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ORDINANCE # 7 -2022

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KATHY D. POY, RECORDER
GRANT COUNTY, INDIANA
RECORDED AS PRESENTED
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**ORDINANCE OF THE BOARD OF COMMISSIONERS OF GRANT COUNTY, INDIANA
AUTHORIZING AN ORDINANCE REGULATING SOLAR ENERGY SYSTEMS**

WHEREAS, the Board of Commissioners of Grant County, Indiana, ("Commissioners") wish to amend the Grant County Zoning Ordinance to include a section on regulation of Solar Energy Systems;

WHEREAS, a public hearing was held on this proposal before the Grant County Area Plan Commission ("Area Plan") which forward a recommended ordinance to the Commissioners;

WHEREAS, the recommended ordinance was amended by the Commissioners and sent back to Area Plan for consideration.

WHEREAS, Area Plan disapproved of the Commissioners amendment to the ordinance and now the Commissioners which to reaffirm the original amendment and adopt such ordinance to regulate solar energy systems in the unincorporated areas of Grant County.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners that the Grant County Code be amended with a new Ordinance under Section 153.700 et seq. to read as follows:

Solar Ordinance for Solar Energy Systems (SES)

153.700 Scope

- A. This Ordinance applies to all Solar Energy System installations in Grant County

153.701 Purpose

- A. Grant County finds that it is in the public interest to regulate the use and development of solar energy systems. Grant County supports the use of solar energy collection systems and the regulations found in the Ordinance are not intended to severely limit the placement of solar energy systems.
- B. To assure that the development and production of solar-generated electricity in Grant County, Indiana, is safe and effective.
- C. To provide a uniform and comprehensive set of standards for the installation and use of any Residential Solar Energy Systems (RSES) or Solar Farm Energy Systems (SFES), both major & minor.
- D. To develop standards for solar generated energy, utilize natural resources, and ecologically sound energy sources, support Indiana's alternative energy sources potential and other such economic development tools.

153.702 Intent

- A. The intention of the Solar Energy System (SES) Ordinance is to provide a regulatory scheme for the development, construction, and operation of SESs in Grant County, Indiana, to establish reasonable guidelines and standards on the development, construction, operation, rehabilitation, decommissioning, and restoration of a SES, and to preserve the health, safety, and general welfare of Grant County residents and the general public.

153.703 DEFINITIONS: The following words and terms shall, for the purpose of this Section and used elsewhere in this Ordinance, have the meaning shown herein.

Adjacent. lying near, close; contiguous; adjoining; neighboring.

Adjoining. being in contact at some point or line; contiguous; bordering.

Accessory Building/Structure. A subordinate structure, the use of which is incidental to that of the dominant use of the principal building or land.

Accessory Use. A use customarily incidental and subordinate to the primary use or building and located on the same lot therewith. A use which dominates the primary use or building in area, extent, or purpose shall not be considered an accessory use.

Applicant. The entity or person who submits to the County, an application for the siting of any SES or Substation or thereafter operates or owns a SES.

Area Plan Commission (APC). A multiple jurisdictional Plan Commission established under the Area Plan Law, as defined in the I.C. 36-7-4-102 as amended, herein the Area Plan Commission (APC)

Battery Back-Up. A battery system that stores electrical energy from a SES, making the electricity available for future use. Battery Back-Up systems are common in Off-Grid Systems and Hybrid Systems.

Electricity Generation (aka production, output). The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).

Electrical Equipment. Any device associated with a SES, such as an outdoor electrical unit/control box, that transfers the energy from the SES to the intended on-site structure.

Improvement Location Permit (ILP). A certificate issued by the Area Plan Commission permitting a person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, or convert any building or structure within its jurisdiction, or cause the same to be done.

Indiana Residential Code (InRC) - Part of the International Residential Code (IRC), the InRC sets buildings standards for residential structures and is based off the International Residential Code (IRC)

Inverter. A device that converts the direct current (DC) electricity produced by a solar photovoltaic system to useable alternating current (AC).

Ground Mount Solar Energy System. A solar energy system that is directly installed into the ground and is not attached or affixed to an existing structure.

Megawatt (MW). Equal to 1000 Kilowatts; a measure of the use of electrical power.

Minor Solar Farm Energy System (SFES Minor). A commercial facility, on a parcel(s) of One(1) acre up to 10 acres that converts sunlight to electricity, whether by photovoltaics concentrating solar thermal devices, or various experimental technologies for on-site or off-site use.

Major Solar Farm Energy System (SFES Major). A commercial facility, on a parcel(s) of 10 acres or more that converts sunlight to electricity, whether by photovoltaics concentrating solar thermal devices, or various experimental technologies for on-site or off-site use with the primary purpose of selling wholesale or retail generated electricity.

Maximum Extent Boundary. A maximum land area of work as defined within a project's Development Plan.

National Electric Code (NEC). Sets standards and best practices for wiring and electrical systems.

Photovoltaic (PV) System. A solar energy system that produces electricity using semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof-mounted, ground-mounted, or pole-mounted.

Primary Structure. Means, for each property, the structure that one or more persons occupy most of the time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages, and barns.

Operator. The entity responsible for the day-to-day operation and maintenance of the SFES, including any third-party subcontractors.

