

LAGRANGE COUNTY PLAN COMMISSION

April 5th, 2022

THE LAGRANGE COUNTY PLAN COMMISSION WILL MEET IN SPECIAL SESSION ON TUESDAY, APRIL 5TH 2022 AT 5:00 PM. IN THE COUNTY OFFICE BUILDING WITH THE FOLLOWING AGENDA:

CALL TO ORDER:

ROLL CALL:

INVITATION FOR PUBLIC COMMENT ON NON-PUBLIC HEARING ITEMS:

ADOPT AGENDA:

APPROVE MINUTES OF PREVIOUS MEETING:

NEW BUSINESS

(Public Hearing)

AMENDMENT TO CURRENT SOLAR ORDINANCE

That ARTICLE 3: USE REGULATIONS, Section (J) Commercial Solar Facilities: entitled “Commercial Solar Facilities” should be amended to read as follows:

(2) Definitions.

- (c) “Plan Commission” refers to the LaGrange County Plan Commission.
- (g) “Site Development Plan” means the series of plans, as may be further described in this ordinance, that are used by Applicant and Owner to obtain a Permit.
- (h) “NPDES Permit”—National Pollutant Discharge Elimination System permit.
- (i) FAA-Federal Aviation Administration.

(4). Required Information. Planned Facilities shall apply for the Facility by obtaining a Permit from the Plan Commission prior to on-site construction of any Facility components. Applicant shall provide the following information to the Plan Commission on a Site Development Plan, which may be in narrative form:

(5) Application Requirements.

- (c) Application for Site Development Review: The fee applicable to the application for Site Development Review shall be payable at the time of submission of the application, and such fee shall be \$10,000.00. The application fee shall be used to defray the costs associated with the application, including professional fees and expenses.
- (d) Application for an Improvement Location Permit: Each Facility shall require an Improvement Location Permit / Zoning Compliance Certificate. The fee for each Improvement Location Permit shall be \$1,750.00 per megawatt, which shall be used to defray the costs of professional services, as well as other expenses associated with the issuance of Improvement Location Permits / Zoning Compliance Certificates.

(6) Site and Structure Requirements

- (a) Setbacks. Setbacks for all structures (including solar arrays) must adhere to the minimum principal setback standards for the A-1 zoning district. Additionally, solar panels shall be installed at least two hundred 100 feet from any non-participating property line. Except with respect to applicable provisions of Section O of Article 3 (“Towers and Similar Structures”), a Facility shall be exempt from zoning district bulk and height requirements.
- (b) Screening. Applicant shall submit a landscaping plan outlining proposed screening for the project, including existing vegetation, as may be suitable. Emphasis will be placed on screening adjacent residences.
- (f) Signage A sign shall be posted on each entry fence gate of the Facility that includes Owner Name, Facility Name, Emergency Contact Phone Number, Physical Street Address, Company Spokesperson Point of Contact Phone Number. All Hazardous Materials, Public Hazards, Potential Hazards must be marked with signage.
 - (i) Site Access/Emergency Response. Access to the site for emergency responders shall be provided on the site plan detailing response guidance and disconnection locations as may be

necessary. Owner's contact information shall be conspicuously posted on site at the primary access point. A Facility shall provide at the owner, operator or land owners expense safety training for all applicable first responders and local electrical municipalities on but not limited hazardous materials, high voltage, electrical fires, solar array hazards.

(7) Operation and Maintenance Plan

(a) Soil and Erosion and sediment Control Considerations. Owner shall conduct all roadwork and other site development work in compliance with a NPDES Permit as may be required by the Indiana Department of Natural Resources and comply with requirements as detailed by local jurisdictional authorities during the plan submittal. The Plan Commission may refer the Site Plan to the LaGrange County Soil & Water Conservation District for review and potentially further development of a sediment control plan. All on-site utility, transmission lines, and plumbing shall be placed underground, without interfering with existing infrastructure of any kind.

(b) Ground Cover and Buffer Areas.

(ii) Perennial vegetation shall be planted and maintained in a density sufficient to prevent erosion, manage runoff and build soil. Species should include a mix of grasses and forbs, native to the region of the project site. Invasive species and noxious weeds as defined and listed by state regulations must be controlled.

(c) Owner shall maintain the Facility in accord with the Site Development Plan, Permit, and this ordinance. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Any retrofit, replacement or refurbishment of equipment shall adhere to all applicable local, state and federal requirements.

(8) Decommissioning and Site Reclamation Plan.

(a) Applicant shall provide a decommissioning plan to the Plan Commission that describes the anticipated life of the Facility; the anticipated manner in which the project will be decommissioned; the anticipated site restoration actions and the estimated decommissioning costs in current dollars.

