed material modifications, alterations, expansions, or changes of any type or size to the site plan must be approved by the Administrator. The Administrator shall have the authority and discretion, considering all relevant factors to determine whether the proposed post-construction change is material.
12. **No Preemption.** Nothing in this section is intended to preempt other applicable state and federal laws and regulations, except to the extent this section provides higher or more stringent standards.

PASSED ON SECOND READING AND ADOPTED BY THE BOARD OF COMMISSIONERS OF GIBSON COUNTY, INDIANA, ON THE 16TH DAY OF MARCH, 2021.

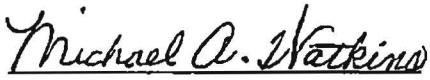
BOARD OF COMMISSIONERS OF GIBSON COUNTY, INDIANA


Commissioner


Commissioner

Commissioner

ATTEST:


Auditor

**WIND ENERGY PROJECT
ORDINANCE**

ORDINANCE NUMBER 2021-02

WHEREAS, the Board of Commissioners of Gibson County, State of Indiana wishes to establish safety regulations for wind energy projects in the County.

NOW THEREFORE BE IT ORDAINED by the Board as follows:

§20-01 Legislative Intent.

(a) *Findings.*

(1) The Board of Commissioners of Gibson County hereby finds that the development of wind energy projects may provide substantial economic investment in the County to the benefit of the County and its residents, through lease payments, tax payments, and temporary and permanent employment opportunities;

(2) However, the construction of a commercial scale wind energy project involves the use of heavy equipment and the transport of heavy loads that may impact public and private infrastructure of the County, including roads, bridges, and drainage structures; and

(3) Further, the failure to safely operate a wind energy facility and to remove it after the end of its useful life could impact safety and security of the citizens of the County.

(b) *Purposes of Ordinance.* Therefore, the Board's purpose in adopting this ordinance is:

(1) To regulate the construction, operation and decommissioning of a wind energy projects so as to achieve and secure the benefits of these projects for the citizens of Gibson County; and

(2) To minimize the risks to the health, safety, and general welfare of County residents by ensuring that wind energy project operations shall be curtailed whenever those operations may impact the issuance of weather information by the National Weather Service.

§20-02 Definitions.

(a) **Administrator** means the office of County government to which authority to review applications is assigned by the Board of County Commissioners. As used in this Ordinance, **Administrator** shall include his or her authorized representatives.

(b) **Affected Land** means the sum of acreage that has been leased or purchased, or will be lease or purchased, for the purpose of constructing, installing, or maintaining a WECS project.

(c) **Board** means the Board of Commissioners of Gibson County, Indiana.

(d) **County** means Gibson County, Indiana.

(e) **Complete Application** means an application for a permit, renewal, modification or transfer which is determined by the Administrator to be complete for the purpose of commencing review of the application in accordance with the requirements of this

Ordinance, but which may need to be supplemented during the course of review in order to enable the Administrator to make any findings or determinations required by this Ordinance.

- (f) **Effective Date** means the date on which this Ordinance takes effect.
- (g) **Life of the WECS Project** means the total economic and environmental limit of a WECS project.
- (h) **NWS** means the National Weather Service, which is a line office of the National Oceanic and Atmospheric Administration of the United States Department of Commerce.
- (i) **Operation** includes constructing, installing, or maintaining a WECS project.
- (j) **Operations Plan** means a description of activities to be performed by an operator over the life of the WECS project, including all maps, plans, the schedule for operations within the life of the WECS project, written material, and all information required of an Operations Plan pursuant to § 20-11 of this Ordinance.
- (k) **Operator** means any person operating a WECS project.
- (l) **Person** means any individual, partnership, corporation, legal business entity, or governmental agency.
- (m) **Reclamation** means the conditioning of the affected land to make it suitable for any productive use including, but not limited to, the planting of forests, the planting of crops for harvest, the seeding of grass and legumes for grazing purposes, the protection and enhancement of wildlife and aquatic resources, and other lawful purposes.
- (n) **Reclamation Plan** means a description of activities to be performed by an operator to reclaim the land to be affected over the life of the WECS project. The **Reclamation Plan** shall describe the proposed method of reclaiming the affected land, providing, where possible, for orderly, continuing reclamation concurrent with the schedule for reclamation. The **Reclamation Plan** shall include maps, plans, the schedule for reclamation, planting plans, written material, and all information required pursuant to § 20-11.
- (o) **WECS (Wind Energy Conversion System)** means all necessary devices that together convert wind energy into electricity and store or deliver that electricity to a utility's transmission lines, including but not limited to the rotor, nacelle, generator, WECS tower, electrical components, foundation, transformer, and electrical cabling from the WECS tower, substation, wind farm collection system, communications facilities, and other required facilities and equipment.
- (p) **WECS Project** means all lands on which any WECS will be operated.
- (q) **WECS Tower** means the monopole, freestanding or guyed structure that supports the energy capture, conversion, storage, or transfer components of a WECS project.

