

**COUNTY OF LAPORTE, INDIANA**  
**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AMENDING AND SUPPLEMENTING \_\_\_\_\_, LAND USAGE, AS AMENDED, TO ADOPT SECTION 14.15 SOLAR ENERGY SYSTEMS**

PETITIONER: Area Plan Commission

**WHEREAS**, the ordinance has been in use since that time, and it has been determined that certain changes are necessary to revise and clarify various sections of the ordinance;

**WHEREAS**, advances in solar energy technology has made this alternative form of energy available in more parts of the Country and to more people of economic means;

**WHEREAS**, because the Joint Zoning Ordinance Amended for La Porte County does not fully and properly address solar energy;

**WHEREAS**, this ordinance is necessary to create reasonable regulations to make this use compatible and harmonious with all of La Porte County, Indiana, especially its agricultural uses; and

**WHEREAS**, actions made by the La Porte County Advisory Plan Commission over the past year to support, encourage, and promote solar and other economic development, including this ordinance, will allow La Porte County, Indiana, to achieve SolSmart Gold Status, letting installers and residents across the country know that La Porte County is the highest level of solar friendliness.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLAN COMMISSION OF LAPORTE, INDIANA, AS FOLLOWS:**

## 1. SOLAR ENERGY SYSTEMS (“SES”); INTENT

(A) This subchapter provides for the implementation of solar energy systems, which ~~convert the power of the sun into the generation of electricity~~ primary purpose is to convert solar radiant energy for the generation of electrical energy. La Porte County finds that it is in the public interest to encourage the use and development of renewable energy systems that enhance energy conservation efforts and promote sustainable development. As such, the County supports the use of solar energy collection systems and in no way are these regulations intended to severely limit the siting of solar energy systems. These regulations consider the unique needs of solar energy systems and provide for the most efficient use of this renewable energy system. These sections are also intended to protect the character of residential neighborhoods and commercial corridors. Solar energy systems should be sited and constructed in a way that is harmonious and even benefit the agricultural uses in the County.

## 2. SOLAR ENERGY SYSTEMS (“SES”); APPLICABILITY

All new development or additions to existing developments within unincorporated areas of La Porte County shall site, construct, install, and decommission any solar energy system (“SES”) as required by this subchapter.

## 3. SOLAR ENERGY SYSTEMS (“SES”); GENERAL

This ordinance shall be in full force and effect from and after its enactment and publication as required by law, and full execution of any conditions of Commitments placed upon the approval.

A. *Classification.* Solar energy systems (“SES”) shall be classified as either a Building-mounted SES or Ground-mounted SES.

Building-mounted SES is a solar energy system that is structurally mounted to a building or structure. Building-mounted SES shall be further classified as follows:

Roof-mounted SES is a Building-mounted SES that is structurally mounted and solely supported by the roof of a building or structure; or

Ground-mounted SES is a solar energy system that is structurally mounted to the ground.

Ground-mounted SES shall be further classified as follows:

1. Small-scale SES is a Ground-mounted SES that occupies less than or equal to 40,000 square feet; or

2. Large-scale SES is a Ground-mounted SES that occupies more than 40,000 square feet.

B. *Districts permitted.* SES shall be permitted in accordance with the following

<i>Use Table for Solar Energy Systems</i>				
<i>P - Primary Use SE</i>		<i>Building-mounted SES</i>	<i>Ground-mounted SES</i>	
<i>District</i>	<i>Lot Size</i>		<i>Small-scale SES</i>	<i>Large-scale SES<sup>1</sup></i>
A: Agricultural	Any	P	P	SE
R: Single Family	N/A	P	P	SE
R-2: Residential	N/A	P	P	SE
O1	Any	P	P	SE
B: Business	Any	P	P	SE
C: Commercial	Any	P	P	SE
I: Industrial	Any	P	P	P

<sup>1</sup>*Preferred siting.* Large-scale Ground-mounted SES shall be a permitted use on any brownfield, sites on the Superfund National Priorities List, above a parking lot, and former landfills.

C. *Building permit.* A building permit is required for the installation of all SES.

D. *Environmental Impact.* The owner or operator shall have a third party, qualified professional, conduct an analysis to identify and assess potential impacts on the natural environment, including wetlands and other sensitive ecosystems, and species of concern.

E. *Submittal Requirements.* All applications for Special Exception approval shall include the following information in addition to the customary submittal requirements for Special Exception applications.

F. Site plan showing property lines and physical features, including roads, setbacks, floodplain or any special flood hazard areas (if applicable), buildings, solar panels, right-of-way, and any zoning district designation for the subject property and all adjacent and abutting properties.

1. Approximate number, location, and spacing of solar panels or arrays.
2. Product cut-sheets.
3. Proposed locations of underground or overhead electric lines.
4. Interconnection service agreement or evidence of filing required

interconnection service applications with the electric utility.

5. Operation and maintenance plan of the solar farm, including measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operation and maintenance of the installation.

6. All required agency comments, approvals, along with respective ordinance conformance, including LaPorte County Highway Department, LaPorte County Health Department, and LaPorte County Surveyor's Department (regarding the amount of disturbed area).