Owner. The entity or entities with an equity interest in the SES, including their respective successors and assigns. Owner does not mean the property owner from whom land is leased for locating the SFES (unless the property owner has an equity interest in the SFES); or any person holding a security interest in the SFES solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the SFES within one year of such event.

Racking. Solar energy systems are attached securely and anchored to structural sections of the roof-mounted or pole-mounted systems. Specially designed metal plates called flashings prevent leaks and are placed under shingles and over bolts to create a watertight seal.

Residential Solar Energy System (RSES). Any device or combination of devices or elements which rely upon direct sunlight as an energy source including but not limited to any substance or device which collects sunlight for generating electricity primarily for use on-site. However, the energy output may be delivered to a power grid to offset the cost of energy on-site. RSESs are only considered RSESs if installed on One (1) Acre or less and would include Commercial installations.

Right-of-Way (ROW). A strip of land occupied or intended to be occupied by a street, pedestrian-way, crosswalk, railroad, electric transmission line or gas pipeline, water main, sanitary or storm sewer main, special landscaping or for another special use. The usage of the term RIGHT-OF-WAY, for land platting purposes, shall mean that every right-of-way hereafter established and shown on a final plat is to separate and distinct from the lots or parcels adjoining the right-of-way and not included within the dimensions or areas of the lots or parcels. RIGHTS-OF-WAY intended for streets, crosswalks, water mains, sanitary sewers, storm drains, screening or special landscaping or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider on whose plat the right-of-way is established.

Roof-Mount System (aka rooftop mounted, building mounted). A solar energy system consisting of solar panels are installed directly on the roof of a home, commercial building, and/or an accessory structure, such as a garage, pergola, and/or shed. Solar panels are mounted and secured using racking systems specifically designed to minimize the impact on the roof and prevent any leaks or structural damage. Roof-mount systems shall be installed according to InRC Section R324.

Screening (for Solar Farms). Densely planted (or having equivalent natural growth) with blooming shrubs or trees at least four feet high at the time of planting, of a type that will form a year-round dense screen at least six feet high. Earth berms may be incorporated as part of screening measures where appropriate.

Solar Access. The ability of one property to continue to receive sunlight across property lines without obstruction from another's property (buildings, foliage, or other impediment).

Solar Array. Multiple solar panels combined to create one system.

Solar Collector. A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation electricity or transfer of stored heat.

Solar Development District (SDD). A Zoning District for which a SDD Ordinance must be adopted to designate specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in the Solar Ordinance. SDD Overlay would generally be set for the "Maximum Extent Boundary".

Solar Easement. An easement recorded pursuant to Chapter IC 32-23-4, obtained for the purpose of insuring exposure of a solar energy device or a passive solar energy system to the direct rays of the sun. Solar easements are to follow the State requirements of Recording (IC 32-23-2-5).

Solar Energy. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector

Solar Energy System (SES). The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of system includes all the land inside the perimeter of the system, which extends to any fencing.

Solar Farm Energy System Project Area. A SFES project area may be comprised of a single parcel of land or two or more contiguous parcels of land providing their inclusion in the developmental plan & with written agreements where applicable.

Solar Glare. The potential for solar panels to reflect sunlight, with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Solar Panel (or module). A device for the direct conversion of sunlight into useable solar energy (including electricity or heat).

Solar Photovoltaic (PV) System. A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof-mounted, ground-mounted, or pole mounted.

Waiver Agreement. An agreement to modify a standard required in this Article which is entered into by and between the landowner burdened by lessening the standard required by this Article and the applicant requesting the modification of the standard required by this Article. An agreement to modify a standard required by this Article, or a “waiver agreement”, is permissible only when a waiver of such standard is specifically authorized by this Article. In order to be valid, a “waiver agreement” must: (1) Be in writing; (2) Specifically state that the document is a waiver agreement; (3) Briefly describe the standard or requirement which is being modified; (4) Briefly describe the standard agreed upon by the parties to the waiver agreement; (5) Be executed in a manner free from coercion or duress; (6) Be executed by both parties to the waiver agreement; (7) Be subject to the approval of the Executive Director; and (8) be filed and recorded thru the Area Plan Office.

153.704 RESIDENTIAL SOLAR ENERGY SYSTEM (RSES):

- A. **RSES Purpose & Standards.** The purpose of these regulations is to provide a uniform and comprehensive set of standards for the installation and use of RSESs designed for on-site home, farm, and small commercial use that are used primarily to reduce on-site consumption of utility power. The intent of these regulations is to protect the public health, safety, and community welfare without unduly restricting the development of RSESs.
- B. **Residential Solar Energy System (RSES) Defined.** Any device or combination of devices or elements which rely upon direct sunlight as an energy source including but not limited to any substance or device which collects sunlight for generating electricity primarily for use on-site. However, the energy output may be delivered to a power grid to offset the cost of

energy on-site. RSESs are only considered RSESs if installed on One (1) Acre or less and would include Commercial installations.