§ 20-03 Administration of Ordinance.

(a) *Generally.* No person may operate a WECS project within the boundaries of the County unless a permit has been approved, and financial assurances for reclamation have been posted, pursuant to this Ordinance.

(b) Where two or more parcels of land containing operations are not adjoining, a separate permit shall be required for each parcel.

(c) *Supersedure.* Nothing in this Ordinance is intended to supersede any requirement of federal or state law, except that when permitted this Ordinance may impose stricter requirements, in whole or in part, than may be imposed by any other federal, state, or county authority.

§ 20-04 Administrator of Ordinance.

(a) *Appointment.* On or before the effective date, the Board shall determine which office within the County government shall be assigned the powers and duties of the Administrator under this Ordinance. The Board may, from time to time, reassign the powers and duties to a different office within the County government.

(b) *Powers and duties.* The Administrator has the following powers and duties:

(1) To issue permits, modifications to permits, renewal permits, and transfers in accordance with the criteria set forth in this Ordinance;

(2) To administer and enforce the provisions of this Ordinance and all orders issued pursuant thereto;

(3) To delegate the duties and powers granted to and imposed upon him or her under this Ordinance;

(4) To conduct investigations and obtain data with respect to any aspect of the operations regulated under this Ordinance, and to collect and disseminate information regarding operations of WECS facilities;

(5) To order an immediate suspension of any operation upon any repeated or willful violation of any of the provisions of this Ordinance or when there is an imminent threat of substantial harm to citizens of the County, natural resources, property, or the County's water supply;

(6) To accept grants or funds for purposes of administration of this Ordinance and research into the operations;

(7) To cooperate with any other governmental entity to further the purposes of this Ordinance;

(8) To contract with any person to achieve the purposes of this Ordinance; and

(9) To assess fees upon an applicant consistent with the expenses involved in hiring consultants to assist the Administrator with the review of the application and to provide inspection, monitoring, and assessment upon request by the Administrator.

§ 20-05 Applications for New Permits.

An application for a new permit may be submitted for a term not to exceed five years. A complete application for a new permit must be accompanied by a One Hundred Thousand Dollar (\$100,000.00) application fee (per WECS Tower) and contain:

(1) A completed application in the form specified by the Administrator;

(2) A legal description and acreage of the affected land;

(3) A vicinity map of the area, showing:

a. The affected land;

c. Any dedicated public rights-of-way and easements; and

d. The boundaries of all adjacent and adjoining property lying within 660 feet of the affected land, and consistent with § 20-05(a)(4);

(4) A listing of names and addresses of the owners of property lying within 660 feet of the affected land, as shown by a certified issue of the Auditor of the County (or adjacent county), or by a title insurance company, and dated not more than 45 days prior to the date of the application;

(5) A copy of all applications, approvals, or permits needed from other city, county, state, or federal agencies for the purposes of the operations;

(6) A copy of all letters of grant, or other approvals from all County boards or committees, if applicable;

(7) The identity of the operator if the operator is a person different from the applicant;

(8) The name of every legal owner of the affected land;

(9) The name of every owner of any leasehold interest in the affected land;

(10) The name of any lessor or purchaser of record of the affected land under a lease agreement or contract for the purchase of real estate;

(11) If the applicant is a business entity other than a single proprietor, the names and addresses of the principals, officers, and resident agent;

(12) If the applicant is a partnership, corporation, association, or other business entity, the following where applicable:

a. The names and addresses of every officer, partner, or director or person performing a function similar to a director of the applicant;

b. The name and address of each person owning, of record, at least 10% of any class of voting stock of the applicant; and

c. A list of all names under which the applicant, partner, or principal shareholder previously operated a WECS project within the United States within the last five years preceding the date of submission of the application;

(13) A statement of whether the applicant or a subsidiary, an affiliate, or a person controlled by or under common control with the applicant has ever held a permit that within the five-year period preceding the date of the application was suspended or revoked or is in the process of revocation, and if so, a brief explanation of the facts involved and identification of the state in which this action occurred;

