

## **ARTICLE 1**

### **PURPOSE AND AUTHORITY**

#### **SECTION 100 - Title**

This ordinance, and supplements or amendments thereto, shall be known, and may be cited hereafter, as the Decatur County Zoning Ordinance.

#### **SECTION 110 – Purpose**

This ordinance, and supplements or amendments thereto, establishes a Zoning Ordinance for Decatur County, Indiana and provides for the administration, enforcement, and amendment thereof in accordance with the provisions of I.C. 36-7-4-et seq.; and for the repeal of all ordinances in conflict herewith.

#### **SECTION 120 – Provisions of Order Declared to be Minimum Requirements**

The regulations established by this ordinance are the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience, and general public welfare. Whenever the requirements of this ordinance are at variance with any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

#### **SECTION 130 - Severability Clause**

If for any reason any article, division, section, subsection, sentence, clause, phrase, or word of this ordinance should be declared unconstitutional or invalid for any reason whatsoever, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect; therefore, the provisions of this ordinance are hereby declared severable.

#### **SECTION 140 - Repeal of Conflicting Ordinances and Effective Date**

All ordinances or parts of ordinances in conflict with this ordinance, or inconsistent with the provisions of this ordinance, are hereby repealed to the extent necessary to give this ordinance full force and effect. This ordinance shall become effective from and after the date of its approval and adoption as provided by law. After the effective date of this ordinance, existing legal land uses not in agreement with this zoning order become pre-existing and non-conforming. Applications submitted after the effective date of this ordinance shall be reviewed under the rules and procedures contained herein.

#### **SECTION 150 – Jurisdiction**

This Ordinance shall apply to all unincorporated land within Decatur County, Indiana. Further, upon adoption, it shall apply to all incorporated areas within Decatur County, Indiana.



## ARTICLE 20

### SOLAR ENERGY FACILITIES

#### **SECTION 2000 – Purpose and Intent**

The purpose and intent of this section is to establish minimum requirements and regulate the placement, construction and modification of Solar Energy Facilities (SEF) in order to minimize its negative impact on the character and environment of the County and to protect the health, safety and welfare of the public. The process for the review and approval of the application shall assure an integrated and comprehensive review of the environmental impact of such facilities.

The County understands that alternative energy technology is ever-changing, therefore, the County supports individual, on-site, non-commercial alternative energy sources. However, pursuant to the Decatur County Comprehensive Plan, the County does not support the development of commercial alternative energy facilities that would consume agricultural land. The County discourages large scale, commercial development of alternative energy sources.

The purpose of these regulations is:

1. To regulate the location of Solar Energy Facilities within the County.
2. To protect residential areas and land use from potential adverse impact of Solar Energy Facilities.
3. To minimize adverse visual impacts of Solar Energy Facilities through careful design placement; landscaping; preservation of trees and natural vegetation; and innovative camouflaging techniques.
4. To avoid potential damage to adjacent properties caused by Solar Energy Facilities by ensuring such structures are soundly and carefully designed, constructed, screened, modified, maintained, and removed.
5. To the greatest extent feasible, ensure that Solar Energy Facilities are compatible with surrounding land uses.

#### **SECTION 2002 – Definitions**

##### Non-Commercial Solar Energy System

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 for use on-site. However, the energy output may be delivered to a power grid to offset the cost of energy on-site.

##### Commercial Solar Energy Facilities

A SEF, on a parcel(s) of one acre 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.

## **SECTION 2004 – Special Exceptions**

Commercial Solar Energy Facilities are permitted as a special exception in the Agricultural A-1 & A-2 zoning districts; in the Business B-1, B-2 and B-3 zoning districts; and in the Industrial I-1, I-2 and I-3 zoning districts when approved by the Decatur County Board of Zoning Appeals:

- A. Replacement of a legal, existing SEF structures with a similar facility of equal or smaller size, subject to the applicable procedures and general requirements of the Ordinance.
- B. Placement of a SEF as permitted under the zoning districts A-1, A-2, B-1, B-2, B-3, I-1, I-2, and I-3.

## **SECTION 2006 – General Requirements**

The following requirements apply to all SEF that are erected or placed within Decatur County jurisdictional area after the effective date of this Ordinance. All SEF require an Improvement Location Permit.