- C. **Permitted Use.** A RSES shall be considered an accessory use to a principal permitted use in all zoned districts of the County that are covered by this Ordinance. The RSES shall primarily provide power for on-site use by the owner. However, the energy output may be delivered to a power grid to offset the cost of energy on-site (Net Metering).
- D. **Permitting.** Before an Improvement Location Permit (ILP) is issued, the following shall be submitted to the Area Plan Commission for review including, but not limited to:
 - 1. **Site plan showing:**
 - a) Name, address, and phone number of the property owner.
 - b) Property lines; all structures; septic field; setback lines.
 - c) Location of all solar panels and associated equipment.
 - d) Name, address, and phone number of the property owner.
 - 2. **Confirmation** that the local electric utility has been informed of the customer's intent to install a RSES.
 - 3. **Confirmation** that the site plan has been submitted to the local fire protection district
- E. **Approved Solar Components.** All RSES components must have an Underwriters laboratory (UL) listing or approved equivalent.
- F. **Building Codes.** All county, state, and national construction codes shall be followed (reference InRC R324, as amended)
- G. **Glare.** The RSES shall be designed and located to prevent glare toward any inhabited buildings or adjacent properties as well as adjacent highways or right-of-ways.
- H. **Revocation.** The ILP/ Building Permit shall be revoked if the RSES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the RSES not to be in conformity with this Ordinance.

153.705 Residential Solar Energy System (RSES) Types & Requirements

- A. **Roof Mounted and Wall Mounted (RSES)**
 - 1. A roof mounted or wall mounted RSES may be located on a principal or accessory building.
 - 2. Roof-mounted solar panels installed on a building or structure with a sloped roof shall not project vertically more than the height requirements for the district in which they are located. The panels shall not be located within three (3) feet of any peak, eave, or valley of the roof to maintain pathways of accessibility and egress.
 - 3. Wall mounted RSES shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.
 - 4. RSES shall be located only on rear or side-facing roofs/structure as viewed from any adjoining street unless the applicant demonstrates to the Area Plan Executive Director or their Agent that, due to solar access limitations, no location exists other

than the street-facing roof/structure, where the solar energy system can perform effectively.

5. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Indiana Residential Code (InRC) Section R324 and/or manufacturer specifications, whichever is more restrictive.
6. For Roof Mounted RSES: Prior to installation, a certificate/stamp from a licensed engineer is required stating the structure is capable of holding the additional load imposed on the structure.

B. Ground Mounted (RSES)

1. Setback
 - a. The minimum yard setbacks from side and rear property lines shall be equivalent to the accessory structure setbacks in the zoning district.
 - b. Freestanding solar panels shall only be permitted in the rear and side yard, except for the following exception:
 - i. The Board of Zoning Appeals (BZA) may authorize, thru Variance, the installation of a ground mounted RSES in front of the principal building, outside the required front yard setback, if the applicant demonstrates that, due to solar access limitations, no location exists on the property other than the front yard where the solar panel can perform effectively.
 - c. Shall not be greater than twenty (20) feet at the maximum tilt of the solar panel(s) in any zoning district.
2. Ground-mounted RSES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system, or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system except permission is granted in writing by the County Surveyor and/or County Drainage Board, and owner of right-of-way or easement.

153.706 Electrical Components (Safety & Standards)

- A. Electrical components of all RSES shall conform to applicable Local, State, and Federal building & safety codes including Indiana Residential Code and/or Indiana Electrical Code.
- B. All RSES equipment to be used must have an Underwriters Laboratory (UL) listing or approved equivalent.
- C. All on-site utility, transmission lines, and plumbing shall be placed underground to the extent feasible.
- D. When solar storage batteries are included as part of the solar energy collector system, they must be placed in a secure container or enclosure and installed and maintained as required by applicable law or manufacturer specifications.

- E. The RSES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare. In the event of a violation of any of the foregoing provisions, the Area Plan Director or their Agents shall give written notice specifying the violation to the owner of the RSES to conform or to remove the RSES. Said RSES can be declared a public nuisance if not repaired in 30 days.
- F. Any physical modification to any RSES or a part thereof which materially alters the mechanical load, mechanical load path, or major electrical components shall require re-permitting. Like-kind replacements shall not require re-permitting, unless required by a regulatory authority. Prior to making any material physical modification, other than a like-kind modification, the owner or operator of such RSES shall confer with the Area Plan Commission.

153.707 Determination of Executive Director

- A. The Executive Director of the Area Plan Commission (APC) shall determine, should minor variances from the requirements set forth in Sections 153.705 be requested, which requirements shall be complied with by the applicant, owner, or operator prior to issuance of an Improvement Location Permit/Building Permit for a RSES. The Executive Director may require additional, reasonable submittals from time to time. The Executive Director may, upon proper agenda notice, assign any question, general or as to a specific RSES application, for discussion and/or instruction from the BZA. An applicant for a RSES may appeal the requirement, decision, or determination of the Executive Director in the manner prescribed by applicable Rules of the BZA, the Zoning Ordinance and statute(s).

153.708 Solar Farm Energy Systems (SFES Minor & SFES Major)

153.709 Solar Farm Energy System (SFES) Purpose & Standards.

- A. To consider the unique needs of solar farm energy systems and to provide for the most efficient use of this type of renewable energy system.
- B. To protect the character of residential neighborhoods and commercial corridors, as well as to ensure that solar farm energy systems are placed and constructed in such a way that is harmonious and beneficial to agricultural property.
- C. To provide a uniform and comprehensive set of standards for the installation and use of Solar Farm Energy Systems designed for commercial energy production.
- D. To protect the public health, safety, and general welfare without unduly restricting the development of Solar Farm Energy Systems.

