

Montgomery County Board of Commissioners

Ordinance 2019-13

An Ordinance Amending Chapter 155 of the County Code Book

Whereas, the Montgomery County Board of Commissioners (the “Board”) regulates the permitting of Wind Energy Conversion Systems (“WECS”) by way of an ordinance codified in Chapter 155 of the County Code; and

Whereas, the Commissioners desire to protect the taxpayers of Montgomery County from the contingent liability of bearing the cost of decommissioning WECS should they be abandoned; and

Whereas, Section 155.15(F) currently requires the applicants for WECS permits to provide financial assurance in amount of at least 125% of the amount of the decommissioning cost estimate minus the reasonable salvage value of the WECS components, in the form of a surety bond, irrevocable letter of credit or other security reasonably acceptable to the Building Commissioner; and

Whereas, the Board believes that the current requirements, contained in Section 155.15(F), leave the taxpayers at risk of bearing the cost of decommissioning because of the possibility that the applicant will allow the bond to lapse and because the turbines may be encumbered and that the encumbrance may negate the County’s ability to salvage the turbines after decommissioning in order to defray the cost of decommissioning; and

Whereas, the Board finds that Section 155.15(F) should be amended to require applicants to provide to the County financial assurance for the 125% of the full amount of estimated decommissioning expenses, without a reduction for salvage, and only in the form of an irrevocable letter of credit; and

Whereas, the Board finds that it is in the best interest of the County, and its citizens, to amend Section 155.15(F) of the County Code to provide for these changes in financial assurances for decommissioning.

Therefore, it is ordained that Section 155.15(F) of the Montgomery County Code is hereby amended to read as follows:

§155.15 DECOMMISSIONING PLAN

“(F) The Applicant, Owner or Operator must provide financial assurance in an amount at least equal to 125% of the amount of the demolition and removal contractor cost estimate in the form of an irrevocable letter of credit reasonably acceptable to the Building Commissioner. No irrevocable letter of credit shall be released until the WECS is properly decommissioned in accordance with the Decommissioning Plan, as determined by the Building Commissioner.”


It is further ordained that this Ordinance shall become effective upon adoption.

It is further ordained that any other provision of the County Code which is not specifically amended by this section shall remain in full force and effect.

Ordained this 13th day of May, 2019.

Montgomery County Board of Commissioners:


James D. Fulwider, President


John Frey, Vice President


Dan Guard, Member

Attest:


Jennifer Andel, Auditor