7. Proof of liability insurance.

8. Emergency response plan.

9. Decommissioning plan in accordance with this Section.

The staff of the LaPorte County Plan Commission, including the building official, code enforcement officer, or any other official governed under the approved resolution, codes, and permits of LaPorte County, shall be allowed to enter the Solar Farm at any reasonable time, with proper notice, to determine compliance with the provisions of the approved special exception, building permit, site development plan, building codes, zoning ordinance, or any other related code or ordinance of LaPorte County.

F. *Compliance with other laws and ordinances.* All SES shall comply with all Federal, State and local laws and ordinances not in conflict with this Division, including but not limited to building codes, fire codes, placement in floodplains and historic preservation districts.

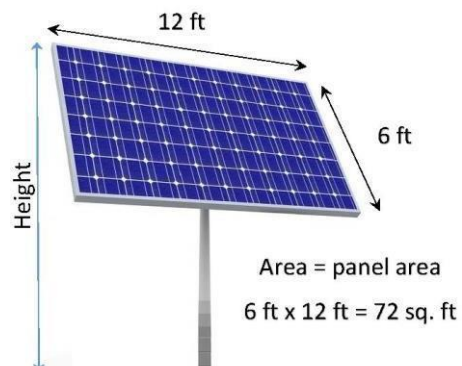
G. *Compliance with Federal Aviation Agency (FAA) regulations.* SES must comply with any applicable FAA regulations, including any necessary approvals for installations close to airports.

H. *Signs.* No signs, unless listed as Exempt Signs in Article 19.03, shall be placed on SES structures.

I. *Method of Measurement.* SES are measured in the following manner:

1. Area – The area of the SES shall be determined by the total surface area of all the panels located on a lot.

2. Height – The height of the SES shall be calculated as the distance from grade or roof to the top of the solar panel at its greatest incline.



3. *Projection* – The projection of a façade-mounted SES is measured from the façade to the outside edge of the SES that is perpendicular to the ground.

4. *Setback* – Setbacks for Ground-mounted SES shall be measured from the property line to the edge of the SES panels, for the Zoning District in which the SES is located, subject to the rules on accessing structures in each district.

J. *Historic Districts*. All SES within a local historic district or local landmark require a Certificate of Appropriateness from the Historic Preservation Commission.

K. *Septic field*. Ground-mounted SES shall not be located over a septic field, unless approval is granted from the La Porte County Health Department.

L. “Property owner”, for purposes of this Ordinance, means the person who owns the property, leases the property, or operates a SES on the property; or an agent of the person who owns the property or operates a SES on the property.

#### **4. BUILDING-MOUNTED SOLAR ENERGY SYSTEMS (“SES”); DEVELOPMENT STANDARDS**

A. *Height*. Roof-mounted SES may exceed the maximum allowed building height of the building or structure on which it is located by five (5) feet in districts.

B. *Projection*. Façade-mounted SES is not permitted.

C. *Legal nonconforming*. Building-Mounted SES may be installed on:

1. Legally established nonconforming buildings as long as the installation of the SES does not increase the nonconformity, except for the allowances in height and projection as outlined above; or

2. Accessory to legally established nonconforming uses as long as the installation of the SES does not increase the nonconformity.

D. *Safety and Emergency Access*. Building-mounted SES shall be located in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide for smoke ventilation opportunities, and provide emergency access to the roof. Building-mounted SES shall be located in accordance with the Indiana Fire Code and enforced by the La Porte County Building Department.

E. *Visibility*. Solar energy systems in residential districts shall be designed to minimize visual impacts from the public right-of-way, to the extent that doing so does not affect the cost or efficacy of the systems in non-residential districts, except for historic building or district review.

1. Building-integrated Photovoltaic Systems – Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.

2. Aesthetic Restrictions – Roof-mounted or ground-mounted solar energy systems shall not be restricted for aesthetic reasons if the system is not visible from the closest edge of any public right-of-way other than an alley or if the system meets the following standards.

a. Roof-mounted systems on pitched roofs that are visible from the nearest edge of the front right-of-way shall not be more than five feet above the finished roof and are exempt from any rooftop equipment or mechanical system screening.

3. Reflectors – All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties.

## **5. GROUND-MOUNTED SOLAR ENERGY SYSTEMS (“SES”); DEVELOPMENT STANDARDS**

A. *Accessory buildings.* Ground-mounted SES shall not be calculated in the maximum area of accessory buildings.

B. *Maximum height.* Ground-mounted SES shall not be taller than twenty-two (22) feet above grade.

C. *Minimum setback.* Ground-mounted SES shall meet the required setbacks of the district in which they are located. Setbacks shall be the same as what is required for accessory buildings.

D. *Maximum lot coverage.* Ground-mounted SES shall not be calculated in the floor area ratio of the district in which they are located.