(14) A statement of whether the applicant or a subsidiary, an affiliate, or a person controlled by or under common control with the applicant has ever had a bond or similar security deposited in lieu of bond forfeited, and if so, a brief explanation of the facts involved and identification of the state in which this action occurred;

(15) A listing of all notices of violations, and their final resolution, of a federal statute or regulation, or a state statute or rule pertaining to air quality or water quality incurred by the applicant or a subsidiary, an affiliate, or a person controlled by or under common control of the applicant in connection with any WECS project during the three-year period before the date of the application;

(16) Construction information and specifications for every WECS tower included in the WECS project per § 20-07, including the equipment name, height, hazard signage, a copy of the standard product specification sheet; and

(17) An operations plan per § 20-11.

§ 20-06 Renewals, Transfers, and Modifications.

(a) *Applications.* Permits issued pursuant to this Ordinance are renewable or transferable. A complete application for renewal or transfer shall be submitted to the Administrator accompanied by a One Hundred Thousand Dollar (\$100,000.00) application fee (per WECS Tower) and, shall contain the following information:

- (1) Completed application form consistent with the requirements of § 20-05;
- (2) An updated operations plan;
- (3) A written description of any changes to the operations plan;
- (4) An identification of reclamation accomplished during the existing permit term;
- (5) Copies of all applications, approvals or permits needed from other city, county, state or federal agencies; and
- (6) Other related information that may be required by the Administrator consistent with the objectives and requirements of this Ordinance.

(b) *Requirements for Transfer.* The Administrator may or may not require a public meeting on a transfer application but is obligated to publish a statement of availability for review of the application, and a final declaration in the event that the permit transfer application has been approved.

(c) *Request for Modification.* In the event that an operator requests a modification to an existing permit because of a change in the operations plan, that application will be treated as a new application, and all requirements of this Ordinance will apply. The original permit conditions will remain in effect until a decision has been made on the modification application.

§ 20-07 Standards for WECS Projects.

(a) *Tower Requirements.* The following standards apply to every WECS tower included in any WECS project:

- (1) Subject to subsection (4), a WECS permit shall not be granted unless the distance, measured as a straight line, from the vertical centerline of the base of the WECS Tower:
 - a. the centerline of any: (i) runway located on a public use airport, private use airport, or municipal airport; (ii) public use highway, street, or road; (iii) railroad easement or right-of-way; or (iv) utility transmission or distribution line (as measured from the center of the line itself, and not from the center or edge of a related easement); or
 - b. the property line of any nonparticipating property;

is equal to a distance that is at least five (5) times the WECS Tower's blade tip height, as measured from the ground to the tip of the blade.

- (2) Subject to subsection (4), a permit may not be issued unless the distance, measured as a straight line, from the vertical centerline of the base of the WECS Tower to the nearest point on the outer wall of a dwelling located on a non-participating property is equal to a distance that is at least five (5) times the WECS Tower's blade tip height, as measured from the ground to the tip of the blade.

(3) The provisions of the Ordinance shall not be more restrictive than the standards of the Federal Aviation Administration under 14 CFR Part 77 concerning the safe, efficient use and preservation of the navigable airspace.

(4) The distance requirements set forth in subsections (1) and (2) may be waived with respect to the siting of any one (1) wind power device, subject to the written consent of the owner of each affected non-participating property.

(5) A WECS Tower shall be white, gray, or other Administrator approved non-obtrusive color.

(b) *General Project Requirements.* The following standards apply to every WECS project:

(1) All electric devices shall have proper warning signage. A list of the electric equipment and standard signage shall be made part of the application.

(2) All guy-wire support shall be marked in such a manner that the first eight feet from the ground level are covered with high visibility yellow or orange. Under no circumstance shall a fence be considered adequate for this requirement. If a WECS tower is one hundred feet in height or greater, the 1/3 and 2/3 points of the outside most guy-wire supports shall be marked with a high visibility yellow or orange marker ball.

(3) Any electric lines installed as part of the WECS project shall be located underground.

(4) Signs shall not be permitted on WECS towers except for warning and hazard signs as required by law. Any standard symbol or design which identifies the manufacturer shall not be considered a sign for the purposes of this Ordinance.

(5) A standard metal road sign including the owner's name, emergency contact phone number, and the physical address shall be posted at the entrance of the access drive to the WECS project. The sign shall be posted just outside of the public way site triangle.

