

COMMERCIAL & INTERMEDIATE ALTERNATE ENERGY SYSTEMS

SECTION 80.06.06 – COMMERCIAL & INTERMEDIATE ALTERNATE ENERGY SYSTEMS**A) Regulations****1) Approval Process:**

- a) Commercial AES – Class 3 conditional use allowed in zoning districts A-AES, I-1, I-2
- b) Intermediate AES – Class 3 conditional use allowed in all zoning districts except F-P

B) Commercial and Intermediate Wind Energy Systems (WES) Siting Requirements

WES system requirements shall not be used to regulate cell tower applications.

Meteorological towers are included in this regulation.

1) General Requirements**a) Height**

- (1) For all WES there is a height limitation of 200 feet.
- (2) Tower height is measured from the rotor blade at its highest point to the grade.

b) Horizontal Extension

- (1) The furthest horizontal extension of a WES (including guy wires) shall not extend into a required setback by the zoning district or be closer than twelve (12) feet to any primary structure (unless supported by the primary structure), or right-of-way easement for any above-ground telephone, electrical transmission or distribution lines.

c) Setback Requirements

- (1) WES less than thirty-five (35) feet in height shall be setback a minimum of three times the height feet from any non-participating adjoining parcel or adjoining roadway.
- (2) WES greater than thirty-five (35) feet in height shall have minimum setback distances of 2640 feet from the center of the tower to all non-participating property lines or public road.
- (3) This standard shall apply reciprocally to residential and WES development, but an adjacent non-participating owner may build within such setback if such setback is specifically waived in writing.
- (4) WES shall be set back a minimum of two hundred fifty (250) feet from the property line of a cemetery.

d) Safety Design and Installation Standards**(1) Industry Standards and other Regulations**

- (a) All WES shall conform to applicable industry standards, as well as all local, state and federal regulations. An applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, or an equivalent third party.

(2) Equipment Type

- (a) All turbines shall be constructed of commercially available equipment.
- (b) Meteorological towers may be guyed.
- (c) Experimental, or proto-type equipment: Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the Board of Zoning Appeals per the variance process established by this Ordinance.

(3) Equipment Installation

- (a) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- (b) To the greatest practical extent, all electrical wires and utility connections shall be installed underground, except for transformers, inverters, substations and controls. The Board of Zoning Appeals will take into consideration prohibitive costs and site limitations in making their determination.

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- (4) Lighting
 - (a) All lighting shall follow applicable Federal Aviation Administration regulations.
 - (b) All lighting shall be shielded so that no glare extends substantially beyond the boundaries of the project.
- e) Color and Finish
 - (1) All wind turbines, blades and towers that are part of WES shall be white, grey, or another non-obtrusive color.
- f) Signs and Warnings
 - (1) The following notices shall be clearly visible on all WES facilities:
 - (a) "No Trespassing" signs shall be attached to any perimeter fence.
 - (b) "Danger" signs shall be posted at the height of five (5) feet on WES towers and accessory structures.
 - (c) A sign shall be posted on the tower showing an emergency telephone number.
 - (2) The manual electrical and/or over-speed shutdown disconnect switch(es) shall be clearly labeled.
- g) Screening
 - (1) No screening required.
- h) Climb Prevention
 - (1) All WES towers exceeding thirty-five (35) feet shall include features to deter climbing or be protected by anti-climbing devices such as:
 - (i) Fences with locking portals at least six (6) feet in height; or
 - (ii) Anti-climbing devices fifteen (15) feet vertically from the base of the WES tower; or
 - (iii) Locked WES tower doors.
- i) Blade Clearance
 - (1) The minimum distance between the ground and any protruding blades(s) utilized on all WES, exceeding the thirty-five (35) foot height, shall be twenty-five (25) feet, as measured at the lowest point of the arc of the blades. The minimum distance shall be increased as necessary to provide for vehicle clearance in locations where over-sized vehicles might travel.
- j) Wetlands and Flood Plains
 - (1) Facility plan shall not be proposed in an area designated by the Department of Natural Resources (DNR) or Franklin County zoning map as a flood plain.
 - (2) Any site designated as isolated wetlands (those wetlands not regulated under the federal Clean Water Act) are Waters of the State and are regulated under Indiana's State Isolated Wetlands law (Indiana Code 13-18-22). Impacts to isolated wetlands require State Isolated Wetland Permits from IDEM.
- k) Sewer and Water
 - (1) All WES facilities shall comply with the existing septic and well regulations as required by the Franklin County Health Department and/or the State of Indiana Department of Public Health.
- l) Shadow Flicker
 - (1) At no time shall a wind turbine's tower, nacelle, or blades create shadow flicker on any non-participating landowner's property. For the purpose of this section a non-participating landowner shall be defined as a landowner on which a tower does not physically sit.
 - (2) Measurements to assess shadow flicker shall be for all non-participating landowner dwellings located within 0.6 miles or 3,168 feet of a turbine. If shadow flicker will exceed this level then a shadow flicker mitigation plan must be submitted for each affected non-participating dwelling which shall provide for zero shadow flicker for the affected non-participating dwelling.