153.710 "Solar Development District" Overlay

This section establishes “Solar Development Districts” for Major Solar Farm Energy Systems (Major SFES). Specifically, it creates an Overlay Zone that lies on top of an existing zoning district(s) and is intended to apply an additional layer of design standards to all areas within a defined overlay boundary (maximum extent boundary) beyond those of the underlying zoning district in which it is created. The purpose of this district is to apply a unique set of standards to a specified area without having to amend all other relevant sections of the zoning code. Major Solar Farm Energy Systems may cover parts of several existing zone districts or only a portion of a single zone. This overlay district does not regulate Residential Solar Energy Systems (RSES) or Minor Solar Farm Energy Systems (Minor SFES).

153.711 “Solar Development District” Overlay Application and Approval Process

A. Zone Map Amendment

1. A “Solar Development District” Overlay District is reviewed and may be adopted as with any other zone map amendment request per IC 36-7-4-608
 2. “Solar Development District” Application may run concurrent with a Solar Projects Development Plan.
 3. Application shall include all Parcels within the “Solar Development District”.
 4. Application shall include “Maximum Extent Boundaries” (Overlay Boundaries) of the proposed Solar Development District.
 5. If a Development Plan is not approved after a period of 3 years from the date the properties were approved to be part of the Overlay District, the properties shall be removed from the Overlay District.
 6. If, within 2 years from the expiration of a Development Plan, a new Development Plan is not approved, the properties shall be removed from the Overlay District.
- B. Permitted and Special Uses of the underlying zoning district shall continue in effect, except as may be modified by this Overlay District.

153.712 Solar Farm Energy System (SFES) Development Plan Application & Review

This Section governs the siting of any solar farm energy system (SFES) designed for commercial energy production and to assure that any development and production of solar generated electricity in Grant County is safe and effective by providing a regulatory scheme for the construction and operation of any SFES in Grant County.

Prior to the construction of any SFES, the applicant, owner, or operator shall be required to complete the following process:

A. Application:

The applicant, owner, and/or operator shall submit an application for a Development Plan review along with a description; including names, address, and contact information of the applicant, owner, and operator including their respective business structures; along with, but not be limited to the following.

1. **Summary Statement & Site Description:** A SFES project summary shall include, but not be limited to:

- a. A general description of the project including its approximate generating capacity. (by MW)
 - b. The general location of the project.
 - c. Proposed type of SFES to be used and the potential equipment manufacturer. All SFES components shall have an Underwriters Laboratory (UL) listing or approved equivalent.
 - d. Approximate number of panels, site locations, and spacing of solar panels/arrays to be installed.
2. The names, addresses, phone numbers and/or contact information for all property owners with the SFES proposed on their properties.
3. **Site Plan: A detailed plan**, at a measurable scale, of all the improvements to be placed on the site(s). Site plan(s) must include:
 - a. The proposed Solar Development District location on the SFES showing the projected maximum extent boundaries of the site.
 - b. The location of all proposed SFES structures including substations.
 - c. Property lines, including identification of adjoining properties.
 - d. Location of all primary structures located in adjacent properties, within quarter (1/4) mile.
 - e. Public roads
 - f. Planned location of underground or overhead electric lines.
 - g. Flood Plain, if located in Flood Plain, that area of project is following the Flood Plain Ordinance (Reference Section 153.315)
 - h. Any wetlands based upon a delineation prepared in accordance with the applicable US Army Corps of Engineer requirements and guidelines.
 - i. The location of any FAA registered airport within one (1) mile of the proposed SFES boundary.
4. **A Topographic Map** of the project site and the surrounding area which shall encompass an area at least a quarter (1/4) mile radius from the proposed project site with contours of not more than five (5) feet intervals.
5. **Fencing & Landscaping/Buffer/Screening Plan** (Reference Section 153.715)
6. **Road Use Agreement Plan** (Reference Section 153.719)
7. **Decommissioning Plan Agreement** (Reference Section 153.718)
8. **Health Department Approval** (Reference Section 153.713)
9. **Proof of Liability Insurance Plan** (Reference Section 153.721)
10. **Approved Drainage Plan** (Reference Section 153.713)
11. **Erosion Control Plan (Rule 5):**
 - a. Temporary erosion and sediment control both during and after construction.
 - b. Permanent drainage and erosion control measures to prevent damage to local roads or adjacent areas and to prevent sediment laden run-off into waterways.