(i) Project operator must provide to the Planning & Zoning Administrator a written notice of the project operator's intent to decommission a Facility no later than sixty (60) days before discontinuation of the facility.

(ii) All solar panels, structures, foundations, roads, gravel areas, cables and all product, materials or other items associated with the Facility project shall be removed. A final inspection of the Facility property by the Plan Commission and Commissioners shall allow for any and all bonds to be released upon written approval of the full decommissioning.

(iii) The ground shall be restored to a condition reasonably similar to its condition before the start of construction.

(iv) Decommissioning must be complete within 1 year, with the allowance of no more than one (1) six-month extension by the planning commission. If necessary, the Zoning Administrator, Plan Commission, County Surveyor, County Commissioners, and/or other County agencies as needed may engage with qualified contractors to:

- Enter the site
- Remove Facility project assets
- Sell assets removed
- Remediate the site
- May include proceedings to recover assets.

(c) Plan – Financial Requirements. The decommissioning plan shall describe the mechanism

for the posting a satisfactory bond. The decommissioning plan and bond shall be updated by Owner every five (5) years and adjusted as necessary to ensure sufficient funds are available to decommission the project. In the event, after written notice, the owner and/or operator shall fail to enter into a Restoration Agreement or decommission the Facility in accordance with the Zoning Ordinance and the Decommissioning-Restoration Plan and Agreement, the facility owner, land owner and/or operator shall pay all reasonable cost, including reasonable attorney fees, incurred by the County to remove the Facility. The County shall be entitled to apply the salvage value of the Facility to the costs of removal, subject to any rights of the Facility Owners lenders.

(d) Decommissioning/Abandonment.

- (a)** A Facility is considered abandoned three months after the date on which the Facility last generated electricity. Unless a Rehabilitation Plan developed by the Facility owner and Facility operator is submitted to, and approved by, the County Commissioners outlining the necessary procedures and time schedule for commencing or returning the Facility to energy production. Failure by the Facility owner and/or operator to commence, energy production at such Facility or return such Facility to energy production within the time schedule which has been approved by the County Commissioners, said Facility or portion of Facility shall be considered an abandoned use and/or a public nuisance.
- (b)** In the event of a natural disaster, flood, tornado or any other natural disaster including an act of God, war, civil strife, a terrorist attack or similar unforeseen event under which the project operator has no control.
- (c)** Facility operator must submit a letter of intent for decommission in writing to the Plan Commission.
- (d)** Once a Facility is considered abandoned, decommissioning must follow immediately. Decommissioning shall be completed in accordance with the approved decommissioning plan. Owner shall notify the Plan Commission in writing when decommissioning is complete.

- (9) Change in Facility Operator or Owner.** The new operator or owner shall agree to any and all provisions of any and all prior owner requirements, including the bond or irrevocable letter of credit, and shall furnish the Zoning Administrator with a copy of the transfer or new bond or irrevocable letter of credit satisfactory to the Zoning Administrator before commencing business. The prior operator or owner shall remain liable until being formally released by the Plan Commission. Release of liability by the prior operator or owner by the Plan Commission shall only be approved when the new operator or owner provides a new bond or irrevocable letter of credit satisfactory to the Plan Commission.
- (10) Bond or Irrevocable Letter of Credit.** A project operator may not install or locate a Facility project unless the project operator submits as part of the Development Plan the Decommissioning and Site Restoration Plan including the recycling of as much of the solar panels and other equipment as reasonably possible, posts a surety bond or equivalent means of surety acceptable to the Zoning Administrator, Plan Commission, County Commissioners, and County Attorney, including a bond or irrevocable letter of credit and also a liability insurance policy naming LaGrange County as an additional insured as set forth. Bond or irrevocable letter of credit must be equal to 125%, revisited every five (5) years, of the decommissioning costs included in the Development Plan as calculated by a third party licensed or registered engineer or professional with suitable experience in the decommissioning of Facility, as agreed upon by project operator, Zoning Administrator & County Commissioners. Bond or irrevocable letter of credit must include allowing the County to recuperate from the bond the costs that incur to the extent the County takes part in the decommissioning of the Facility, updated by the Project Operator every five (5) years and adjusted as necessary to ensure sufficient funds are available to decommission the project. Bond or irrevocable letter of credit adjustment must be submitted to the Zoning Administrator.

Upon approval of the Site Development Plan, and before the Facility is in operation, Owner shall provide a bond that complies with the Site Development Plan and Improvement Location Permit. The bond shall either automatically renew each year or have no expiration, if possible; otherwise, Owner shall provide proof of bond renewal at the end of the bond's scheduled term. The other terms of the bond shall be satisfactory to the Plan Commission. The bond shall be returned upon satisfactory decommissioning of the Facility; provided, however, that the County shall be entitled to recuperate from the bond the costs that it incurs to the extent the County takes part in decommissioning the Facility.