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m) Noise and Vibration

- (1) The noise level of all WES shall be no greater than fifty (50) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations.

n) Sine Wave Deviations

- (1) Waveform deviations from WES that occur within the electrical environment of a non-participating residence, must conform to acceptable parameters within the Information Technology Industry Council (ITIC) curve at the point of common coupling at the residence.

o) Utility Interconnection

- (1) The WES, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and State regulations, amended from time to time.

p) Emergency Response

- (1) WES applicant must cooperate with the local fire department to develop an Emergency Response Plan including access for training.

q) Other Appurtenances

- (1) No appurtenances other than those associated with the wind turbine operations shall be connected to any wind tower except with express, written permission by the Board of Zoning Appeals.

2) Operation and Maintenance

a) Operator

- (1) Unless otherwise specified through a contract or agreement, the property owner of record will be presumed to be the responsible party for owning and maintaining the Wind Energy System.

b) Insurance and Guarantees - Commercial WES

- (1) The owner or operator of any commercial WES shall maintain a current general liability policy covering bodily injury and property damage, and cyber insurance to protect from data breaches and other cyber security issues. Franklin County shall be named as an additional insured with dollar amount limits per occurrence in the amount of ten million dollars (\$10,000,000) minimum for all WES with a liability study by three (3) independent insurance companies to determine adequate coverage. Proof of liability insurance shall be sent to the Executive Director annually; failure to maintain said insurance shall result in cancellation of the Improvement Location Permit by the Executive Director.
- (2) The owner or operator of any commercial WES shall provide a hold harmless agreement with all adjacent non-participating landowners with property boundaries adjacent to the site. To prevent moral hazard, such hold harmless provision shall only apply to negligence and not to willful, wanton, or reckless conduct and shall only hold the adjacent non-participating property owner harmless for damages greater than \$100,000 per occurrence.
- (3) The owner or operator of any commercial WES shall agree to a property value guarantee agreement drafted by the County with the purpose of protecting against diminished value of a non-participating adjoining landowner with a residence located within one thousand (1000) feet of any commercial WES. Such agreement shall include at least the following:
 - (a) Within twelve (12) months of the completion of a WES system, an affected property owner may request an appraisal of their residential property based on similar properties located at least two miles away from the WES system. Such appraisal shall be conducted at the expense of said Owner/Operator and be conducted by a mutually agreeable appraiser. (If no agreement on an appraiser can be reached, the affected adjacent property owner and the project owner/operator shall each select an appraiser

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and those appraisers shall cooperatively select a third, independent appraiser to conduct the appraisal).