(6) A WECS project shall be designed, constructed, and operated so not to interfere with local broadcast television, telecommunication, communication, microwave, or weather radar transmissions. If the WECS project owner or manager receives a written complaint related to interference, the owner or manager shall alleviate the complaint within 30 days.

(7) All solid wastes whether generated from supplies, equipment, parts, packaging, or operation of a WECS project, including parts and equipment related to the construction, installation, or maintenance, shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws. All hazardous materials or waste related to the operation shall be handled, stored, transported, and disposed of in accordance with all applicable federal, state, and local laws.

(8) Any publicly maintained utilities shall be installed in compliance with the adopted standards of the affected community. Written proof shall be obtained from the affected community that the plans meet its minimum standards.

(9) Any publicly maintained utilities shall be located in a recorded utility easement in favor of the affected.

(10) All taps made to any publicly maintained utilities shall be done in compliance with the adopted standards of the affected community. Written proof shall be obtained from the affected community that the plans meet their minimum standards.

- (11) The WECS project shall meet the Storm Water Standards of the County. Any publicly maintained storm water drainage facilities shall be located in a recorded storm water easement in favor of the affected community.
- (12) Access drives should be located directly across from other access drives on the other side of the public way unless the Administrator finds it not to be feasible.
- (13) Any time access drive is required on an arterial road the use of either (A) a frontage road or rear collector road that shall be dedicated to the affected community and built to their adopted standards, or (B) a shared driveway system that shall be located in an ingress/egress easement that includes a maintenance agreement.
- (14) Any WECS project shall require the approval by the County Engineer of a heavy haul route for construction traffic.
- (c) *Shadow flickering.* A WECS Project permit shall be issued unless the Operator demonstrates that it will install or locate shadow flicker computer modeling to estimate the amount of shadow flicker anticipated by the WECS Project and the WECS Project has been designed such that industry standard computer modeling indicates that any non-participating property will not experience more than thirty (30) hours per year of shadow flicker under planned operating conditions for the WECS Project.
- (d) *Sound limits.* A WECS Project must operate in a manner such that (1) the audible sound attributable to the WECS Project will not exceed thirty (30) A-weighted decibels, as modeled at the outer wall of an affected dwelling; and (2) no low-frequency noise or infrasound noise from the WECS Project shall be created that causes the noise level both within the project boundary and a 1-mile radius beyond the project boundary to exceed the following limits.

1/3 Octave Band Center Frequency (Hz)	Sound Pressure Level (dB)
2 to 1	70 (each band)
16 ²	68
20	68
25	67
31.5	65
40	62
50	60
63	57
80	55
100	52
125	50
250	47
500	45
1000	42
2000	40
4000	37
8000	35

§ 20-09 Procedures and Timeframes.

- (a) *General procedures and timeframes.* The following describes the general procedures in the processing of new or renewal permit applications under this Ordinance.

(1) Before an application is submitted to the Administrator, the applicant is encouraged to request a pre-application meeting with the Administrator and staff to discuss the proposed operation and to clarify application procedures. At this presubmission meeting, the operation will be informally discussed, permit requirements identified, and the applicant will be provided with guidance in the mechanics of the application and review process based on information provided by the applicant.

(2) Each applicant subject to the requirements of this Ordinance must submit five copies of the application to the Administrator. The applicant must also submit full and complete copies to the following: County Surveyor, Soil and Water Conservation Service, County Engineer, and any other person designated by the Administrator.

(3) The Administrator shall review the application and make a determination of a complete application within 45 days of the date of receipt by the Administrator. In the event that the Administrator determines that the application is incomplete, the Administrator shall communicate the deficiencies in writing to the applicant. A new completeness review period of 30 days shall commence from the date of receipt of the resubmitted application. If the Administrator fails to make a determination of a complete application within the timeframes above, the application will be deemed complete.

(4) When the Administrator deems the application complete, the applicant, upon receipt of written notification from the Administrator, shall:

a. Publish within five working days a statement of complete application in a local newspaper of general circulation in the County at least one time per week for two consecutive weeks;

b. Mail a copy of the statement of complete application by certified mail, return receipt requested, to each person identified in the application pursuant to subparagraphs (a)(8) - (12) of § 20-05; and,

c. Mail a copy of the statement of complete application by certified mail, return receipt requested, to every person who has made a written request to the Administrator for such statement.

