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AGREEMENT SIGNED BY AND BETWEEN CONCYTEG**

**AND**

**THE RENEWABLE ENERGY AND ENERGY EFFICIENCY  
PARTNERSHIP (REEEP)**

**FUNDED BY: THE RENEWABLE ENERGY AND ENERGY EFFICIENCY  
PARTNERSHIP**

**ZONING AND LAND USE REGULATIONS  
PROPOSED FOR THE ESTABLISHMENT OF  
WIND ELECTRIC PARKS  
IN THE STATES AND COUNTIES  
OF MEXICO**

## STATEMENT OF LEGISLATIVE INTENT

Whereas wind power is a clean energy that does not require the combustion process, and therefore it does not produce neither atmospheric emissions nor polluting wastes;

Whereas wind power may be generated in spaces fit for purposes other than urban development or for other land uses, allowing to save fossil fuels or water stored in reservoirs;

Whereas the State's Municipalities have a high wind power generation capacity due to their geographic location and climate conditions;

Whereas energy generation from wind power requires the establishment of rules and regulations to promote and foster the development and installation of wind electric parks with favorable conditions to protect the environment, ensuring their technical and economic feasibility as well as their safety infrastructure;

Whereas these Regulations were prepared taking into account the opinion of the State Administrative Unit in charge of Renewable Energy Promotion, an agency specialized in State and Municipal energy infrastructure development, which has supported the execution of comparative studies of local and foreign legislation in response to a growing need for clean energy generation from renewable sources;

Now therefore, these ZONING AND LAND USE REGULATIONS FOR THE ESTABLISHMENT OF WIND ELECTRIC PARKS, aimed at regulating the States' Municipalities activities and procedures to install wind electric parks to generate energy, are hereby submitted for consideration pursuant to the following chapters:

- ONE.-** General Provisions
- TWO.-** Authorities
- THREE.-** The Municipal Wind Power Utilization Program
- FOUR.-** Wind Electric Park Projects
- SEVEN.-** Project Implementation Procedure
- SIX.-** Operation and Abandonment of Wind Electric Facilities
- NINE.-** Inspection and Penalty Procedure

As a part of a strategy to promote and support project development for electricity generation from wind power, these proposed Regulations are intended to include

administrative simplification criteria as well as a language easy to understand to all interested parties that facilitates investment projects.

Now therefore, the Hon. **TOWN COUNCIL OF \_\_\_\_\_**  
**MUNICIPALITY is asked to review the following:**

## EXECUTIVE ORDER

**SOLE.- PROPOSED ZONING AND LAND USE REGULATIONS FOR THE ESTABLISHMENT OF WIND ELECTRIC PARKS IN THE STATE OF \_\_\_\_\_ AND ITS MUNICIPALITIS, as follows:**

### CHAPTER ONE General Provisions

**Article 1.** - These Regulations are intended to describe the procedure for installing parks to obtain electricity from wind power in the Municipality's territory, and have the following specific objectives:

- I. Establish a legal action framework for municipal authorities in the area of installation of parks for electricity generation from wind power;
- II. Define general technical criteria to develop a Municipal Wind Power Utilization Program;
- III. Establish the procedure and conditions to authorize wind electric parks projects with the private sector involvement; and
- IV. Define an action framework for authorities.

**Article 2.-** The utilization of wind power is an activity that may be performed by the Municipality, in coordination with the Federal and State Governments.

Municipal authorities, in coordination with the federal and state authorities, shall oversee compliance with official standards on energy efficiency and saving as required to enforce these Regulations, as well as those related to the installation and operation of wind electric parks.

The Municipality shall submit an annual report to the State Administrative Unit in charge of Renewable Energy Promotion as related to compliance with such standards.

**Article 3.-** Municipal academic, economic and social sectors as well as scientific and technological communities and the State Administrative Unit in charge of Renewable Energy Promotion shall aid the Municipality in plans and programs development as provided in these Regulations.