- (4) It is the responsibility of the owner or operator listed in the application to inform the Executive Director of all changes in ownership of any insurance policy or guarantee agreement, during the life of the project, including the sale or transfer of ownership or policy cancellations. The county shall be named as a notified party by the insurance provider in the event there is a lapse in coverage.
- (5) Cost adjustments: Terminology shall be included in any and all insurance policy or guarantee agreement that provides policy limit adjustments derived from the US Bureau of Labor Statistics Consumer Price Index (CPI) to protect against inflation. The Area Plan Commission (APC) may review coverage amounts as often as every five (5) years and modify, as necessary, to determine if appropriate limits have drifted too far from the CPI adjusted level.
- c) Physical Modifications
 - (1) In general, any physical modification to any WES that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Therefore, prior to making any physical modification, the owner or operator shall confer with the Executive Director for approval and Board of Zoning Appeals to determine whether the physical modification requires re-certification.
- d) Declaration of Public Nuisance
 - (1) Any WES thereof declared to be unsafe by the Franklin County Executive Director by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan.
- e) Change in Ownership
 - (1) It is the responsibility of the owner or operator listed in the application to inform the Executive Director of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.
- f) Easements
 - (1) WES easements are not controlled or arbitrated by Franklin County.
- 3) Decommissioning Plan**
 - a) Prior to receiving approval under this Ordinance, the Board of Zoning Appeals and the applicant, County Commissioners, and owner and/or operator shall formulate a decommissioning plan approved and signed by the County Commissioners and the applicant, outlining the anticipated means and cost of removing a WES at the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the WES is properly decommissioned.
 - b) Surety Bond-Commercial WES
 - (1) Applicant for a commercial WES shall provide a bond, or other proof of financial responsibility that is of an amount determined by the County Commission to be sufficient to satisfy the decommissioning agreement requirements.
 - (2) Other proof of financial responsibility may be:
 - (a) Cash advance to county to be released upon completion of decommissioning plan.
 - (b) An arrangement whereby the county would have access to the funds in an escrow account or other type of account held by a bank, until the completion of the decommissioning plan.

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- (3) Bond shall be released upon receipt of a certificate of inspection by the office of the Area Planning Executive Director indicating that the decommissioning plan is complete with no unresolved issues related to the plan.
- c) A decommissioning plan shall include, at a minimum, language to the following:
 - (a) Assurance: Must provide written assurance and financial assurance based on cost estimates that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned.
 - (b) Cost estimates: The applicant shall provide a contractor cost estimate for demolition and removal of the WES facility which cost estimate shall include any offsetting effects of salvage value. 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 WES and approved by the Board of Zoning Appeals.
 - (c) Cost adjustments: Terminology shall be included in the plan that provides cost estimate adjustments derived from the US Bureau of Labor Statistics Consumer Price Indexes (CPI) to protect against inflation.
- d) Discontinuation and Abandonment
 - (1) Discontinuation: All WES shall be considered a discontinued use after six (6) months without energy production, unless a plan is developed and submitted to the Executive Director outlining the steps and schedule for returning the WES to service.
 - (2) Abandonment by the owner or operator: In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the Executive Director representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within one (1) year of expiration or earlier termination of the project.
- (3) Removal
 - (a) An applicant's obligations shall include removal of all physical material pertaining to the project improvements within three hundred sixty-five (365) days of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements by the owner, (unless otherwise agreed to by the property owner) or by Franklin County at the owner's expense.
- (4) Written Notices
 - (a) Prior to implementation of the existing procedures for the resolution of such default(s), the Executive Director shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).
- (5) Costs Incurred by the County
 - (a) If the County removes a tower and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permittee or grantor grants a license to Franklin County to enter the property to remove a tower pursuant to the terms of an approved decommissioning plan.
- 4) Application Procedures**
 - a) Permits and conditional uses shall be applied for and reviewed under the procedures established by this Ordinance.
 - b) The Area Planning Executive Director shall retain the services of a professional engineer, licensed in Indiana, with expertise in WES to perform a technical review of the development

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plan prior to submittal to the APC. The costs of services shall be included in the application fees.