- B. **Application Filing Fee:** The fee applicable to the application shall be payable to the Area Plan Office at the time of submission of the application. The Application fee shall be used to defray the costs associated with the Application, including professional fees and expenses. Application Filing fee shall be determined thru the Area Wide Zoning Ordinance, Appendix A: Area Plan Fee Schedule per IC 36-7-4-411.
- C. **Area Plan Office and Review:** The Area Plan Executive Director & Zoning Administrator shall review the Development Plan & proposed Solar Development District , including all supporting information. When the proposed Development Plan & Solar Development District is in compliance with the requirements of the Solar Ordinance, the Development Plan Application & proposed Solar Development District shall be forwarded to the APC for Public Hearing, Review, and Recommendation.
1. The Area Plan Office may seek review from the Technical Advisory Committee prior to submitting the Development Plan Application to the Area Plan Commission.
- D. **Public Hearing Notification:** Notification for the scheduled public hearing regarding the Development Plan & proposed Solar Development District shall be completed consistent with the requirements of the Rules of Procedures of the Area Plan Commission along with the requirements of IC 5-3-1 (Open Door Law) for publication.
- E. **Area Plan Commission Review and Recommendation:** The APC, in a public hearing, shall review the development plan & proposed Solar Development District. Following the public hearing and review, the APC shall put forth a recommendation to the County Commissioners (Legislative Body);
1. The APC shall confirm the completion of the SFES Development Plan Application & proposed Solar Development District.
 2. The APC may ask the applicant for additional materials or testimony
 3. The APC Recommendation to the Commissioners shall be: Favorable Recommendation, Unfavorable Recommendation, or No Recommendation.
- F. **Findings of Fact (IC 36-7-4-1406):** The Area Plan Executive Director shall prepare, and sign written findings of facts documenting the action taken by the APC.
- G. **The Commissioners (Legislative Body) Review & Decision:** After receipt of the SFES Development Plan & Solar Development District recommendations from the APC, the Commissioners shall review then approve, modify, or deny the SFES Application.
1. The Commissioners may ask for modification of the SFES Application, Application would be sent back to the APC for review & revision prior to being re-visited by the Commissioners for approval.
 2. The Commissioners may ask that Application be sent to the Board of Zoning Appeals for any modification that would require a variance from the established ordinance prior to approval.
 3. The Commissioners shall be responsible for all Legal Contracts, such as but not limited to the Decommissioning Plan, Road Use Agreement, Liability Insurance, and Economic Development Agreements.
- H. **County Council.** The County Council will be responsible for all Tax Abatement Requests. These requests shall be made prior to beginning the development process.

- I. **Findings of Fact (IC 36-7-4-XXXX):** The Commissioners (Legislative Body) shall prepare, and sign written findings of facts documenting the action taken.
- J. **All Tax Abatement** requests, shall go thru the Grant County Council prior to the application process.
- K. **Permits:** Prior to any construction activity, the applicant, owner, and/or operator shall be required to obtain the appropriate Improvement Location Permits (ILP) and any other required permits specified by this Ordinance through the Area Plan Office.

153.713 Revisions to Solar Farm Energy System (SFES) Development Plan

Any revisions to an approved Development Plan shall require approval prior to the issuance of any Improvement Location Permits. The proposed revisions along with all required supporting information shall be submitted to the Executive Director for review. The Executive Director may approve minor revisions per 153.712 (A), If the Executive Director determines that the revisions require APC re-approval, the revisions will be forwarded to the APC for review. If the APC determines that a public hearing is necessary, notification for the public hearing will be consistent with the requirements of the Rules & Procedures of the APC. The review shall be in compliance with the requirements of IC 36-7-4-1405 as amended.

- A. Minor revisions consist of changes located within the maximum extent boundary of the SFES.
- B. All Revisions that exceed the maximum extent boundary of the SFES will be forwarded for review by the APC, review shall be in a Public Hearing.
- C. Any Revision that would require a variance from the established ordinance shall be sent to the Board of Zoning Appeals.

153.714 Requirements for Improvement Location Permit (ILP)

- A. **Application:** The Application shall include, but not be limited to the following:
 - 1. A plot plan showing the following:
 - a. The location of all SFES structures and substations
 - b. Location, number and spacing of solar panels
 - c. Location of fencing and buffer/screening areas
 - d. Property lines, setbacks, and any existing easements
 - e. Location of access roads and access points
 - f. The location of all above ground and underground utility lines associated with the site
 - g. The location of ancillary equipment and transmission lines
 - h. Field tile or private drain locations, if known
 - i. Existing and/or abandoned Wells and Septic Fields, if known
 - j. Floodplain location, if any.

B. Additional Information Requirements: The following may be submitted one time for the entire project but must be submitted prior to the issuance of any Improvement Location Permits.

1. **Approved Emergency Plan / Fire Safety Plan.** An Emergency / Fire Safety Plan must be approved by the local fire departments and meet the following requirements:
 - a. The site and emergency plan shall be submitted to the local fire protection districts and/or department(s) whose jurisdiction is included in whole or in part within the SFES project area
 - b. Any specialized training necessary will be provided at the operator's expense.
 - c. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.
 - d. The names and phone numbers for the electric utility provider and the site operator along with the facilities 911 address and GPS coordinates shall be provided as part of the emergency plan.
2. **Approved Drainage Plan.** A drainage plan for construction and operation must be approved by the Grant County Drainage Board prior to issuance of any permits.
 - a. Except as otherwise allowed by IC 36-7-4-1109 (development approval), all damages to private or public waterways, drainage ditches, field tiles, or other drainage related infrastructure caused by the construction, installation, or maintenance of a SFES must be completely repaired by the project owner to near original condition so as to not impede the natural flow of water. All repairs must be completed within a reasonable period of time and:
 1. To the satisfaction of the Grant County Drainage Board and;
 2. As stated in an applicable lease or another agreement with the landowner; subject to applicable federal, state, and local drainage laws and regulations.
3. **An Erosion Control Plan (Rule 5)** must be approved by the Grant County Soil & Water Conservation District regarding IDEM Rule 5 requirements prior to issuance of any permits.
4. **Health Department Approval:** the applicant, owner, and/or operator must comply with existing septic and well regulations as required by the Grant County Health Department and the Indiana Department of Public Health prior to the issuance of any applicable Improvement Location Permits.
5. Any other information required by the Executive Director for the proper enforcement of this Ordinance.