## CHAPTER TWO Authorities

**Article 4.-** The following are competent authorities to enforce these Regulations at the municipal level:

- I. The Town Council;
- II. The Mayor;
- III. The Municipal Administrative Unit in charge of Urban Development; and
- IV. Any other applicable State or Municipal Government Administrative Units as provided in these Regulations.

**Article 5.-** The Town Council shall have the following powers and duties:

- I. Approve the The Municipal Wind Power Utilization Program, upon consultation with the State Administrative Unit in charge of Renewable Energy Promotion;
- II. Define zoning for installing wind electric parks in the Municipality;
- III. Assign the expense budget resources needed for wind power application in street lightning, sewage pumping and municipal property;
- IV. In coordination with state and municipal authorities, enforce compliance with the official standards for energy efficiency and savings pursuant to these Regulations as well as those related to wind electric parks, provided that it may delegate this power.
- V. Promote the installation of municipal wind electric parks in public or private activities

to generate useful energy.

- VI. Execute any kind of legal acts as required to enforce these Regulations; and
- VII. Any other powers and duties as provided by the applicable laws and regulations.

**Article 6.- The Mayor shall have the following powers and duties:**

- I. Submit to the Town Council proposed technical and scientific surveys for identifying areas to install wind electric parks;
- II. Submit to the Town Council a proposed municipal budgetary allocation for investment in infrastructure related to wind power utilization;
- III. Submit to the Town Council the creation of municipal government-controlled enterprises to aid in wind power application in industrial, business and services sectors;
- IV. Attend the applicable meetings of the Governing Board of the State Administrative Unit in charge of Renewable Energy Promotion, in representation of the Municipality;
- V. Any other powers and duties as established by these Regulations and the applicable legal provisions.

**Article 7.-** The Administrative Unit in charge of Urban Development shall have the following powers and duties:

- I. Submit to the Mayor a proposed set of general guidelines to develop the Municipal Wind Power Utilization Program;
- II. Complete the Municipal Wind Power Utilization Program and, once implemented, to enforce its compliance;
- III. Submit to the Mayor the best zoning and land use for wind power utilization in the Municipality;
- IV. Develop, in coordination with the applicable municipal agency or entity, application programs for wind power in public utilities;

- V. Review the wind electric parks projects intended to be implemented in the Municipality and submit them for the approval of the Town Council;
- VI. Impose the relevant penalties for violations to these Regulations; and
- VII. Any other powers and duties as established by these Regulations and the applicable legal provisions.

In the performance of the above powers, the Administrative Unit in charge of Urban Development shall coordinate with the State Administrative Units in charge of Ecology and Renewable Energy Promotion, each in its respective jurisdiction.

### **CHAPTER THREE**

#### **The Municipal Wind Power Utilization Program.**

**Article 8.-** The Municipal Wind Power Utilization Program is aimed at promoting the installation of wind electric parks in the Municipality to produce electricity as well as to regulate territorial development of the infrastructure, contributions and installations required for this purpose.

**Article 9. -** The Municipal Wind Power Utilization Program provide for an strategy to promote the creation of either private or public enterprises engaged in the installation and operation of this kind of parks.

**Article 10.-** For the purposes of these Regulations, the Town Council shall be responsible for approving the Municipal Wind Power Utilization Program.

**Article 11.-** The Municipal Wind Power Utilization Program will establish a link among the Administrative Units or municipal entities involved, and shall be subject to the Urban Development Plan.

**Article 12.-** The Municipal Wind Power Utilization Program shall be, if applicable, the specific planning tool to acquire the right to urbanize on any kind of land.

**Article 13.-** The Administrative Unit in charge of Urban Development shall draw up the Municipal Wind Power Utilization Program, on the basis of the land use classification, and submit it for the Town Council approval.

Commercial or housing land uses shall only allow wind electric installations with a power

generation capacity below 0.5 megawatts for personal consumption.