- c) In addition to the application requirements listed, applications for all WES shall also include the following information:
 - (1) Demonstration of Energy Need: The primary purpose of the production of energy from a WES shall be to serve an energy need. The applicant(s) shall demonstrate how much energy is needed and how the proposed size and number of the WES fulfills this need. Net-metering may be allowed but shall not be the primary intent of the WES.
 - (2) Utility Notification: WES shall not be installed until evidence has been given that the affected utility company has been informed and has agreed to accept energy from potentially interconnected customer-owned generator.
- d) Fees
 - (1) All primary voltage WES (including meteorological towers) \$20,000 per tower plus \$100 per Megawatt.
 - (a) The applicant shall also be charged the actual cost of the technical review conducted by an independent representative contracted by the Executive Director.
 - (b) Should the application fail to meet approval, 80% of the application fee shall be refunded, except the actual costs incurred by the county for any and all technical reviews.
 - (2) All intermediate secondary voltage WES \$1000.
 - (a) The applicant shall also be charged the actual cost of the technical review conducted by an independent representative contracted by the Executive Director.

5) Development Plan

- a) Prior to the issuance of any Improvement Location Permit, the following shall be submitted to and reviewed by the Executive Director, who shall certify that the following are in compliance with all applicable regulations:
 - b) Decommissioning Plan
 - (1) A Decommissioning Plan and financial assurance given as found in this section.
 - c) Drainage and Erosion Control Plan.
 - (1) The drainage and erosion control plan shall comply with section 80.08.05 Soil Survey-Drainage, Erosion and Sediment Control.
 - (2) All existing drainage fields shall be maintained as originally designed.
 - (3) No existing drainage field shall be disturbed or impede service to or from non-participating landowner.
 - (4) The site shall be scanned using ground penetrating radar (GPR) technology to locate and map any existing drainage tile or other unknown structures.
 - d) Utility Plan
 - (1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total WES project shall be submitted to Executive Director. No individual sheet or drawing shall exceed twenty-four inches by thirty-six inches (24" x 36").
 - e) Final Site Layout Plan
 - (1) Provide a copy of the Final Site Layout Plan illustrating the final location of all that is required in the preliminary site layout plan, as approved by the landowner.
 - f) Road Use and Maintenance Agreement
 - (1) A Road Use and Maintenance Agreement (construction and deconstruction) for all oversized loads must be drafted in accord with the Franklin County Highway Department and approved by the Franklin County Commissioners. Financial assurances may be required.

6) Project Description

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- a) The following documents shall be provided as part of the application for an Improvement Location Permit.
 - (1) Wind system specifications, including typical manufacturer and model.
 - (2) The manufacturer specifications for the key components of the wind energy system.
 - (3) Certification that layout design, and installation conform to and comply with all applicable industry standards.

C) Commercial and Intermediate Solar Energy Systems (SES) Siting Regulations**1) General Requirements**

