

INDIANA FIRE PREVENTION AND BUILDING SAFETY COMMISSION

TO: Kim Hostetler, Executive Director of the Huntington County Department of Community Development
FROM: Fire Prevention and Building Safety Commission (Commission) Staff
DATE: Tuesday, November 9, 2021
RE: Commission Review of Ordinance No. 2020-11 – Huntington County, Indiana – An Ordinance Amending the Official Zoning Code of Huntington County, Indiana, Adding Section 730: Solar Energy System (SES) Ordinance

The above referenced ordinance has been received and will be placed on the Commission's meeting agenda of its next scheduled meeting on **Tuesday, December 7, 2021**, for review and consideration.

Ordinances containing fire safety or building laws are not effective until approved by an order of the Commission. The Commission has up to four meetings to make a determination on an ordinance. If an order of approval or denial is not issued by the fourth meeting, the ordinance is automatically approved and effective without an order of the Commission.

The Commission may afford an opportunity for public testimony on the ordinance. Therefore, attendance at the Commission's meeting is encouraged, but not required. To find out when and where the Commission meetings will take place, please visit the Commission's webpage at this link:

<https://www.in.gov/dhs/boards-and-commissions/fire-prevention-and-building-safety-commission/>.

To obtain a copy of the Commission's agenda for any meeting, visit the Commission's webpage and select the "Meeting Materials" link.

A staff review of your ordinance may be completed prior to a decision being made by the Commission. Any staff reviews that are completed will be provided to you as soon as possible, to allow potential issues to be addressed prior to the Commission meeting. Copies of any staff review will also be delivered to the Commission for consideration.

If the Commission does not make a determination at the meeting, you will be notified and your ordinance will be placed on the agenda for the next meeting until such time as a determination is made or the ordinance is deemed approved.

Following a determination of the Commission, an order will be issued in accordance with IC 4-21.5. If for any reason the Commission issues an order of denial of your ordinance, you may adopt a new ordinance, which addresses the Commission's concerns, and resubmit it for approval.

ORDINANCE NO. 2020-11

**AN ORDINANCE AMENDING THE OFFICIAL ZONING CODE OF HUNTINGTON COUNTY, INDIANA,
ADDING SECTION 730: SOLAR ENERGY SYSTEM (SES) ORDINANCE**

WHEREAS, the Huntington County Plan Commission considered application PC-20-001 filed by the Department of Community Development to amend the Huntington County Zoning Ordinance Section 730: Solar Energy Systems (SES) Ordinance; and,

WHEREAS, the Huntington County Plan Commission conducted a duly noticed public hearing on application PC-20-001 on May 20, 2020; and,

WHEREAS, the Huntington County Plan Commission, by a 7-0 vote, issued a favorable recommendation to application PC-20-001 at a meeting duly conducted on May 20, 2020. The Plan Commission Certification of the favorable recommendation is attached hereto and incorporated by reference as Exhibit "A", and,

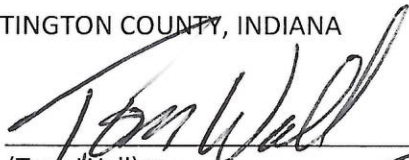
WHEREAS, the Board of Commissioners now determines that from time to time, it is necessary to amend land use regulations in accordance with IC 36-7-4-607; and,

WHEREAS, such regulations are designed to promote the public health, safety, general welfare, efficiency and economy in the process of the normal and orderly development of the land within the jurisdictional area.