Industrial and agricultural land uses shall only allow wind energy installations with a power generation capacity above 0.5 megawatts for self-supply, cogeneration or small-scale production.

The foregoing is not applicable to:

- a) Lands classified as natural reserves, archaeological sites, cultural heritage, dams, gullies, protected areas, protected waters, or other areas of public interest.
- b) Ecological conservation areas for birds, wild animals or endangered species.
- c) Areas declared as world heritage.
- d) In general, in such places that, being of public interest, are subject to prohibitions or limitations of easements expressly provided by statutes, rules or regulations.

For archaeological sites and areas classified as national heritage, the Town Council may require in the Municipal Wind Power Utilization that wind electric parks are located in accordance with the territorial urban plan at a minimum distance of 50 meters or other distance that it determines, provided that the preservation of cultural heritage environment is ensured.

**Article 14.-** In the Municipal Wind Power Utilization Program, the Administrative Unit in charge of Urban Development shall specify the requirements and authorizations for the installation of wind electric parks, in order to provide them with the services and infrastructure necessary for their operation and the preservation of natural, urban and landscape values.

**Article 15.-** Installation permits for wind electric parks with a power generation capacity above 0.5 megawatts shall be approved by the Town Council. In the case of expropriation of, or creation of easements for the lands where the Program will be implemented, the Town Council, in the final approval, may agree to propose to the competent authorities the issuance of an statement of public interest.

At least, the birds, vegetation, erosion risks, landscape and phonic situation involved

shall be specified. Also, the effectiveness of remedial actions shall be assessed, and other actions to eliminate or mitigate the identified impacts shall be proposed.

## CHAPTER FOUR Wind Electric Parks Projects.

**Article 16.** - Any application for installing a wind electric park in municipal territory shall contain the following:

1. Evidence of legal title to the land where the park will be built;
2. A development plan setting forth:
  - 2.1. The rationale for installing the wind electric park in the chosen plot;
  - 2.2. The urban specifications;
  - 2.3. The permit issued by the Energy Regulatory Commission;
  - 2.4. A study on local and federal environmental impact;
  - 2.5. Aeronautic authorizations;
  - 2.6. The approval by the corresponding Firemen Administrative Unit;
  - 2.7. An inventory of the assets and resources existing in the expropriated area and a preservation plan for the same, if applicable;
  - 2.8. A description of the construction characteristics of the park, specifying the total surface to be used, the installations planned and their shape, distance and height, the materials used, the signals, the paved and unpaved areas, earth movements, treatment of levelled ground, and resulting slopes; provided that they shall be subject to the applicable rules and regulations issued by the competent federal or state authorities;
  - 2.9. A description of the existing utilities, accesses, provisions, energies, lightning and other installations;
3. Information and arrangement plans to an appropriate scale of the wind electric park, specifying the lot location as well as land classification, values and resources, topography, works location, existing and planned installations and services and the corresponding plans, construction and formal characteristics of facilities, and elements to be installed;
4. A technical description of energy production, including real measures of the park;
5. The execution schedule of construction works and the corresponding financial plan, including evidence of the economic capacity of the applicant and a detail budget for civil works, electric installations and environmental corrections.

6. A description of the model agreement to be executed with the owners or holders of the lot where the park will be built.

## CHAPTER FIVE Project Implementation Procedure

**Article 17.-** The Administrative Unit in charge of Urban Development shall review the documentation produced and verify the application feasibility. In the event that the application is feasible, it shall respond on or before the 5th following working day and, if applicable, ask for its publication in the State Official Gazette, allowing a term not to exceed five days so that the interested parties may assert any arguments available to them under the law.

In case of opposition from the community, the Town Council shall aid the applicant in the process of promotion of the social benefits that could be obtained with the park building, in order to support the investors in the project.