- a) Height-Ground-Mounted SES
 - (1) SES shall not exceed overall height of 20 feet.
 - (2) The height shall be calculated as the distance from grade to the top of the solar panel at its greatest incline
- b) Height-Building-Mounted SES
 - (1) SES may exceed the maximum allowed building height of the building or structure on which it is located by ten (10) feet.
 - (2) SES may project off a building façade up to three (3) feet into the required setback.
 - (3) The height shall be calculated as the distance from roof to the top of the solar panel at its greatest incline.
- c) Setback-Commercial Ground-Mounted SES
 - (1) Setbacks shall be measured from the property line to the nearest piece of above ground solar energy equipment. Setbacks do not apply to underground cabling, access roads/lanes or ingress/egress roads.
 - (2) SES shall be set back a minimum of one hundred forty (140) feet from the center of any adjoining public road.
 - (3) SES shall be setback a minimum of one hundred (100) feet from any non-participating adjoining parcel.
 - (4) A project owner may not install or locate a commercial SES unless the distance, measured as a straight line, from the nearest outer edge of the SES system to the nearest point on the outer wall of a dwelling located on a nonparticipating property is at least six hundred fifty (650) feet from any non-participating residence.
 - (5) This standard shall apply reciprocally to residential and SES development, but an adjacent non-participating owner may build within such setback if such setback is specifically waived in writing.
 - (6) SES shall be set back a minimum of two hundred fifty (250) feet from the property line of a cemetery.
- d) Setback-Intermediate Ground-Mounted SES
 - (1) SES shall be set back a minimum of one hundred forty (140) feet from the center of any adjoining public road.
 - (2) SES shall be setback a minimum of one hundred (100) feet from any non-participating adjoining parcel.
- e) Area-Commercial Ground-Mounted SES
 - (1) Primary voltage systems shall be 5-acre minimum site area, not including access roads.
- f) Area-Intermediate Ground-Mounted SES
 - (1) Secondary voltage system requires greater than 2000 square feet of panel area.
- g) Safety Design and Installation Standards
 - (1) Industry Standards and other Regulations.
 - (a) All SES shall conform to applicable industry standards, as well as all local, state and federal regulations. An applicant shall submit certificate(s) of design compliance that

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solar equipment manufacturers have obtained from Underwriters Laboratories, or an equivalent third party.

- (2) Equipment Type
 - (a) Experimental, or proto-type equipment: Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the Board of Zoning Appeals per the variance process established by this Ordinance.
- (3) Equipment Installation
 - (a) All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - (b) To the greatest practical extent, all electrical wires and utility connections shall be installed underground, except for transformers, inverters, substations and controls. The Board of Zoning Appeals will take into consideration prohibitive costs and site limitations in making their determination.
- (4) Lighting
 - (a) All lighting shall be shielded so that no glare extends substantially beyond the boundaries of the project.
- h) Color and Finish
 - (1) Finish must be made to minimize glare to surrounding properties.
- i) Security
 - (1) For ground-mounted SES, perimeter fencing shall be a six (6) foot tall chain link fence (with three strands of barbed wire at top) around the perimeter of the site.
 - (2) SES fencing shall be set back a minimum of one hundred twenty (120) feet from the center of an adjacent roadway or eighty (80) feet from a non-participating property line.
 - (3) Commercial SES fencing the distance, measured as a straight line, from the nearest outer edge of the SES system to the nearest point on the outer wall of a dwelling located on a nonparticipating property, is at least six hundred thirty (630) feet from any non-participating residence.
 - (4) SES fencing shall be set back a minimum of two hundred thirty (230) feet from a cemetery.
- j) Signs and Warnings
 - (1) The following notices shall be clearly visible on all SES facility perimeter fencing at least once every 500 feet (which may be combined on one sign):
 - (a) "No Trespassing" signs.
 - (b) "Danger" warning signs appropriate for electrical systems.
 - (c) Signage posting emergency telephone number(s).
 - (2) All manual electrical shutdown/disconnect switch(es) shall be clearly labeled.
- k) Screening (Ground-Mounted Systems Only)
 - (1) Level 2 screening per 80.08.10 if located within 400 feet of non-participating landowner or public right of way.
- l) Wetlands and Flood Plains
 - (1) Facility plan shall not be proposed in an area designated by the Department of Natural Resources (DNR) or Franklin County zoning map as a flood plain.
 - (2) Any site designated as isolated wetlands (those wetlands not regulated under the federal Clean Water Act) are Waters of the State and are regulated under Indiana's State Isolated Wetlands law (Indiana Code 13-18-22). Impacts to isolated wetlands require State Isolated Wetland Permits from IDEM.
- m) Sewer and Water
 - (1) All SES facilities shall comply with the existing septic and well regulations as required by the Franklin County Health Department and/or the State of Indiana Department of Public Health.
- n) Noise and Vibration