(5) The statement of complete application shall identify that:

a. The complete application is available for public review;

b. The date on which the Administrator deemed the application complete;

c. The location(s) where the complete application can be reviewed; and

d. That written comments on the complete application may be submitted to the Administrator for a period of 30 days from the date on which the Administrator deemed the application complete.

(6) The original return receipts for mail service shall be submitted to the Administrator by the applicant.

(7) At the time the application has been deemed complete, each applicant for a permit under this Ordinance shall file within five working days of the date of complete application, an entire copy of the complete application for public inspection in the Princeton Public Library and at any other location designated by the Administrator.

(8) Any person may submit written comments concerning a permit application with respect to the effect of the proposed WECS project on the health, safety, or general welfare of the public,

or, with respect to impact on the County's water supply to the Administrator within 30 days from the date of the statement of complete application. The Administrator shall, thereafter, transmit any comments received to the applicant and make the comments available to the public at the office of the Administrator.

(9) The Administrator may, in his or her discretion, schedule a public meeting within 60 days of the determination of complete application to hear comments and responses to either the application or the written statements received. A stenographic record of any such public meeting will be made.

(b) *Decisions on applications.*

(1) The Administrator shall approve or approve with conditions the application within 150 days of the determination of complete application.

(2) A complete application shall only be approved if the Administrator finds that:

a. The application is accurate and complete and in compliance with the requirements of this Ordinance;

b. The operation will not impose a significant detrimental impact on the health, safety, and general welfare of the public or the County's water supply; and

c. The financial security requirements set forth herein are met.

(3) If the Administrator does not approve or deny the application within 150 days of the determination of complete application, the application shall be deemed approved.

(4) If the Administrator denies the application, the applicant may request a public hearing within 30 days of the date of the Administrator's denial of the application in accordance with § 20-17 of this Ordinance.

(5) Any person directly adversely aggrieved by the Administrator's disposition of an application may request a public hearing within 30 days of the date of the Administrator's disposition of the application in accordance with § 20-17 of this Ordinance.

(6) Notwithstanding the time periods for decisions specified in this Ordinance, the Administrator shall not be required to issue a decision on an application, nor shall any application be deemed approved, until the applicant has provided:

a. Satisfactory proof of any public notice required;

b. Posted any financial security required; and,

c. Paid all fees and costs assessed by the Administrator.

(7) A permit issued under this Ordinance is effective upon issuance. Within five working days after a permit is issued, the Administrator shall publish a declaration that the permit has been issued, in these locations:

a. A local newspaper of general circulation in the County at least one time per week for two consecutive weeks;

b. On the front page of the Office of County Government website, for a period of 30 days; and

c. At the Office of the Administrator for a period of 30 days.

(8) At any time during the review of an application for a new permit, modification, renewal, or transfer, the Administrator may request in writing additional information, concerning the information and studies identified in § 20-11(i), which is reasonably necessary to make any findings, determinations, or decisions on an application. Such a written request will

be explicit, and will indicate a reasonable date by which the Administrator is to receive the additional information. Failure to provide information by the date specified in the request may be grounds for denial of the application.

(c) *Time periods.* Any time period specified in this Ordinance may be extended for good cause or by mutual written consent of the applicant and the Administrator.

§ 20-10 Financial Security.

(a) Before the Administrator may issue a new, renewal, or modification permit, the applicant shall furnish financial security, naming the County as beneficiary, in an amount determined by the Administrator to be sufficient to ensure the performance of the reclamation of the affected land.

(b) Financial security shall be in the form of a bond from a corporate surety licensed to do business as such in the State of Indiana, an irrevocable letter of credit, parent guarantee or any other form the Administrator may deem acceptable. Any interest accruing as a result of such security shall be the exclusive property of the operator.

(c) The amount shall be based upon the estimated cost of reclaiming the affected land, which shall be derived from information contained in the permit application and upon such information as an investigation by the Administrator may disclose based on the actual cost of reclamation to the County.

(d) The financial security shall remain in full force and effect until the Administrator has approved the reclamation. The operator may secure the release of that portion of the financial security for affected land on which reclamation has been completed and approved by the Administrator.

(e) The Administrator has the right to continue the financial security for two years after reclamation has been completed to assure that the reclamation of the area will succeed.

(f) If the financial security required under this Ordinance shall for any reason be cancelled, the operator shall provide a valid replacement under the same conditions as described in this section within 30 days after receiving notice thereof. Failure to provide replacement financial security within such period shall result in the automatic and immediate suspension of the operations permit, which suspension shall continue until the operator provides the Administrator with satisfactory evidence of the establishment of replacement financial security.