C. Permit Fees:

1. Prior to the issuance of any Improvement Location Permits (ILP) for the SFES project, the applicant, owner and/or operator shall pay the required permit fee per Appendix A: Area Plan Fee Schedule.
- D. Other Structures.** Any other structure associated with the project, outside of the original developmental plan, shall require a separate Improvement Location Permit & Permit Fee required per Appendix A: Area Plan Fee Schedule.

153.715 Solar Farm Energy Systems (SFES) Setbacks

A. Setbacks (both SFES Major & SFES Minor)

1. A minimum **three hundred (300) foot setback** shall be maintained from any non-participating dwelling to any solar farm structures/equipment, not including security fencing, if applicable.
 - a. A minimum **one hundred (100) foot setbacks** shall be maintained from any participating dwelling.
 - b. When the solar facilities for a single project encompass multiple parcels, there is no required setback from a property line for the internal property lines in the project.
 2. A minimum **fifty (50) foot setback**, which will include all screening, buffering, and other native vegetation, shall be maintained from the solar farm structures/equipment to any non-participating owner's adjoining property line which is a perimeter boundary line for the projected area.
 3. A minimum **fifty (50) foot setbacks** shall be maintained from the solar farm structures/equipment to the road right-of-way line including all state & county roads.
 4. A minimum **fifty (50) foot setbacks** shall be maintained for any ingress/egress road from any adjoining, non-participating property line or landowner.
- B.** Setbacks will be measured from Solar Energy Equipment, including Substations, but do not include security fence or distribution poles/wires.
1. Security fencing and distribution poles/wires may be located within the setbacks but may not be located in the right-of-way.
- C.** Setbacks may be reduced with a written waiver agreement from all involved property owners per waiver agreement as defined in definitions.
1. Setbacks from right-of-ways shall be maintained & not reduced, regardless of waiver.

153.716 Solar Farm Energy System (SFES) Site & Landscape Requirements

A. Buffers and Landscaping/Ground Cover

1. A minimum **25' wide** buffer zone, containing native plants including trees, shrubs, and pollinators, shall be maintained. If there is no existing vegetation or if the existing vegetation is inadequate to serve as a screen, native plants shall be planted to create the visual screen.

2. Buffering shall be found along the road frontage and perimeters along adjacent non-participating properties that contain residential dwellings.
3. Topsoils shall not be removed during development unless part of a remediation effort.
4. Perennial vegetation shall be planted and maintained to prevent erosion, manage run off, and build soil. Seeds should include a mix of grasses and forbs (flowering, non-grassy herbaceous plants), when feasible, native to the region.
5. Maintenance practices should be consistent with recommendations made by qualified natural resource professionals such as those from the department of natural resources, county soil and water conservation service, or natural resource conservation service.
6. **Landscape plan**, prepared by a professional landscape architect, will provide an assessment form or score card to ensure that proposed landscape plan meets or exceeds accepted pollinator and habitat standards. The **Purdue University 2020 Solar Site Pollinator Habitat Planning Scorecard** or similar third party solar-pollinator scorecards designed for Midwestern eco-systems, soils, and habitats will be acceptable.

B. Screening

1. The landscape plan shall outline all proposed screening for the project. Emphasis will be placed on screening around the Non-Participating Structures, both Residential & Commercial.
 - Densely planted (or having equivalent natural growth) with blooming shrubs or trees at least four feet high at the time of planting, of a type that will form a year-round dense screen at least six feet high. Earth berms may be incorporated as part of screening measures where appropriate.
 - Areas adjacent to Non-Participating Property Lines, both Residential & Commercial, which do not have structures present, will not be required to be screened.

C. Height

1. The Height of the solar collector and any mounts shall not exceed 20' when oriented at maximum tilt.

D. Fencing

1. All SFES systems equipment, panels and structures shall be fully enclosed and secured by a fence with a minimum height of 6 feet and must setback a minimum of 50' feet from any property line.
2. Fences must be equipped with a minimum of one gate and locking mechanism on the primary access side.

E. Glare minimization

1. All Solar Panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic, including air traffic, or create a safety hazard

F. Interference:

1. If during/ after construction of the SFES, the owner and/or operator receives a written complaint related to interference with any local broadcast residential television, telecommunication, communication, microwave transmissions and/or glare, the SFES owner and/or operator shall take reasonable steps to respond to minimize the complaint.

G. Noise

1. Sound attributable to the solar farm shall not exceed an hourly average sound level of sixty (60) A-weighted decibels as modeled at the property line adjacent to a dwelling or residence zone.