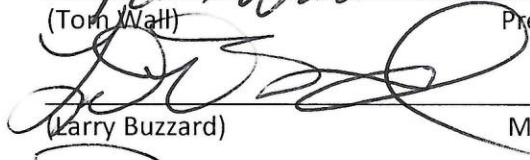
NOW, THEREFORE, BE IT ORDAINED, BY THE BOARD OF COMMISSIONERS OF HUNTINGTON COUNTY, INDIANA, that Section 730: Solar Energy Systems (SES) Ordinance be added to the Huntington County Zoning Ordinance and to read as follows:

Adopted this 8th day of June, 2020

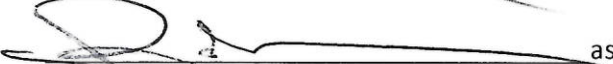
BOARD OF COMMISSIONERS OF HUNTINGTON COUNTY, INDIANA



(Tom Wall) as President



(Larry Buzzard) as Member



(Rob Miller) as Member

ATTEST:

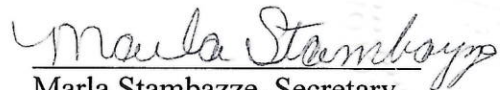


(Jill Landrum) Auditor

Exhibit "A"

Plan Commission Certification

On May 20, 2020, the Huntington County Plan Commission by a 7-0 vote certified a favorable recommendation on application PC-20-001: Add Section 730: Solar Energy System (SES) Ordinance to the Huntington County Zoning Ordinance.



Marla Stambazze

Marla Stambazze, Secretary

Huntington County Plan Commission

PUBLIC NOTICE

Notice is hereby given that the Huntington County Plan Commission will hold a public hearing on the following application:

DOCKET NUMBER: PC-20-001
APPLICANT: Huntington Countywide Department of Community Development
REQUEST: The Huntington County Plan Commission will conduct a public hearing to add Section 730: Solar Energy Systems (SES) Ordinance to the Huntington County Zoning Ordinance.

DOCKET NUMBER: PC-20-005
APPLICANT: Huntington Countywide Department of Community Development
REQUEST: The Huntington County Plan Commission will conduct a public hearing to amend Section 713: Temporary Structures and Uses -D(1) of the Huntington County Zoning Ordinance.

This hearing will begin at 6:30 p.m. on Wednesday, May 20, 2020, at the GAR Room, County Courthouse, Room 207, 201 N. Jefferson Street, Huntington, Indiana.

FOR THE PUBLIC WHO WISHES TO ATTEND THE MEETING VIA TELEPHONE OR COMPUTER, INSTEAD OF IN-PERSON, PLEASE CALL 260-358-4840; PLEASE LEAVE A MESSAGE THAT PROVIDES YOUR FULL NAME, PHONE NUMBER AND A VALID E-MAIL ADDRESS. WE WILL SEND AN E-MAIL THAT WILL PROVIDE A LINK TO ATTEND THE MEETING BY PHONE OR COMPUTER. THE DEADLINE TO MAKE A REQUEST TO ATTEND THIS MEETING BY TELEPHONE OR COMPUTER IS WEDNESDAY, MAY 20, 2020 AT NOON. Due to COVID regulations, the number of persons allowed into the GAR Room may be limited. You may also provide written objections or letters in favor of the request in lieu of attending the meeting. Any written information received by the Department will be submitted to the Plan Commission members prior to the meeting.

All interested persons are invited to attend. Written objections to the application filed with the Department of Community Development will be considered at the hearing along with oral comments from interested persons at the hearing. The hearing may be continued from time to time as may be found necessary.

A copy of the application is on file for examination prior to the hearing in the office of the Department of Community Development, County Courthouse Room 204, 201 North Jefferson Street, Huntington, Indiana, (260) 358-4840.

Any individual who requests accommodation as the result of a disability, please contact:

Department of Community Development
201 North Jefferson Street, Room 204
Huntington, Indiana 46750

(260) 358-4840

sufficiently in advance of the meeting so that reasonable accommodation can be arranged.