(g) If the operator fails to commence or to complete the reclamation as required, the Administrator may attach the financial security furnished by the operator. In any event, the full cost of completing reclamation shall be the primary liability of the operator and/or the person engaged in the operations or processing and the secondary liability of the landowner, and the Administrator may bring suit to recover all costs to secure the reclamation not covered by the financial security. The materials, machinery, implements, and tools of every description which may be found at the WECS project, or other assets of the operator and/or the person engaged in the operations shall be subject to a lien of the Administrator for the amount expended for reclamation of affected land and shall not be removed without the written consent of the Administrator. Such lien may be foreclosed under state law in the same manner as a mechanic's lien.

§ 20-11 Operations Plan.

(a) The operations plan shall consist of:

- (1) A written description of the proposed operation; and,
- (2) Operations plan map of the proposed operation.
- (3) A reclamation plan.

(b) The operations plan map shall include the following:

- (1) A map of the location of the WECS project including boundaries of the land controlled by the applicant;
- (2) The boundary outline and legal description of the proposed affected land for the life of the WECS project; and
- (3) All drainage features, water courses, water discharge points, water impoundments, and ground water monitoring locations.

(c) The operations plan map shall be presented on a base map utilizing aerial photogrammetry, and be prepared by a licensed engineer, land surveyor, or other individual trained in such preparation and stamped by a professional licensed in Indiana. The Administrator reserves the right to reject aerial photographs or photogrammetry on the basis of being out of date, of poor quality, of improper scale or for other reasons that render them unsatisfactory for the required purpose.

(d) The operations plan maps shall be presented with a horizontal scale not to exceed one-inch equals 200 feet. Contour intervals and/or cross sections shall be as prescribed by the Administrator.

(e) The operations plan maps shall be prepared in a neat, legible manner and shall include a title block and legend containing the following information:

- (1) The name and address of the applicant;
- (2) The WECS project manager name and contact information;
- (3) The scale, a north arrow and a reference datum;
- (4) The name of the individual responsible for the preparation of the maps and/or

photographs; and

- (5) The date of preparation, and the record of work and/or revisions.

(f) The written description of the operations plan shall include the following:

- (1) The general geographic location of every WECS project to be covered by the permit;
- (2) A description of topographic, cultural and land use features within and adjacent to the affected land;

(3) A description of the existing condition of the ground surface at the WECS project including areas already disturbed by operations, the existence of structures, vegetation, and water cover;

(4) A description of the applicant's proposed operations, the use of access drives, and ingress and egress from public ways;

(5) A description of the applicant's general direction of operations during the next five-year period;

(6) A description of the public ways in the County upon and along which equipment is planned to be hauled or carried;

- (7) A description of the heavy equipment planned to be used for the purpose of the operations;
- (8) A description of the applicant's proposed methods for preventing pollution from the operations, including but not limited to air pollution, water pollution and noise pollution, including:
 - a. A detailed plan designed to minimize impacts of noise including:
 - i. An existing conditions analysis, including measurements at adjacent properties;
 - ii. A list of equipment and operations that may impact noise pollution;
 - iii. Projections of sound decibel levels due to operations at boundaries of the affected land, adjacent public ways, and adjacent residential or commercial property; and
 - iv. Conclusions and recommendations.
 - b. Air quality efforts and dust control;
- (9) Descriptions of the applicant's proposed methods to minimize the potential adverse impact of the operations on the County including:
 - a. Methods to be used to protect nearby public and private property from damages;
 - b. Measures to mitigate visual impacts;
 - c. and
 - d. Other relevant information that the applicant provides to indicate efforts to minimize visual impacts.
- (g) The reclamation plan shall consist of a graphic and written description of the proposed reclamation.
 - (1) The graphic description shall include maps and cross sections that illustrate the final physical state of the reclaimed land.
 - (2) The written description shall describe the manner in which the affected land is to be reclaimed including the disposition of topsoil, and a schedule for performing such reclamation and planting and seeding plans.
- (h) The Administrator reserves the right to require studies relating to noise assessments, and visual studies, to be done by the applicant to supplement the operations plan if the operations plan fails to satisfy the objectives and requirements of this Ordinance.

§ 20-12 Annual Reports.