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- (1) The noise level of all SES shall be no greater than fifty (50) decibels measured from the nearest property line. This level may only be exceeded during short-term events such as utility outages and/or severe windstorms. All other noise and vibration levels shall follow all county, state, and federal regulations.
- o) Sine Wave Deviations
 - (1) Waveform deviations from a SES that occur within the electrical environment of a non-participating residence, must conform to acceptable parameters within the Information Technology Industry Council (ITIC) curve at the point of common coupling at the residence.
- p) Utility Interconnection
 - (1) The SES, if primary voltage is interconnected to a utility system, it shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, Federal and state regulations, amended from time to time.
- 2) Operation and Maintenance**
 - a) Operator
 - (1) Unless otherwise specified through a contract or agreement, the property owner of record will be presumed to be the responsible party for owning and maintaining the Solar Energy System.
 - b) Insurance and Guarantees - Commercial SES
 - (1) The owner or operator of any commercial SES shall maintain a current general liability policy covering bodily injury and property damage, and cyber insurance to protect from data breaches and other cyber security issues. Franklin County shall be named as an additional insured with dollar amount limits per occurrence in the amount of ten million dollars (\$10,000,000) minimum for all SES with a liability study by three (3) independent insurance companies to determine adequate coverage. Proof of liability insurance shall be sent to the Executive Director annually; failure to maintain said insurance shall result in cancellation of the Improvement Location Permit by the Executive Director.
 - (2) The owner or operator of any commercial SES shall provide a hold harmless agreement with all adjacent non-participating landowners with property boundaries adjacent to the site. To prevent moral hazard, such hold harmless provision shall only apply to negligence and not to willful, wanton, or reckless conduct and shall only hold the adjacent non-participating property owner harmless for damages greater than \$100,000 per occurrence.
 - (3) The owner or operator of any commercial SES shall provide fixed site pollution liability insurance appropriate for the ownership structure of the site including contractor's pollution liability insurance. The amount of coverage shall be negotiated as part of the development planning process but shall include a minimum of \$1 million in coverage per 200 acres of fenced project area.
 - (4) The owner or operator of any commercial SES shall agree to a property value guarantee agreement drafted by the County with the purpose of protecting against diminished value of a non-participating adjoining landowner with a residence located within one thousand (1000) feet of any commercial SES. Such agreement shall include at least the following:
 - (a) Within twelve (12) months of the completion of a SES system, an affected property owner may request an appraisal of their residential property based on similar properties located at least two miles away from the SES system. Such appraisal shall be conducted at the expense of said Owner/Operator and be conducted by a mutually agreeable appraiser. (If no agreement on an appraiser can be reached, the affected adjacent property owner and the project owner/operator shall each select an appraiser and those appraisers shall cooperatively select a third, independent appraiser to conduct the appraisal).

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- (5) It is the responsibility of the owner or operator listed in the application to inform the Executive Director of all changes in ownership of any insurance policy or guarantee agreement, during the life of the project, including the sale or transfer of ownership or policy cancellations. The county shall be named as a notified party by the insurance provider in the event there is a lapse in coverage.
- (6) Cost adjustments: Terminology shall be included in any and all insurance policy or guarantee agreement that provides policy limit adjustments derived from the US Bureau of Labor Statistics Consumer Price Index (CPI) to protect against inflation. The Area Plan Commission (APC) may review coverage amounts as often as every Five (5) years and modify, as necessary, to determine if appropriate limits have drifted too far from the CPI adjusted level.
- c) Fire Protection and Emergency Management
 - (1) The owner or operator shall provide fire suppression equipment, appropriate training and supplies necessary to enable the Fire Department and Emergency Medical Services to respond effectively to an emergency event such as fire or life-threatening event at the site. If the owner/operator and emergency services provider cannot reach an agreement on such items, the County Commissioners shall review the facts and circumstances of the project and impose reasonable requirements.
- d) Modifications
 - (1) In general, any physical modification to any SES that alters the mechanical load, or major electrical components shall require re-certification. Like-kind replacements shall not require re-certification. Therefore, prior to making any physical modification, the owner or operator shall confer with the Executive Director and Board of Zoning Appeals to determine whether the physical modification requires re-certification.
- e) Declaration of Public Nuisance
 - (1) Any SES thereof declared to be unsafe by the Franklin County Executive Director by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan.
- f) Shadows
 - (1) No solar apparatus shall cast an appreciable shadow on surrounding properties solar production facilities.
- g) Change in Ownership - It is the responsibility of the owner or operator listed in the application to inform the Executive Director of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.
- h) Easements
 - (1) Solar easements are not controlled or arbitrated by Franklin County
- 3) Decommissioning Plan**
 - a) Prior to receiving approval under this Ordinance, the Board of Zoning Appeals and the applicant, County Commissioners, and owner and/or operator shall formulate a decommissioning plan approved and signed by the County Commissioners and the applicant, outlining the anticipated means and cost of removing a SES at the end of their serviceable life or upon becoming a discontinued or abandoned use to ensure that the SES is properly decommissioned.
 - b) Surety Bond-Commercial SES
 - (1) Applicant for a commercial SES shall provide a bond, or other proof of financial responsibility that is of an amount determined by the County Commission to be sufficient to satisfy the decommissioning agreement requirements.
 - (2) Other proof of financial responsibility may be:

