Wabash County, IN

Summary Only

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Date Passed/Amended: July 26, 2021
Summary Written: April, 2022

Agricultural Use Table:

Eligible Zoning:

a) Commercial Solar Energy System (CSES)
    a. A CSES shall be permitted only as a Special Exception in Districts A, FR, I, and IR.

Prohibition Language

a) Commercial Solar Energy System (CSES)
    a. No person shall construct, operate, or locate a CSES within the jurisdictional area of the PC without first obtaining an improvement location permit. No improvement location permit shall be issued until the applicant has complied with all of the provisions of this Ordinance, the Zoning Ordinance, and Indiana law related to a SES.

Required Information/Permits Required:

a) Commercial Solar Energy System (CSES)
    i. A detailed description of the proposed CSES project including type of technology, solar panel mounting technique, solar panel installation height, name plate generating capacity, the means of interconnecting with the electrical grid, the potential equipment manufacturer(s), including information sheets and installation manuals, and accessory structures and other appurtenances.
    ii. A site plan, including distances of all applicable setback and buffer requirements, is required.
    iii. Topographic Map
    iv. Landowner Agreements must be included.
    v. Engineering Certification
    vi. Proof of Correspondence and Cooperation with Wildlife Agencies

Request for Variance:

Site and Structure Requirements:

a) Compliance with all local, state, and federal regulations:
    a. Commercial Solar Energy System (CSES)
        i. All CSES shall conform to applicable industry standards, as well as all local, state and federal regulations. An applicant, owner, operator shall submit certificate(s) of design obtained by the solar manufacturers

from Underwriters Laboratories, Det Norske Veritas, Germanishcher Lloyd Solar Energie, or an equivalent third party.

b) Concentrating Solar Power Facilities:

c) Fencing/Security:
   a. Commercial Solar Energy System (CSES)
      i. All ground-mounted CSES shall be completely enclosed by a minimum eight (8) foot-high fence with locking gates accessible only by a key pad or Knox Box with key, located around the entire perimeter of the project site and meeting the required setback. It shall be the sole responsibility of the CSES applicant, owner, operator to maintain all fencing, post, and gates to remain free from rust, corrosion and sagging.

d) Glare minimization:
   a. Commercial Solar Energy System (CSES)
      i. Solar energy panels shall be oriented and/or screened year-round so that glare is directed away from adjacent properties, structures and roadways.
      ii. Solar energy systems shall remain painted or finished in the original color or finish provided by the manufacturer. Exterior surfaces of visible components should be non-reflective, a neutral color like white, grey or another non-obtrusive color.
      iii. Operator must mitigate any glare produced to avoid adverse impact on adjacent uses by panel siting, panel orientation, landscaping and/or other means.

e) Height:
   a. Commercial Solar Energy System (CSES)
      i. May not exceed 15 feet in height when oriented at maximum tilt.

f) Lighting:
   a. Commercial Solar Energy System (CSES)
      i. The ground mounted CSES should not be artificially lit except as required for safety or applicable federal, state, or local authority. Lighting should be shielded and downcast to avoid adversely affecting adjacent properties.

g) Minimum Lot Size:

h) Noise:
   a. Commercial Solar Energy System (CSES)

i. Limited to a maximum of 32 decibels, measured immediately outside the closest point of the nearest residential or business structure. No part of an operating CSES shall produce noise that exceeds any of the following limitations except during construction.
ii. CSES shall not produce vibrations humanly perceptible beyond the property where it is located or cause vibration that could be detected in nearby structures or damage underground wells during construction, operation, decommissioning or restoration.
iii. All equipment used in producing solar energy shall be constructed and operated so that it does not interfere with television, microwave, agricultural GPS use, military defense radar, navigational or radio reception to neighboring areas.

i) Setbacks and Lot Coverage:
   a. Commercial Solar Energy System (CSES)
      i. Setback may not be less than 15 feet from any structure or public right-of-way easement for any above-ground telephone line, electrical transmission line, electrical distribution line or other above ground communication or transmission line.
      ii. Setbacks for all site acreage are described in the Proportional Setback chart in this ordinance. For example:
         1. 0-5 acre site: 30 foot property line setback; 450 feet residential or business or public use setback
         2. 5.1-10 acre site: 60 foot property line setback; 540 foot residential or business or public use setback
      iii. The furthest horizontal extension shall not extend into a setback that is otherwise required for the zoning district where the CSES is located, or into a required buffer area or into a setback required for an adjacent zoning district.

j) Screening:
   a. Commercial Solar Energy System (CSES)
      i. Buffering and screening must comply with the proportional setback chart and the following standards:
         1. No trees required by County ordinances may be removed.
         2. A visual barrier shall be provided to exclude the view of solar equipment from any protected property. It should consist of landscaping/screening or landscaped berm on all sides adjacent to the CSES.
         3. An existing vegetated area on the property may be sufficient if the PC determines that it is of sufficient height, length and depth.
         4. Solid Fencing or walls cannot be used.
         5. All buffers requiring landscaping/screening shall have a year-round visual barrier of evergreens or similar plantings of at least

10 feet within two years, and a minimum height of 15 feet over the life of the project, measured from original grade. Non-invasive, native grass or ground cover shall be planted on all portions of the required buffer areas not occupied by other landscaped material. Height is to be measured from original grade.