- (a) All operators shall submit an annual report within ten days of the anniversary date of the permit. The annual report shall contain the following information:
 - (1) A written description of their activities detailing all operations and reclamation during the past year;
 - (2) An updated operations plan depicting the current extent of operations, including current or proposed reclamation efforts;
 - (3) Results of studies or monitoring required under this Ordinance or by the Administrator or any other city, county, state or federal agency to ensure that the objectives and requirements of this Ordinance have been, are being, and will be satisfied;
 - (4) A statement of certification by the WECS project manager that all the operations reclamation conducted during the reporting year was in conformance with the permit and the approved plans, and that the operator is in compliance with this Ordinance;

- (5) Copies of correspondence with city, county, state, and federal agencies with regard to permitting, complaints, and enforcement matters;
 - (6) A log of all complaints from any person and efforts to resolve the complaints;
 - (7) A groundwater report that provides information regarding water flows, water quality, and operational activities to insure the protection of the County's aquifers.
- (b) The annual report shall include a review fee of \$10,000 at the time of submittal.

§ 20-13 General Regulations.

- (a) All operations shall be subject to § 7-85 of the County Code (provisions for the protection of the aquifer serving the County's wells).
- (b) Any lights used for exterior illumination shall be directed away from adjoining public and private property.

§ 20-14 Operating Regulations.

- (a) *Conformity to laws and regulations.* All permitted operations shall conform to all applicable city, county, state, and federal statutes, ordinances, regulations, and standards relative to water or air pollution, noise and waste disposal, vibration, and land rehabilitation and after-use.
- (b) *Days and hours of operation.* The days and hours of WECS project construction and installation shall be as follows:
 - (1) There shall be no operations of any type on Sundays and holidays recognized by the State of Indiana.
 - (2) On weekdays, construction and installation shall only occur between the hours of 6:00 a.m. and 8:00 p.m.
 - (3) On Saturdays, construction and installation shall only occur between the hours of 8:00 a.m. and 2:00 p.m.
 - (4) Extensions to these hours may be approved by the Administrator based on a written request by the operator. For the purpose of this request, the Administrator will follow the procedures of public notice and comment found in §20-09 (b).

§ 20-15 Non-interference with Essential Services.

- (a) *Legislative finding.*
 - (1) The NWS and other persons have analyzed the real and potential impacts of WECS on weather radars. The analysis has revealed that the chief impact comes from the rotating blades, which produce a radar detectable signal similar to that produced by weather phenomena.
 - (2) Various experts note the damaging effects WECS projects may have on essential services such as television signals, microwave signals, agricultural global positioning systems, military defense radars, radio reception, and weather and doppler radar.
 - (3) Currently, the NWS' radar algorithm for removing clutter (caused by towers and other structures) is dependent upon an object having zero, or near zero, velocity, and thus it cannot remove the signal stemming from the rotating blades of a WECS tower. There is no known signal-processing algorithm that can remove WECS clutter while completely preserving the weather signal. WECS clutter contaminates the radar's base

data (reflectivity, velocity, spectrum width) and internal algorithms, which in turn can impact alerts and derived products (estimated precipitation, etc.).

- (4) As a result, essential services could be curtailed and critical radar data over WECS project areas can be lost, distracting forecasters as they conduct severe weather warning operations.
 - (5) NWS funded studies to develop an algorithm that can automatically identify WECS-corrupted signal data are in their initial stages and do not provide a mitigation option. Therefore, one available mitigation option is limited curtailment of WECS operations during severe weather events, including but not limited to tornadoes and severe thunderstorms.
 - (6) The Board hereby concludes that the curtailment of WECS operations in the County shall be required from time to time in order to allow essential services to continue, including weather forecasters to view radar data uncontaminated by WECS clutter.
- (b) *Condition upon Issuance of Permit.*
- (1) The Administrator may only issue a permit upon a finding that the WECS Project shall not interfere with (A) television signals; (B) microwave signals; (C) agricultural global positioning systems; (D) military defense radar; (E) radio reception; or (F) weather and doppler radar.
 - (2) The Administrator may only issue a permit upon a finding that the applicant has entered into a binding agreement with the NWS which provides, at a minimum, for operational curtailment of WECS operations during critical time periods such that weather forecasters will have the capability to view radar data uncontaminated by WECS clutter.
 - (3) The agreement shall entitle the NWS to request curtailment whenever WECS operations are impacting, or are expected to impact, a severe weather warning decision. Neither the NWS nor the County shall be responsible for any costs incurred by the WECS project operator as a result of a curtailment request.
 - (4) The agreement shall require the WECS Project Operator to feather the rotating blades during the curtailment period, bringing them to a stop or near stop, which will allow the radar to filter out any signals returned from the WECS.