- (11) Minimum Liability Insurance. \$2,000,000 per person \$500,000 per property damage occurrence naming LaGrange County, Indiana, a municipal body politic by and through its Board of County Commissioners as an additional insured, and Pay premiums on such insurance policies as they become due and provide the Zoning Administrator with written proof of such insurance coverage annually and as the Zoning Administrator may reasonably request, and Such policies of insurance shall be carried with a company or companies approved by the Zoning Administrator and legally authorized by the State of Indiana to engage in such business, and shall provide that the insurer may not cancel or materially change coverage without at least thirty (30) days prior written notice to the Zoning Administrator. The project operator or owner shall not enter into any settlement of any insurance claim covered under the foregoing insurance policy or policies without the written consent of the Zoning Administrator to ensure that LaGrange County is protected.
- (12) Solar Storage Batteries. When solar storage batteries are included as part of the solar energy collector system, they must be placed in a secure container or enclosure and installed, maintained and disposed of as required by applicable law recycling as much material as possible.
- (13) Damage.
 - a. Any damage to waterways, public/regulated drains or ditches, private or mutual drains, county tiles or any other item to regulate drainage caused by the construction, installation, maintenance and/or decommissioning and restoration of a Facility must be completely repaired by the Facility owner to the original functioning condition so as to not impede the natural flow of water. All repairs must be compliant and approved by the LaGrange County Drainage Board.
 - b. Any damage to streets, county roads or highway infrastructure and/or public utilities caused by the construction, installation, maintenance and/or decommissioning and restoration must be completely repaired by the Facility owner to the near original condition. All repairs must be compliant and approved by the LaGrange County Highway Superintendent, Indiana Department of Transportation, County Engineer and County Commissioners.
 - c. Any damaged agriculture wells, tiles, drains, underground wiring or irrigation pipe caused by the construction, installation, maintenance and/or decommissioning and restoration of a Facility must be completely repaired by the Facility owner to the original functioning condition. All repairs must be compliant and approved by the land owner and or adjoining land owner affected by damages.
- (14) As-Built Drawings. The Facility owner shall submit as-built drawings upon completion of construction of all development on the site to the satisfaction of Zoning Administrator, Plan Commission and County Commissioners and must be approved by the County Commissioners.
- (15) Maintenance, Repair and/or Replacement of Facility. Facility owner must maintain the facility in accord with the Site Development Plan, Permit and the ordinance. Maintenance shall include, but not limited to, painting, structural repairs, vegetation management and integrity of security measures including fencing. Any retrofit, replacement or refurbishment of equipment shall adhere to all local, state and federal requirements. No damaged, broken or non-working parts or equipment of the Facility operation shall be stored on site and any such damages, broken or non-working parts or equipment must be removed from the Facility site. The Facility shall keep entrance, access lanes and panels themselves free of all debris, snow and ice at all times in the event first responders need access to the site.
- (16) Interference with Reception. A Solar Facility shall be constructed and operated so it does not interfere with television, internet, telecommunications, microwave, GPS, agriculture guidance systems, military defense radar, navigational, FAA or radio reception to neighboring areas.
- (17) Illumination. A Facility shall comply with the current ordinance under Commercial Lighting

Standards. However, no light shall cross the adjacent nonparticipating line.

- (18) Land Restrictions. The amount of property in LaGrange County available to be consumed by a Facility will be set at 10% of cropland defined by the most recent United States Department of Agriculture – National Agricultural Statics. After which all projects will have to have a public hearing and submit approval to the Plan Commission and County Commissioners for approval adhering to the comprehensive plan of LaGrange County.

COMMUNICATIONS:

COMMITTEE REPORTS / ZONING ADMINISTRATORS REPORT:

OTHER BUSINESS:

ADJOURNMENT

NOTICE STATEMENT

The County of LaGrange does not illegally discriminate because of race, color, national origin, sex, religion, disability, or age with regards to admission, participation, or treatment in its facilities, programs, activities, or services, as required by Title III and Title VI of the American Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and their related statutes, regulations, and directives. The County has established an Anti-Discrimination Compliance Division to ensure compliance with these laws. If you would like more information concerning the provisions of these laws and about the rights provided thereby, or if you have a suggestion on how the County can better meet the needs of persons protected thereby, please contact the Division at 300 E. Factory St., LaGrange, IN 46761 or by telephone at (260)499-6352. LAGRANGE COUNTY, INDIANA

ANTI-DISCRIMINATION