6. Buffer strips may only include approved access points, perimeter road/lane, visual barrier, landscaping and landscaping fixtures; fencing, signage, all solar equipment, overhead and underground utility lines, drainage or storm water areas and buildings.
7. All landscaping materials shall be installed and maintained according to accepted nursery industry procedures.

k) Signage:
   a. Commercial Solar Energy System (CSES)
      i. An identification sign may be located on all sides of the fenced facility area, with no more than one sign per 100 yards of the fenced facility area. Signs should be securely posted on each gate entry point, displaying emergency telephone number(s) and contact information.
      ii. A 911 address sign with the assigned address for that location must be posted on all ingress/egress roads.
      iii. Warning signs shall comply with applicable laws.
      iv. Advertising on signage is not permitted. The manufacturer's name and equipment information is allowed on CSES equipment provided they comply with prevailing sign regulations.
      v. All signage required or permitted shall be made of materials and constructed to be durable and long lasting and painted or made of material with a distinct, high contrast background with weather-proof paint or other material.

l) Site Access/Emergency Response:
   a. Commercial Solar Energy System (CSES)
      i. At a minimum, a 20' wide ingress/egress road must be provided from a public road or a legally established access drive into the site must be stoned or paved and must meet all county, state and federal regulations.
      ii. At a minimum, a 20' wide perimeter access road/lane shall be provided around the perimeter of the CSES, between the solar arrays and visual buffer area to allow access for maintenance vehicles and emergency management vehicles including fire apparatus and emergency vehicles.

a) Emergency Services Plan:
   a. Commercial Solar Energy System (CSES)

i. A plan including but not limited to the project summary, electrical schematic, and site plan must be submitted to the appropriate local safety officials, including the Wabash County Homeland Security Emergency Management, Sheriff Department, the responding Fire Department, the responding law enforcement department, and the Wabash County selected engineering firm. Upon request the owner or operator shall cooperate with local safety officials and selected engineering firm in developing an emergency response plan.

ii. Specialized training will be provided to these entities at the applicants, owners, operator's expense. Knox boxes, keys, or key pad combinations shall be provided to the required emergency personnel for locked entrance access. All means of shutting down the solar photovoltaic installation shall be provided to said entities.

m) Utility Connections:

a. Commercial Solar Energy System (CSES)

i. A CSES must meet the requirements for interconnection and operate as prescribed by the interconnection agreement with the electrical utility according to any applicable federal and state regulations.

1. All cables and lines on site within the fenced area shall follow the current Indiana Electric Code.
2. Transmission cables and lines outside the fenced site shall be buried no less 48 inches underground with a warning mesh located 36 inches deep.
3. Only open trenching or boring installations is permitted.
4. All underground cabling will be marked at road crossings, creeks, streams, river beds and property lines with an identifiable metal or fiberglass post at least 5 feet in height. Maintenance of the identification post shall be required throughout the life of the CSES.
5. Streams, waterways, creeks, and river beds must have transmission cables and lines buried a minimum of 60 inches below the existing flow line with a warning mesh located 48 inches below the existing flow line.

n) Waste:

a. Commercial Solar Energy System (CSES)

i. All solid wastes from any CSES shall be removed from the site promptly and disposed of in accordance with all federal, state and local regulations, laws and ordinances.

ii. All hazardous materials shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal regulations and laws. The CSES owner shall be responsible for all clean-up cost and shall be bonded accordingly for all clean-up of a CSES site,

including the leased ground in the event of an environmental spill creating any environmental hazard(s).