HUNTINGTON COUNTY PLAN COMMISSION

Marla Stambazze, Secretary

Publish on or before: May 7, 2020

PUBLIC HEARING

Notice is hereby given that the Huntington County Board of Commissioners will on Monday, June 8, 2020 at 9:30 and 9:45 a.m. in the Commissioner's Room, First Floor, Huntington County Courthouse, 201 N. Jefferson Street, Huntington, Indiana, hold a public hearing on the following petition:

1. PC-20-001: Application filed by the Huntington Countywide Department of Community Development requesting a public hearing to add Section 730: Solar Energy System (SES) Ordinance to the Huntington County Zoning Ordinance.
2. PC-20-002: Application filed by the Huntington Countywide Department of Community Development requesting a public hearing to amend Section 713: Temporary Structures and Uses of the Huntington County Zoning Ordinance.

On May 20, 2020, the Huntington County Plan Commission certified the above requests with favorable recommendations by a vote of 7-0.

All interested persons are invited to attend. Written objections to the proposed ordinance filed with the Department of Community Development will be considered at the hearing along with oral comments from interested persons at the hearing. The hearing may be continued from time to time as may be found necessary.

A copy of the proposed ordinance is on file in the office of the Department of Community Development, 201 N. Jefferson Street Room 204, Huntington, Indiana.

BOARD OF COUNTY COMMISSIONERS HUNTINGTON COUNTY, INDIANA

Tom Wall
Larry Buzzard
Rob Miller

PUBLISH DATE: On or before May 28, 2020

SECTION 730: SOLAR ENERGY SYSTEM (SES) ORDINANCE

A. Purpose and Intent

1. The purposes of this ordinance are:

- a. to ensure that the development and production of solar-generated electricity in Huntington County is safe and effective;
- b. to support and facilitate economic opportunities for local residents that are consistent with public health, safety, and general welfare; and
- c. to promote the effective and efficient use of solar energy production

2. The intent of this ordinance is:

It is the intent of the Solar Energy System (SES) ordinance to provide the basic siting regulations to properly allow commercial and utility SES placement throughout Huntington County. Siting is subject to reasonable restrictions. These regulations are intended to preserve the health and safety of the citizens of Huntington County, Indiana.

B. Applicability

The provisions of this ordinance are applicable to those zoning districts that allow Solar Energy Systems (SES's) as permitted uses or as uses requiring Board of Zoning Appeals approval and governs the siting of SES's that generate more than 20 kW of electricity. All Solar Energy Systems (SES's) will require Development Plan approval regardless of zoning district.

C. Compliance Required

No applicant shall construct, operate, locate, or enlarge a Solar Energy System (SES) within Huntington County without first obtaining Development Plan approval and must fully comply with the provisions of this ordinance.

D. Conflict with Other Ordinances

Nothing in this ordinance shall preempt other applicable state and federal laws or regulations. This ordinance and the regulations contained within shall not interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. In the event that any provision of the regulations contained within this ordinance impose restrictions different from any other ordinance, rule of regulation, statute or other provision of law, then the provisions that are more restrictive and/or impose a higher standard shall govern SES's.

E. Severability Clause:

Should any section, subsection, paragraph, subparagraph, clause, word, or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

F. Approval Agency

The Development Plan Committee shall review any SES Plan or its modification.

G. Setbacks

1. A SES facility shall be at least two hundred (200) feet from a non-participating, pre-existing dwelling.

2. A SES facility shall meet the minimum setback standards of the applicable zoning district with no component of the SES facility being less than twenty-five (25) feet from the side and rear property lines.
3. Any pieces of equipment (such as inverters) that create a potentially objectionable sound level during normal operation shall meet the following setback to a non-participating, pre-existing dwelling.
4. Setback requirements exclude driveways, perimeter fencing, visual buffers, poles, and wires necessary to connect the facility to an electric utility or between properties.

H. Height Restrictions

No part of a solar panel or other equipment associated with the SES facility shall be over twelve (12) feet tall as measured from the average ground level directly below the panel to the top of each panel at its maximum tilt in the vertical position.

I. Maximum Vibrations

Any item that could create vibrations as part of a SES facility shall be located centrally within the SES facility to reduce any potential impacts on non-participating properties.

J. Interference with Reception

A SES facility shall be constructed and operated so that it does not interfere with television, microwave, GPS, military defense radar, navigational or radio reception to neighboring areas.