§ 20-16 Enforcement.

(a) The Administrator may inspect any operation without prior notice or consent within normal business hours. If any operator or operator refuses access to the Administrator asking to make such an inspection, the Administrator may suspend all operations until such time as the inspection has occurred and the Administrator is satisfied that no imminent threat of substantial harm to health, human safety, or the environment exists or that such threat has been eliminated.

(b) The Administrator may also suspend or revoke a permit for repeated or willful violation of any of the terms of the permit or the provisions of this Ordinance if the Administrator determines there is an imminent threat of irreparable harm to the environment; or of serious hazard to the health, safety, and general welfare of the public, including the County's water supply.

(c) The Administrator may refuse to renew a permit upon a finding, supported by substantial evidence that the operator is in repeated or willful violation of any of the terms of the permit or the provisions of this Ordinance.

(d) Any person directly adversely aggrieved by an action taken or determination made by the Administrator may appeal, by requesting a public hearing within 30 days of the date of the Administrator's action, in accordance with § 20-17 of this Ordinance.

(e) It is unlawful to violate any of the provisions of this Ordinance, or fail to perform any duty imposed by this Ordinance, any permit condition, or any order issued by the Administrator. Any operator found to have committed such a violation shall be liable for a civil penalty not to exceed \$2,500. Additionally, any operator found to have committed a violation shall be liable for a penalty not to exceed \$2,500 for each day such violation continues. In determining the amount of a penalty to be imposed under this Ordinance, the Administrator shall consider the operator's history of previous violations, the seriousness of the violation, including any irreparable harm to the environment and hazard to the health, safety, and general welfare of the public, the operator's negligence, and the demonstrated good faith of the operator to achieve rapid compliance after notification of the violation.

(f) Upon the assessment of a penalty under this Ordinance, the Administrator shall, within 30 days of the assessment, inform the operator of the amount of the penalty assessed and issue an order to the operator to pay the penalty. The operator has 30 days from the receipt of the order to pay the penalty or request a public hearing pursuant to § 20-17 of this Ordinance to contest the imposition of the penalty or the amount of the assessment. If the operator requests a public hearing, the operator shall forward an amount equal to the assessed penalty to the Administrator, who shall place the amount in an escrow account.

(g) An operator who desires to contest the violation or amount of penalty assessed but fails to forward the amount to the Administrator waives all legal rights to contest the violation or amount of penalty assessed. If, following a public hearing addressing the violation or penalty assessed, the Board determines that a violation did not occur or the amount of the penalty shall be reduced, the Administrator shall, within 30 days of the decision, remit the appropriate amount to the operator with interest at a rate interest equal to the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of penalty was paid.

(h) If a permit is suspended or revoked, the Administrator may require the operator to commence reclamation upon 30 days' notice.

§ 20-17 Hearings and Judicial Review.

(a) Any public hearing requested by this Ordinance shall be conducted in accordance with the procedures set forth in Indiana Code § 4-21.5-3. Any public hearing conducted pursuant to this Ordinance shall be before the Board.

(b) A public hearing may be requested by filing, in writing, a "Request for Public Hearing" with the Board on a form approved by the Board. A "Request for Public Hearing" shall be filed within 30 days of the action by the Administrator giving rise to the request or the right to a hearing is waived. A final action of the Board is subject to judicial review under Indiana Code 4-21.5-5.

§ 20-18 Severability.


The provisions of this Ordinance shall be severable and if any portion thereof or the applicability thereof to any person or circumstances shall be held to be invalid, the remainder of this Ordinance and the application thereof shall not be affected thereby. This Ordinance shall not supersede any provision of the Indiana Code except as authorized by the Indiana Constitution or the Indiana Code.

§ 20-19 Effective Date.

This Ordinance shall be in full force and effect 30 days from and after its passage. However, operations in existence on the effective date shall be granted 60 days from the effective date to file an application under this Ordinance, unless an extension is approved by the Administrator. Such approval can only be granted if a pre-submission meeting was held, upon request by the applicant, within 30 days after the effective date.

PASSED ON SECOND READING AND ADOPTED BY THE BOARD OF COMMISSIONERS OF GIBSON COUNTY, INDIANA, ON THE 16TH DAY OF MARCH, 2021.

BOARD OF COMMISSIONERS OF GIBSON COUNTY, INDIANA




Commissioner



Commissioner

Commissioner

ATTEST:



Auditor