H. Concurrent Uses

1. Nothing will prevent a solar farm from coinciding with agricultural uses including but not limited to grazing of livestock or apiculture (beekeeping) per IC 36-1-28-1

I. Power and Communication Lines

1. Power and Communication lines installed on the solar farm project sites that connect panel rows to inverters must be buried underground. Power lines between the solar farm project and the electric utility transmission system may be overhead.

J. Signage

1. No signs other than appropriate warning signs, or standard manufacturer's, operator's, or installer's identification signage, shall be displayed.
2. All Ingress/Egress roads to a SFES shall have posted an address road sign indicating the assigned address for that location.

K. Lighting

1. If lighting is provided at the project, lighting shall be shielded and downcast such that the light does not spill on to the adjacent parcel and/or residence and/or primary structure.

L. Outdoor Storage

1. Only the outdoor storage of materials, vehicles and equipment that directly support the operation and maintenance of the solar farm shall be allowed.

M. Construction Bond

1. The applicant shall post a bond in a form acceptable to Grant County in the sum of One Million Dollars (\$1,000,000) for each contiguous SFES location proposed to be constructed during the project. The purpose of the bond shall be to secure and guarantee the completion of the project according to the standards of this Ordinance and to secure and cover any damage to county infrastructure which may be uncured. Upon completion and approval of the project by the Area Plan Director or their agents and after a period of one year from the date of completion, said bond shall be released.

153.717 SFES Operation, Maintenance, and Inspections

A. Maintenance Plan.

1. The ILP applicant shall submit a plan for the operation and maintenance of the SFES & Facility, which shall include measures for maintaining safe access to the Facility as well as general procedures for operation and maintenance of the installation.

B. Maintenance, Repair, or Replacement of Facility

1. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to emergency response officials.
2. Any Retrofit, replacement, or refurbishment of equipment shall adhere to all applicable local, state, and federal requirements.
3. Any physical modification to the SFES that alters the mechanical load, mechanical load path, or major electrical components shall require proper building permit. Like-kind replacements shall not require re-certification.

C. Inspections

1. The APC and their agents shall have the right, at any reasonable time and with sufficient prior notice, to accompany the owner and/or operator and/or his agent, on the premises where a SFES has been constructed, to inspect all parts of said SFES installation and to require that repairs or alterations be made.

153.718 Declaration of a Public Nuisance

- A.** Any SFES thereof declared to be unsafe by the APC by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be given 365 days to be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan Agreement. Nothing in this Ordinance is intended to preempt any other applicable state and federal laws and regulations.

1. **Waiver.** In the instance that an unavoidable Act of God inhibits, damages, or destroys part of, or the majority of the SFES, the three hundred sixty-five (365) day public nuisance removal timeline will be waived so long as the SFES owner and/or SFES operator provides a Rehabilitation Plan to remedy the damage and said plan is submitted to, and approved by the APC. Said plan must be submitted to the APC within sixty (60) days of the date the damage was incurred, or a time determined reasonable by the APC.

153.719 SFES Decommissioning Plan Agreement

- A.** Prior to receiving construction approval for the SFES project, the applicant, owner and/or operator must provide proof of a signed Decommissioning Plan Agreement between the Grant County Commissioners and the applicant, owner and/or operator. The Decommissioning Plan is to ensure that the SFES facilities are properly decommissioned upon the end of the project life or facility abandonment. The Decommissioning Plan shall include, but not be limited to, the following:

1. Assurance that the facilities are properly decommissioned upon the end of the project life or facility abandonment. The applicant, owner and/or operator's obligations with respect to decommissioning shall include removal of all physical material pertaining to the project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the project improvements to the same or better condition that existed immediately before construction of such improvements.
2. Prior to issuance of a Improvement Location Permit, the applicant, owner and/or operator shall provide a contractor/engineer cost estimate for demolition and removal of the SFES facility and will provide financial assurance, taking into consideration any salvage or recycling value, in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, letter of credit or other security acceptable to the Area Plan Commission, the cost of decommissioning the solar field(s) under the building permit, which security shall be released when said solar field(s) is properly decommissioned as determined by the Area Plan Commission.
3. The Financial assurance shall automatically renew each year or have no expiration. The decommissioning plan and financial assurance will be updated by the Owner of the SFES Facility every five (5) years and adjusted as necessary to ensure sufficient funds are available to decommission the project over its life.
4. In the event of abandonment by the owner and/or operator, the applicant will provide an affidavit to the Area Plan Executive Director representing that all easements for the solar field(s) shall contain terms that provide financial assurance, including access to the salvage or recycling value of the equipment, for the property owners to ensure that facilities are properly decommissioned within twelve (12) months of expiration or earlier termination of the project.
5. The applicant, owner, and/or operator's failure to comply with, or make reasonable progress in getting into compliance with any of the above provisions shall constitute a default under this Ordinance.
6. Prior to implementation of the existing procedures for the resolution of each default, the Area Plan Commission shall first provide written notice to the owner and operator, setting forth the alleged default. Such written notice shall provide the owner and operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default.
7. If the Area Plan Commission determines, in its discretion, that the parties cannot resolve the alleged default within the good faith negotiation period, the existing county solar ordinance provisions addressing the resolution of such default shall govern.
8. If the Owner or operator of the solar facility fails to remove the installation in accordance with the agreement or within the proposed date of decommissioning, the Area Plan Commission shall send forth a recommendation to the Commissioners for collection of the surety and with approval, direct the

staff to hire a third party to enter the property to physically remove the installation.