- A. For each application, the property owners, SEF owners, and the service providers shall be considered co-applicants and shall jointly and severally be subject to the provisions of this ordinance.
- B. Each Improvement Location Permit application for placement of a Commercial SEF/ SEF Support Structure shall be accompanied by the following:
  - 1. An application, rezoning application, a special exception application and/or a Variance Application.
  - 2. A written statement with illustrations that describe the proposed SEF including the type of construction with minimum and maximum height.
  - 3. A site plan which is comprised of a scaled drawing setting forth property lines, distances, existing site improvements/buildings/structures, existing or proposed roadways and easements, proposed SEF location, and proposed landscaping.
  - 4. A Road Use Agreement approved by the Decatur County Highway Department.
  - 5. An Engineer Stamped Drainage Plan as per the Decatur County Stormwater Drainage Control Ordinance.
  - 6. A visual impact analysis that includes current photographs of man-made or natural features adjacent to the SEF and a photographic presentation that depicts current site conditions with a super-imposed image of the proposed facilities to demonstrate the anticipated views upon its completion.
  - 7. A copy of the Facility Maintenance and Removal Agreement signed by all applicants that binds the applicants and all successors in interest to properly maintain and or remove the facilities upon abandonment in compliance with the terms of this Ordinance.

8. Decatur County shall not authorize the placement of any SEF or Support Structure unless Decatur County obtains an indemnification from the applicant(s) that releases Decatur County from all liability arising out of the construction, operation, removal or repair of a SEF. Parties to the Solar Energy Facility agree to not sue or seek any monies or damages from Decatur County; to indemnify and hold harmless Decatur County, its elected/appointed officials, agents, servants, and employees from all claims, demands or causes of action along with the resulting losses, expenses, costs, attorney fees, liabilities, damages, Orders, Judgements and Decrees which arise out of or result from a SEF owner, operator, agent, employee, or servant for negligent acts, errors or omissions.
  9. A policy of insurance maintained with a reputable company that insures the SEF or Support Structure with minimum and adequate insurance coverage for liability, bodily injury, and property damage for the entire period the SEF is in existence. Decatur County shall be named as an additional insured on the policy. A certificate of insurance shall be submitted verifying the insurance coverage at the time application is made. Failure to maintain insurance coverage shall be a violation of this Ordinance. Additional Certificates of Insurance shall be provided to Decatur County to show on going compliance with this ordinance requirement.
- C. Each Improvement Location Permit application for placement of a Non-Commercial SEF/SEF Support Structure shall be accompanied by the following:
1. A site plan which is comprised of a scaled drawing setting forth property lines, distances, existing site improvements/building/structures, existing or proposed roadways or easements, proposed SEF location, and proposed landscaping.
  2. An engineer stamped letter stating that the existing roof system is structurally sufficient to support the addition of the SEF.

### **SECTION 2008 – Performance / Construction Standards / Commercial SEF**

- A. A perimeter fence at least Eight (8) feet in height shall be installed to contain the SEF.
- B. The SEF shall not cast a shadow on surrounding properties.
- C. Security lighting is not required. If security lighting is installed, it shall be confined to accessory structures and shall be directed downward to minimize glare or intrusion onto adjoining properties. No SEF illumination shall be permitted.
- D. An approved cover crop or approved ground cover is required. All landscaping that is installed shall be properly maintained or replaced to maintain a presentable appearance for the structure.
- E. Off-premise or advertising signage is prohibited. Each SEF shall have identification signage at the locked entrance stating: 1. High Voltage Warning 2. Name and Contact Number for the site Operator 3. Name and Contact Number for the Electric Utility Provider 4. The 911 Address and GPS Coordinates 5. Knox Box with keys.

F. The SEF shall be constructed to applicable industry standards, including those from the UL and FAA. The Decatur County Board of Zoning Appeals may authorize an alternate form of construction upon a showing of sufficient documentation.

G. All SEF, accessory buildings, poles, antenna, and other external facilities shall be painted a neutral color or galvanized grey. Paint color shall be designed to minimize visibility and blend with the surrounding environment. All facilities shall be repainted as necessary.

H. No SEF shall be installed in any location where its proximity with fixed broadcast, retransmission or reception antenna for radio, airport RF signals, television or wireless phone or other personal communications systems would produce electromagnetic interference with signal transmission or reception.

I. Setback requirements for SEF: Setbacks shall meet the minimum zoning setbacks for the zoning district in which located.

J. All SEF electrical equipment and connections must adhere to all local, state, and national codes and international standards.

K. The SEF shall not generate noise in excess of Fifty (50) decibel levels at ground level to the property lines or at the nearest residence. Such measurements shall be signed by a qualified engineer, stating that noise levels are being met, per ordinance requirements.