E. *Landscaping required.* Accessory use SES in residential districts shall be exempt from all required landscaping. All other SES shall be exempt from any required landscaping except for the following:

1. Pollinator-friendly seed mixes and native plants are required around the SES consistent with the: *Technical Guide: Establishment and Maintenance of Pollinator-Friendly Solar Projects (2020) – Northern Indiana – Michiana Area Council of Governments, asamended.* All landscaping shall be properly maintained around all structures.

a. Ground cover and buffer areas – Community – or large-scale ground-mounted solar energy systems are required to adhere to the following standards.

i. Ground around and under solar panels and in project site buffer areas shall be planted, established, and maintained for the life of the solar project in perennial vegetated ground cover.

ii. To the maximum extent feasible for site conditions, perennial vegetation ground cover shall be based on a diverse seed mix of native species consistent with guidance specific to the local area provided by the Soil and Water Conservation District office or the Indiana Native Plant Society.

b. The owner/operator shall demonstrate site maintenance that is intended to remove invasive or noxious species, as listed by the Indiana Invasive Species Council, without harming perennial vegetation.

c. No insecticide use is permitted on the site. This provision does not apply to insecticide use in on-site buildings, in and around electrical boxes, spot control of noxious weeds, or as otherwise may be deemed necessary to protect public health and safety.

d. Plant material must not have been treated with systemic insecticides, particularly neonicotinoids.

e. Community – or large-scale ground-mounted solar energy systems that propose to install, establish, and maintain pollinator-friendly vegetative cover.

2. The Zoning Administrator may approve the redistribution of the required landscaping to other locations on the site.

F. *Power lines.* Power transmission lines, not including lines that connect one panel to another or from the project to the main transmission lines, from Ground-mounted SES must be underground and must be completely shielded against shock hazard.

G. *Pavement.* Driveways shall be paved with hard surfaced with asphalt, concrete, pervious pavement, pavers or other material to provide a durable, dust-free surface which meets the minimum specifications prescribed by the County Engineer for the first 50' from the edge of pavement. Interior access drives, and interior access driveways are not required to be paved.

H. *Parking.* Parking areas must still meet the required setbacks in the underlying zoning district and the landscaping requirements in the Zoning District.

I. *Setback.* Since a SES may include several properties, the setback requirement shall be inclusive of the entire project rather than any individual property.

J. *Drainage Plan.* A drainage plan approved by the La Porte County [dept. to be determined] including a form of financial assurance acceptable to the county for the repair or replacement of all damaged drains, ditches, and tiles. The transportation plan and drainage plan shall state that any newly constructed access roads shall not impede the flow of water and will comply with county drainage ordinance. Setbacks from legal/regulated drains, wetlands, etc. must be adhered to.

## **6. ABANDONMENT AND REMOVAL OF GROUND-MOUNTED SOLAR ENERGY SYSTEMS**

A. *Plan.* A signed and executed plan must be in place prior to the start of construction.

B. *Content.* A decommissioning plan shall include, at a minimum, language to the following:

1. Written assurance guaranteeing that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned; detailing how funds will be distributed; ensuring that LaPorte County and/or its contracted agents shall be granted access to the site, pursuant to reasonable notice, to effect or to complete decommissioning; granting the County the right to injunctive relief to effect or to complete decommissioning and the right to seek reimbursement from the applicant or the applicant's successor(s) for decommissioning costs in excess of the amount deposited in the account or to file a lien against any real estate owned by the applicant or applicant's successor(s), or in which they may have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien

2. The applicant shall provide a contractor cost estimate for the demolition and removal of the WECS or SES facility. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning WECS or SES, as applicable.

3. Financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, escrow deposit, or other security acceptable to the County, for the cost of decommissioning each tower or solar array and related improvements constructed under the permit.

a. Said Security will be released when each solar array and improvements are properly decommissioned as determined by the LaPorte Building Commissioner.



b. The applicant or applicant's successor(s) will have the decommissioning costs and financial assurance re-evaluated at the end of years five (5), ten (10), and fifteen (15). Every five years after the start of construction, updated proof of acceptable financial assurance will be required prior to the start of operations.

4. A description of the means by which decommissioning/demolition will occur and the timeline for such work.

C. *Decommissioning and removal.* Any Ground-mounted SES which has reached the end of its useful life or has been abandoned shall be removed by the owner. The owner or operator shall physically remove the installation no more than 120 days after the date of discontinued operations, or by a timeframe determined by the Zoning Administrator for extenuating circumstances. For large-scale SES, decommissioning shall consist of:

1. Physical removal of all SES, structures, and equipment from the site;
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Zoning Administrator may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

D. *Abandonment.* Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the Ground-mounted SES shall be considered abandoned when it fails to operate for more than one year without the written consent of the Zoning Administrator.

E. *Right to remove.* If the owner or operator of the SES fails to remove the installation in accordance with the requirements of this section within 90 days of abandonment or the proposed date of decommissioning, the County retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned Ground-mounted SES. All cost associated with such removal, including attorney fees and court costs will be assessed to the owner. As a condition of issuance of an Improvement Location Permit, the applicant and landowner shall agree to allow entry to remove an abandoned, hazardous, or decommissioned installation.

***SOLAR ENERGY SYSTEM (SES)***. An energy system that uses the power of the sun to capture, store, and transmit energy.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

**LA PORTE COUNTY PLAN COMMISSION:**

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**Tony Hendricks, President**