153.720 SFES Road Use Agreement.

- A. Prior to the use of any county road for the purpose of transporting parts and/or equipment for construction, operation, or maintenance of the SFES or substation, the applicant, owner and/or operator must provide proof of a signed road use agreement between the applicant, owner, and/or operator and Grant County with approval through the Grant County Commissioners. The Road Use Agreement must include, but not be limited to the following:
1. **Identification of all such public roads.** Any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it must be approved by the Grant County Highway Superintendent. The Grant County Highway Superintendent shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.
 2. Any road damage caused by the construction of the SFES project equipment, the installation of the same, or the removal of same, must be repaired to the satisfaction of the Grant County Highway Superintendent. The Grant County Highway Superintendent may choose to require either remediation of road damage upon completion of the project or is authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by a professional engineer may be required by Grant County with approval from the County Commissioners to ensure that future repairs are completed to the satisfaction of the County. The cost of bonding is to be paid by the applicant, owner, and/or operator.
 3. If an engineering/consulting firm is required for approval for oversized load permits, SFES shall pay any and all cost of the required firm of the Grant County Highway Department Superintendent's choosing.
 4. Newly constructed SFES access roads may not impede the flow of water and shall comply with the Grant County Drainage Ordinance and Drainage Plan Agreement.
 5. No part of the SFES including, but not limited to above ground transmission lines and poles or below ground transmission lines shall be constructed and/or placed in any County road right-of-way or dedicated easement without prior written approval from the Grant County Highway Superintendent. Detailed drawings of plans including poles and underground services must be provided.
 6. If Right-of-Way or personal property survey is needed, SFES shall pay the cost of such survey.

153.721 Indemnification

- A. The applicant, owner and/or operator of the SFES project shall defend, indemnify, and hold harmless Grant County and its officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liability whatsoever, including

attorney's fees, without limitation, arising out of acts or omissions of the applicant, owner and/or operator associated with the construction and/or operations of the SFES project.

153.722 Liability Insurance

- A. The owner or operator of the SFES shall maintain general comprehensive liability insurance coverage naming Grant County as an additional party insured with a company and under terms approved by the Grant County Commissioners with combined limits for bodily injury and property damage in the aggregate amount of \$5 million per occurrence with a commercially reasonable deductible approved by the Grant County Commissioners.

153.723 Change in Ownership

- A. It is the responsibility of the owner and/or operator listed in the application to inform the Area Plan Commission of all changes in ownership and operation during the life of the SFES project, including the sale or transfer of ownership and/or operation.

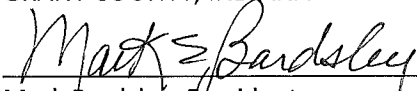
153.724 Economic Development Agreement

- A. Due to the complexity of large-scale alternative energy projects, the county requires an Economic Development Agreement or other appropriate instruments to address the taxing, land use, property assessment, as well as other issues related to such a project. The county is required to ensure the prevention of large tax shifts that may otherwise be incurred by the taxpayers of the county and more particularly of those taxing units upon which the project resides due to any reduction in tax base caused by these said projects. Therefore, in cooperation with all parties, an agreement shall be established that allows for an acceptable solution for the proper taxation of said SFES. Any agreement drafted and/ or implemented shall be developed in conjunction with and be approved by the Grant County Board of Commissioners, while all Abatement & TIF requests shall be presented, as required to the Grant County Council for approval.

This Ordinance shall be in full force and effect upon passage and publication in accordance with law.

Adopted this 19th day of September 2022.

BOARD OF COMMISSIONERS OF
GRANT COUNTY, INDIANA



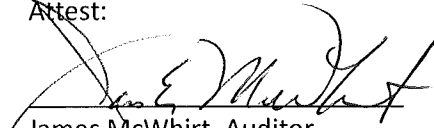
Mark Bardsley, President

Michael Burton Member



Steve Wright, Member

Attest:



James McWhirt, Auditor

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Kyle C. Persinger, Attorney at Law, 122 E Fourth Street, P.O. Box 927, Marion, IN 46952.

This instrument was prepared by Kyle C. Persinger, of the law firm of Spitzer Herriman Stephenson Holderead Conner & Persinger, LLP 122 East Fourth Street, P. O. Box 927, Marion, IN 46952.

Land Use	Landscape Category (Table 19-1)	AG	RS	R1	R2	R3	R4	R5	PB	NC	LB	CC	GB	I1	I2	I3	MH
Planned Unit Development (add. Requirements Chapter 13)																	
Planned Unit Development w/ Cluster Development (add. Requirements Chapter 13)																	
Solar Farm Energy System (Major & Minor)																	

<u>Type</u>	<u>Size</u>	<u>Permit Fees</u>	<u>Application Filing Fees</u>
Residential	Up to 1 Acre	\$100.00	N/A
Minor Commercial	1 Acre to 10 Acres	\$1,000	\$5,000
Major Commercial	10 Acres or more	\$1000/Megawatt	\$10,000