**Article 18.-** If, upon expiration of the publication term, there are no observations or claims against the application for construction of the wind electric park, it shall be submitted for consideration and approval of the Town Council.

Prior to approval, the Municipality shall assess, besides the legality and opportunity criteria, the park's localization and impact on the environment.

**Article 19.-** In the event that the applicant fails to submit the studies of local environmental impact or the Firemen's approval, the Town Council may issue a provisional building permit subject to an extendible three month term for completing the documentation required to obtain final authorization.

**Article 20.-** Upon issuance of the provisional or final building permit, the wind electric park construction or installation may be initiated; and once completed, the applicant shall notify the corresponding Urban Development Administrative Unit so as to obtain the land use license.

**Article 21.-** Any modification to the wind electric park project shall be communicated and filed in accordance with the same authorization procedure, allowing a five working day period, from the date of publication in the Official Gazette, for submission of observations or complaints.

**Article 22.-** The maximum period for the execution of the wind electric park shall be of

two years from the date of the final approval, after which it shall be invalid, prior declaration of the Administrative Unit in charge of Urban Development and upon the request of the petitioner.

**Article 23.** - In the event that two or more wind electric parks projects are submitted for approval in the same area, a permit shall be granted to the project technically ensuring a lower environmental impact and the highest energy generation. In other cases, the first application shall be considered.

**Article 24.-** The Administrative Unit in charge of Urban Development shall always take the actions necessary to prevent impacts on adjacent wind parks, so that the installation of new parks does not restrain energy generation in parks already authorized or existing.

**Article 25.** Authorizations granted to wind electric parks projects shall only be transferable to third parties when the three following requirements are met:

- a) The corresponding federal authorization has been issued;
- b) At the suggestion of the Urban Development Administrative, the Town Council has issued an express administrative authorization;
- c) The wind electric park is operating at its full capacity.

Any purchase transaction involving over 50 per cent of the shares of stock or partnership interests of the holder of the rights to the wind electric park shall be deemed to be a transfer to third parties.

**Article 26.-** Parties interested in installing a wind electric park may submit a written application to the Urban Development Administrative Unit to obtain information about the requirements.

Such application shall identify the precise location of both the plot of land and the location of the park, detail the activities planned, and justify the construction of the park.

The Administrative Unit in charge of Urban Development, when responding to the inquiry, subject to the circumstances prevailing at the moment and in no event binding, shall indicate the possibility of considering the activity as liable to be approved or prohibited.

## CHAPTER SIX Operation and Abandonment of Wind Electric Facilities

**Article 27.-** The operation and abandonment of wind electric installations shall be subject to the applicable official standards issued by the competent federal authorities.

## CHAPTER SEVEN Inspection and Penalty Procedure

**Article 28.-** The Administrative Unit in charge of Urban Development shall be the competent authority to verify compliance with these Regulations. In the event that it is necessary to initiate a verification procedure, it shall be subject to the Rules and Regulations on Zoning and Land Use.

**Article 29.-** The Administrative Unit in charge of Urban Development may impose the following penalties against individuals for violation of these Regulations:

- I. A fine of up to 50% of the value of construction;
- II. Temporary suspension of construction;
- III. Closing down of construction works;
- IV. Demolition of construction when third parties' right to wind is affected; and
- V. Imprisonment.

**Article 30.-** The penalties referred to in this chapter shall be imposed as provided by the applicable Rules and Regulations on Zoning and Land Use.

**Article 31.-** Any permits and authorizations issued under these Regulations may be revoked only with prior hearings with the interested parties and justified cause.

## TRANSITORY PROVISIONS

**ONE.-** These Regulations will come into effect on the date immediately following their publication in the State Official Gazette.

**TWO.-** Any regulatory provisions being in conflict with these Regulations are hereby abrogated.

**THREE.-** The Municipality shall complete the Municipal Wind Power Utilization Program within \_\_\_\_\_ working days following the effective date of these Regulations.