L. At such time that a SEF ceases operation for a period of Twelve (12) months, the company shall physically remove the SEF within Ninety (90) days from the Twelve (12) month period from when the operation ceased.

~~M.~~—Removal of all machinery, equipment, shelters, security barriers, and waste materials to a minimum of Five (5) feet below grade, and provide any mitigation or remediation required by any local, state, or federal agencies to return the land to the use prior to installation of the SEF.

N. Applicant shall post a bond for One Hundred Fifty (150) percent of the fully-inclusive estimate of the cost associated with removal of the SEF prepared by a certified company for that type of work. Bonds and financial assurance shall be reevaluated every 5 years with contributions adjusting at the time to cover costs at the time of decommissioning.

#### **SECTION 2050 – Improvement Location Permit Section**

Prior to the issuance of any Improvement Location Permit for a SEF project, the applicant, owner and/or operator shall pay the required permit fee as per Decatur County Building Fee Schedule. The applicant shall pay all additional fees associated with planning, reviewing, and consulting that may be are required. Any other structure(s)

associated with the project shall require a separate Improvement Location Permit as per Decatur County Building Fee Schedule.

## ARTICLE 13

### WIND ENERGY CONVERSION SYSTEM (WECS)

#### **SECTION 1300 – Purpose and Intent**

The purpose and intent of this section is to regulate the placement, construction, and modification of Wind Energy Conversion Systems and Facilities in order to minimize its negative impact on the character and environment of the County and to protect the health, safety, and welfare of the public. The process for the review and approval of the application shall assure an integrated and comprehensive review of the environmental impact of such facilities. The County recognizes that facilitating the development of Wind Energy Conversion System technology can be an economic development asset to the County and of significant benefit to both the County and its residents. Therefore, it is not the County's intent to unreasonably interfere with the development of the competitive Wind Energy Conversion System marketplace in Decatur County. Micro Wind Systems, which are a building-mounted wind system that has a nameplate capacity (manufacturer's rating) of 10 Kilowatts or less, and projects no more than Fifteen (15) feet above the highest point of the roof shall not be considered a wind energy conversion system.

The purpose of these relations are:

1. To regulate the location of Wind Energy Conversion Systems and Facilities within the County.
2. To protect residential areas and land use from potential adverse impact of Wind Energy Conversion Systems and Facilities.
3. To minimize adverse visual impacts of Wind Energy Conversion Systems and Facilities through careful design; placement; landscaping; preservation of trees and natural vegetation; and innovative camouflaging techniques.
4. To avoid potential damage to adjacent properties caused by Wind Energy Conversion Systems and Facilities by ensuring such structures are soundly and carefully designed, constructed, screened, modified, maintained, and removed.
5. To the greatest extent feasible, ensure that Wind Energy Conversion Systems and Facilities are compatible with surrounding land uses.

#### **SECTION 1302 – Definition**

Wind Energy Conversion System and facilities shall be defined as any device or assemblage which directly converts wind energy into usable thermal, mechanical, or electrical energy, including such devices as windmills, and wind turbines, towers, and supporting structures and such directly connected facilities as generators, alternators, inverters, batteries and associated control equipment.



### **SECTION 1304 – Permanent Special Exceptions**

The following are permitted as permanent special exceptions in the Agricultural A-1 & A-2 zoning districts; in the Business B-1, B-2 and B-3 zoning districts; and in the Industrial I-1 and I-2 zoning districts when approved by the Decatur County Board of Zoning Appeals:

- A. Attached WECS and facilities if integrated within an existing structure.
- B. Replacement of a legal, existing WECS structure with a similar facility of equal or smaller size, subject to the applicable procedures and general requirements of the Ordinance.
- C. Placement of a WECS as permitted under the zoning districts A-1, A-2, B-1, B-2, B-3, I-1 and I-2.

### **SECTION 1306 – General Requirements**

The following requirements apply to all WECS that are erected or placed within Decatur County jurisdictional area after the effective date of this Ordinance.