Operation and Maintenance Plan:

a) Maintenance and Inspection
    a. Commercial Solar Energy System (CSES)
        i. A plan for the operation and maintenance of the CSES shall include maintaining safe access to the installation, storm water controls and general procedures for operation and maintenance of the facility. Maintenance of vegetation within the buffer strip, underneath the ground mounted solar arrays, in the fence row and on access roads/lanes shall be included in the plan and consistent with the requirements of this Ordinance.

        ii. Ground Cover and Buffer Areas
            1. A natural vegetative ground cover should be maintained under and around the solar arrays. Only non-invasive species may be used; native species and seed mixes of native meadow grasses and pollinator-friendly wildflower forbs and/or clover species under and around the solar arrays are recommended.
            2. Maintenance shall include eradication of all noxious weeds and plants prior to the weeds seeding and spreading.
            3. All stoned ingress/egress roads and the perimeter access lanes shall be treated for dust control and control of weeds.
            4. Grass or ground cover shall be planted on all portions of the required buffer areas not occupied by other landscaped material. Only non-invasive species shall be used and native species are recommended.
            5. The CSES applicant, owner, operator shall be responsible for the continued property maintenance of all landscaping materials throughout the life of the solar project and shall keep them in a proper, neat, and orderly appearance free from refuse and debris at all times.
            6. Unhealthy and dead plants shall be replaced within one year. The determination of whether a plant is unhealthy shall be at the discretion of a recognized landscape professional.
            7. The effectiveness of screening shall be maintained as the plant materials mature.
            8. A clear sight triangle shall be maintained at all intersections and ingress/egress locations.
            9. The CSES Owner, operator shall be responsible for the control of vegetation in the perimeter fence row.

b) Soil and Erosion and Sediment Control

a. Commercial Solar Energy System (CSES)
    i. A Drainage Agreement and Road Use and Maintenance Agreement shall be established and approved by the Wabash County Commissioners or their designees. The Drainage Agreement must address field tile damages and repairs during the life of the CSES, the decommissioning process and 2 years beyond the completion of the site decommissioning, removal and restoration for repair of any damaged field tile within the development site.
    ii. An erosion control plan shall be developed and submitted in accordance with the Natural Resources Conservation Services (NRCS) guidelines, and any storm water quality management plan adopted by the applicable jurisdiction(s).
    iii. Natural (pervious) ground covers are required beneath the solar arrays.

Decommissioning Plan:

a) Commercial Solar Energy System (CSES)
    a. A Decommissioning-Restoration Plan and Agreement must be recorded with the Wabash County Recorder upon becoming abandoned or declared a public nuisance. A CSES is considered abandoned after one year without energy production unless a Rehabilitation Plan is approved by the PC outlining the necessary procedures and time schedule for returning the CSES to production. Failure to commence energy production within the time schedule approved by the PC shall be considered an abandoned use and/or a public nuisance.
    b. The CSES applicant, owner, operator shall submit written notice to the PC, of intent to abandon use of a CSES facility at least 60 days prior to the discontinuation of electrical production.
    c. All materials shall be removed and CSES site restored within 180 days of the discontinuation of energy production.
    d. All physical material above ground level and all improvements of the CSES below ground level to a depth of 50” must be removed for all CSES’s declared irreparably damaged, abandoned, and/or a public nuisance.
    e. A CSES that is irreparably damaged, abandoned or declared to be a public nuisance shall be restored to the original condition of the CSES site prior to the development of the CSES.
    f. Identification and Removal of Hazardous Materials: The CSES applicant shall identify all currently listed hazardous materials as regulated by state and federal regulatory agencies (such as the EPA and IDEM) as well as non-hazardous materials and indicate the appropriate handling, storage and transport of materials during Disposal and/or Diversion. If any portion of the CSES is found to be hazardous in nature by a state or federal regulatory agency or required to be recycled, the CSES applicant, owner and/or operator shall be required to remove such in a manner as prescribed by law.
    g. A performance guarantee in the form of a bond, irrevocable letter of credit and agreement, or other financial security acceptable to the APC must be providedin

the amount of 125% of the estimated decommission and restoration cost. Estimates shall be determined by licensed engineers selected by the APC.

i. Unless otherwise agreed to by all parties, every five (5) years, the engineer shall calculate a new estimate of Decommissioning and Restoration and submit it for approval in the same manner as the initial submission.
ii. The bond, letter of credit, or other financial security acceptable to the county shall be adjusted upward or downward as necessary. A new estimate shall be submitted to the APC prior to the sale of any portion of the CSES and the Performance Guarantee adjusted appropriately and made part of the sales contract.
iii. All fees associated with the engineer's calculation and review of decommissioning and restoration cost shall be paid by the CSES applicant, owner, operator.
iv. Failure to negotiate in good faith the calculated decommissioning and restoration cost during the operational life of the CSES shall be just cause for the county commissioners to declare the CSES a nuisance and require the CSES applicant, owner, operator to cease operation of the CSES and complete the Decommissioning and Restoration process.
v. All expenses involved in Decommissioning and Restoration shall be paid by the CSES owner and CSES operator, or removal and restoration will be completed by Wabash County at the CSES applicant's, owner's, operator's expense as specifically provided by the Decommissioning-Restoration Plan and Agreement.