K. Glare

A SES facility at no time shall create glare on any non-participating property line or right-of-way.

L. Equipment

All components of the SES facility shall be new, commercially available equipment. Used, experimental, or proto-type equipment still in testing shall require a waiver approved by the Development Plan Committee.

M. Fencing

Any substation shall be completely enclosed with perimeter fencing and locked gates that are at least six (6) feet in height.

N. Emergency Contact Signage

A standard metal road sign shall include the owner's name, facility's name, emergency contact phone number and the physical site address and shall be posted at the entrance to the facility. The sign shall be posted just outside of the public road right-of-way.

O. Appearance

A SES facility, including all accessory buildings, shall, to the extent possible, use materials and colors that will blend them into the surrounding built environment.

P. Waste Management

All solid waste whether generated from supplies, equipment, parts, packaging, operation, or maintenance of the facility (including old parts and equipment) shall be removed from the site in a timely manner consistent with industry standards. All hazardous waste generated by the operation and maintenance of the facility, including but not limited to, lubricating materials,

cleaning materials, or such shall be handled in a manner consistent with all local, state, and federal rules and regulations and shall not be allowed to seep into the ground or come in contact with any open water.

Q. Visual Buffer

The need for a visual buffer (from non-participating, pre-existing residences) shall be determined by the Development Plan Committee. If the Development Plan Committee determines a buffer is needed, the Committee will determine the species of plantings and required height.

R. Electric Wires

The electric collection system shall be located underground, except for transformers, inverters, substations, and controls. The collection system is required to be above ground if it is located in a public right-of-way or county drainage easement (Drainage Board approval required). The transmission system shall be located above ground. All electrical components of the SES facility shall conform to applicable local, state, and federal electrical code requirements.

S. Rapid Disconnect

PV systems mounted to the roof or within a building shall be supplied with a rapid disconnect to ensure a safe condition for firefighters.

T. Drainage Infrastructure

All damages including, but not limited to, waterways, drainage ditches, field tiles, and/or any other infrastructures caused by the construction or maintenance of the SES facility, must be completely repaired to original or better condition, and so as not to impede the flow of water. All repairs must be completed in a reasonable amount of time as agreed upon between the county and the applicant, owner and/or operator.

U. Liability Insurance

The owner or operator of the SES facility shall maintain a current general liability policy covering bodily injury and property damage and name Huntington County as an additional insured with limits of at least two million dollars per occurrence and five million dollars in aggregate with a deductible of no more than five thousand dollars.

V. Development Plan Approval

The following items must be agreed upon by the Development Plan Committee:

1. Road Usage/Repair agreement
2. Decommissioning agreement
3. Traffic Management Plan
4. Storm Water Control Calculations
5. Visual Buffer (detailed plans)
6. Erosion Control plan
7. Site Plan (setbacks, layout and safety requirements)
8. Panel Placement (to avoid glare at non-participating, pre-existing residences and ROW's)
9. Contact Information (owner/operator agrees to notify DCD if ownership changes or operator information changes)

W. Public Notice Requirement

Public notice shall be sent to all property owners within a 200-foot radius from all points of the participating property if BZA approval is required.

Definitions

PARTICIPATING PROPERTY: A property in which land is leased (by a signed contract) by the SES owner in order to facilitate the SES development.

KILOWATT (kW): A unit of electrical power equal to 1,000 watts.

MEGAWATT (MW): A unit of electrical power equal to 1,000,000 watts or 1,000 kW.

SOLAR ENERGY FACILITY, LARGE: Any free-standing solar array or solar arrays that have a combined nameplate power rated capacity of more than 10 MW (megawatts) of peak generating capacity.

SOLAR ENERGY FACILITY, MEDIUM: Any free-standing solar array or solar arrays that have a combined nameplate power rated capacity of greater than 20 kW or less than or equal to 10 MW (megawatts) of peak generating capacity.