- A. For each application, the property owners, the WECS providers, and the WECS owners, shall be considered Co-Applicants and shall jointly and severally be subject to the provisions of this Ordinance.
- B. Each permit application for placement of a WECS and Facilities / Support Structure shall be accompanied by the following:
  - (1) An application, rezoning application or variance application form with original signatures from the property owners, WECS providers, and WECS owners.
  - (2) A written statement with illustrations that describe the proposed WECS and Facilities, including the type of construction and total height.
  - (3) A site plan which is comprised of a scale drawing setting forth property lines, distances, existing site improvements/buildings/structures, existing and or proposed roadways and easements, proposed WECS location, and proposed landscaping.
  - (4) A visual impact analysis that includes current photographs of man-made or natural features adjacent to the WECS and a photograph presentation that depicts current site conditions with a super-imposed image of the proposed WECS and Facilities to demonstrate the anticipated view and the facility upon its completion.
  - (5) A copy of the Facility Maintenance and Removal Agreement signed by all applicants that binds the applicants and all successors in interest to the property to properly maintain and or remove the facility upon abandonment in compliance with the terms of this Ordinance.

(6) Decatur County shall not authorize the placement of any WECS or Support Structure unless Decatur County obtains an indemnification from applicant that releases Decatur County from all liability arising out of the construction, operation, removal or repair of a WECS. Parties to the WECS Agreement agree to not sue or seek any monies or damages from Decatur County, to indemnify and hold harmless Decatur County, its elected/appointed officials, agents, servants, and employees from all claims, demands or causes of action, along with the resulting losses, expenses, costs, attorney fees, liabilities, damages, Orders, Judgments, and Decrees which arise out of or result from a WECS Facility owner, operator, agent, employee, or servant for negligent acts, errors, or omissions.

(7) A policy of insurance maintained with a reputable company that insures the WECS or Support Structure with minimum and adequate insurance coverage for liability, bodily injury, and property damage for the entire period the WECS and or Support Structure is in existence. Decatur County shall be named as an additional insured on the policy. A certificate of insurance shall be submitted verifying the insurance coverage at the time the application is made. Failure to maintain insurance coverage shall be a violation of this Ordinance.

### **SECTION 1308 – Performance / Construction Standards**

A. A perimeter fence at least Eight (8) feet in height shall be installed to contain the WECS accessory structures and/or facilities.

B. Security lighting is not required. If security lighting is installed, it shall be confined to accessory structures and shall be directed downward to minimize glare or intrusion onto adjoining properties. No WECS Support Structures illumination shall be permitted.

C. Any landscaping that is installed shall be properly maintained or replaced to maintain a presentable appearance for the structure.

D. Off-premise or advertising signage is prohibited. Each WECS or Facility shall have identification signage that states the name of the facility owner and a Twenty-four (24) hour emergency telephone number.

E. The WECS shall be constructed using Stealth Construction and shall be self-supporting without utilizing cables for support. In the event an alternate form of construction is more suitable to a proposed WECS location site, the Decatur County Plan Commission or Decatur County Board of Zoning Appeals may authorize an alternate form of construction upon a showing of sufficient documentation.

F. All WECS Support Structures, accessory buildings, poles, antenna, and other external facilities shall be painted a neutral color or galvanized grey. Paint color shall be designed to minimize visibility and blend with the surrounding environment. All facilities shall be repainted as necessary.

G. Access ladders or climbing apparatus will be fifteen (15) feet above ground level. Doors to access tower or facility need to be solid steel doors with locking device on it and kept locked at all times.

H. Minimum clearance between blade tip and ground level or final grade is to be Thirty (30) feet.

I. All WECS shall be equipped with manual and automatic braking device capable of halting operation.

J. All wiring for WECS and Facility shall be buried.

K. No WECS shall be installed in any location where its proximity with fixed broadcast, retransmission or reception antenna for radio, airport RF signals, television or wireless phone or other personal communications systems would produce electromagnetic interference with signal transmission or reception.

L. Setback requirements for WECS: Property Lines, roads, overhead utility or transmission lines, electrical substations, communication or meteorological towers shall be 1.5 times the total height, and shall be Six Hundred Forty (640) feet from the nearest residence.

M. All WECS electrical equipment and connections must adhere to all local, state, and national codes and international standards.

N. The WECS and or Facility shall not generate noise in excess of Fifty (50) decibel levels at ground level to the property lines or at the nearest residence. Such measurements shall be signed by a qualified engineer, stating that noise levels are being met, per ordinance.

O. At such time that a WECS ceases operation for a period of Twelve (12) months, the company shall physically remove the WECS and facility within Ninety (90) days from the Twelve (12) month period from when the operation ceased.

P. Removal of all machinery, equipment, shelters, security barriers, and waste materials to a minimum of Five (5) feet below grade, and restoring the location of the WECS Facility to its natural condition.

Q. Applicant shall post a bond for One Hundred Fifty (150) percent of the cost, the applicant shall submit a fully-inclusive estimate of the cost associated with removal of the WECS prepared by a certified company for that type of work.