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- (a) Cash advance to county to be released upon completion of decommissioning plan.
- (b) An arrangement whereby the county would have access to the funds in an escrow account or other type of account held by a bank, until the completion of the decommissioning plan.
- (3) Bond shall be released upon receipt of a certificate of inspection by the office of the Area Planning Executive Director indicating that the decommissioning plan is complete with no unresolved issues related to the plan.
- c) A decommissioning plan shall include, at a minimum, language to the following:
 - (1) Assurance: Written assurance that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned.
 - (2) Cost estimates: The applicant shall provide a contractor cost estimate for demolition and removal of the SES facility which cost estimate shall include any offsetting effects of salvage value. 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 SES.
 - (3) Cost adjustments: Terminology shall be included in the plan that provides cost estimate adjustments derived from the US Bureau of Labor Statistics Consumer Price Indexes (CPI) to protect against inflation.
- d) Discontinuation and Abandonment
 - (1) Discontinuation: All SES shall be considered a discontinued use after six (6) months without energy production, unless a plan is developed and submitted to the Executive Director outlining the steps and schedule for returning the SES to service.
 - (2) Abandonment by the owner or operator: In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the Executive Director representing that all easements for solar collection shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within one (1) year of expiration or earlier termination of the project.
- e) Removal
 - (1) An applicant's obligations shall include removal of all physical material pertaining to the project improvements to no less than a depth of six (6) feet below ground level within three hundred sixty-five (365) days of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements by the owner, (unless otherwise agreed to by the property owner) or by Franklin County at the owner's expense.
- f) Written Notices
 - (1) Prior to implementation of the existing procedures for the resolution of such default(s), the Executive Director shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).
- g) Costs Incurred by the County
 - (1) If the County removes a solar plant and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permittee or grantor grants a license to Franklin County to enter the property to remove the solar plant pursuant to the terms of an approved decommissioning plan.
- 4) **Application Procedures**
 - a) Permits and conditional uses shall be applied for and reviewed under the procedures established by this Ordinance.

COMMERCIAL & INTERMEDIATE ALTERNATE ENERGY SYSTEMS

- b) The Area Planning Executive Director shall retain the services of a professional engineer, licensed in Indiana, with expertise in SES to perform a technical review of the development plan prior to submittal to the APC. The costs of services shall be included in the application fee.
- c) In addition to the application requirements listed, applications for all SES shall also include the following information:
 - (1) Demonstration of Energy Need: The primary purpose of the production of energy from a SES shall be to serve an energy need. The applicant(s) shall demonstrate how much energy is needed and how the proposed size and number of the SES fulfills this need. Net-metering may be allowed but shall not be the primary intent of the SES.
 - (2) Utility Notification: SES shall not be installed until evidence has been given that the affected utility company has been informed and has agreed to accept energy from potentially interconnected customer-owned generator. Intermediate (secondary voltage connected) systems shall be exempt from this requirement
- d) Fees
 - (1) All commercial primary voltage SES \$20,000 plus \$100 per Megawatt.
 - (a) The applicant shall also be charged the actual cost of the technical review conducted by an independent representative contracted by the Executive Director.
 - (b) Should the application fail to meet approval, 80% of the application fee shall be refunded, except the actual costs incurred by the county for any and all technical reviews.
 - (2) All intermediate secondary voltage SES \$1000.
 - (a) The applicant shall also be charged the actual cost of the technical review conducted by an independent representative contracted by the Executive Director.

5) Development Plan

- a) Prior to the issuance of any Improvement Location Permit for primary connected SES, the following shall be submitted to and reviewed by the Executive Director, who shall certify that the following are in compliance with all applicable regulations:
- b) Decommissioning Plan
 - (1) A Decommissioning Plan as prescribed in this section.
- c) Drainage and Erosion Control Plan
 - (1) The drainage and erosion control plan shall comply with section 80.08.05 Soil Survey-Drainage, Erosion and Sediment Control.
 - (2) All existing drainage fields shall be maintained as originally designed.
 - (3) No existing drainage field shall be disturbed or impede service to or from non-participating landowner.
 - (4) The site shall be scanned using ground penetrating radar (GPR) technology to locate and map any existing drainage tile or other unknown structures.
- d) Ground Covering Plan
 - (1) 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.
 - (2) To the maximum extent feasible and economical, perennial vegetation ground cover shall be based on a diverse seed mix of native species consistent with guidance specific to the local area based on guidance provided by the National Resources Conservation Service, Soil and Water Conservation District, or Conservation District.
 - (3) The site shall be planted and maintained to be free of all invasive species, as listed by the Indiana Invasive Species Council.
 - (4) 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.

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- (5) Plant material must not have been treated with systemic insecticides, particularly neonicotinoids.
- e) Utility Plan
 - (1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the total SES project shall be submitted to Executive Director.
- f) Final Site Layout Plan
 - (1) Provide a copy of the Final Site Layout Plan illustrating the final location of all that is required in the preliminary site layout plan, as approved by the landowner.
- g) Road Use and Maintenance Agreement
 - (1) A Road Use and Maintenance Agreement (construction and deconstruction) for all oversized loads must be drafted in accord with the Franklin County Highway Department and approved by the Franklin County Commissioners. Financial assurances may be required.
- 6) Project Description**
 - a) The following documents shall be provided as part of the application for an Improvement Location Permit.
 - (1) Solar system specifications, including typical manufacturer and model.
 - (2) The manufacturer specifications for the key components of the solar energy system.
 - (3) Certification that layout design, and installation conform to and comply with all applicable industry standards.

COMMERCIAL AND INTERMEDIATE AES APPLICATION CHECKLIST

Project Name: _____

Applicant Name: _____ **Date:** _____

Application

- ☐ Demonstration of Need
- ☐ Utility Notification
- ☐ Fee Collected Amount _____
- Payment Date _____

Development Plan

- ☐ Insurance and Guarantees
- ☐ Decommissioning Plan
- ☐ Financial Assurance Type: ☐ Bond ☐ Cash ☐ Other
- ☐ Assurance of Decommission
- ☐ Decommission Cost Estimate
- ☐ Drainage and Erosion Control Plan
- ☐ Ground Covering Plan
- ☐ Utility Plan
- ☐ Fire and EMS Plan
- ☐ Site Layout Plan
- ☐ Road Use and Maintenance Agreement
- ☐ **Project Description**
- ☐ System Specifications
- ☐ Manufacturers Equipment Specifications
- ☐ Compliance to Standards
- ☐ Technical Review Complete Date _____

Certification by Executive Director Area Planning Commission

Signature _____ Date _____

Ordinance No. 2021-6, April 20, 2021