

JULY 18, 2022

REGULAR SESSION

The LaGrange County Commissioners met in Regular Session on Monday, July 18, 2022, in their meeting room, County Office Building, 114 W. Michigan Street, LaGrange, Indiana, 46761, at 8:30 a.m., with the following present: Commissioners, Mr. Terry A. Martin, Mr. Kevin R. Myers, and Mr. Peter A. Cook; and LaGrange County Auditor, Kathryn Hopper. Mr. Terry Martin, President, called the meeting to order and led in saying the Pledge of Allegiance to the Flag. Mr. Kevin Myers made a motion to adopt the proposed agenda with flexibility. Mr. Peter Cook seconded the motion and it carried unanimously.

ORDINANCE ADOPTING A NEW VERSION OF THE COUNTY'S PERSONNEL POLICIES HANDBOOK

Mr. Kurt Bachman, County Attorney, presented the following Ordinance for consideration:

COUNTY OF LAGRANGE
JOINT ORDINANCE NO. 2022-07-18 A

AN ORDINANCE ADOPTING A NEW VERSION OF THE COUNTY'S PERSONNEL POLICIES HANDBOOK.

WHEREAS, pursuant to Indiana Code § 36-1-4-14, a unit may establish a system of employment for any class of employees based on merit and qualification;

WHEREAS, the Board of Commissioners of the County of LaGrange ("Commissioners") and the LaGrange County Council ("Council"), on behalf of LaGrange County, Indiana ("County"), have adopted, and at times amended, various personnel policies and procedures; *and*

WHEREAS, the Commissioners and Council have determined that there is a need for an update to the County's *Personnel Policies Handbook* dated December 16, 2019, as adopted by Ordinance 2019-12-16-A.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE AND BY THE COUNTY COUNCIL OF LAGRANGE COUNTY, INDIANA, JOINTLY, THAT:

SECTION I – NAME

The name of this ordinance is the "Personnel Policies Handbook Adoption Ordinance."

SECTION II – RECITALS

The foregoing recitals, including all defined terms, are hereby incorporated into this ordinance and found to be true, accurate, and correct.

SECTION III – HANDBOOK ADOPTION

- A. Definition. As used in this ordinance, "Handbook" means the *Personnel Policies Handbook* dated July 18, 2022 and attached to this ordinance as Exhibit A.
- B. Approval; Adoption; Incorporation. The Handbook is hereby approved and adopted. The Handbook is incorporated into this ordinance by reference as if fully set out herein.
- C. Purpose. The Handbook is issued to provide information about working conditions, employee benefits, general employee responsibilities, and some of the policies affecting employment with the County. The Handbook shall be used to provide a work environment that is conducive to both personal and professional growth.
- D. Construction. Nothing in the Handbook is intended, nor shall be construed, to constitute an employment contract nor to change the "at-will" status of any County employee.

SECTION IV – CODIFICATION

Should this ordinance be codified, the codifier shall not codify the Handbook in full, but rather shall simply codify Section I of this ordinance.

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SECTION V – REPEAL OF PRIOR LAW

- A. Repeal. County Ordinance 2019-12-16-A is hereby repealed in its entirety.
- B. Continuance.
 - 1. The express or implied repeal or amendment by this ordinance of any other ordinance or part thereof does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.
 - 2. To the extent the provisions contained in this ordinance substantially restate the provisions of a prior ordinance or resolution, such provisions shall not be deemed to be a new enactment of the original provisions, but rather shall be deemed to be the continuation of the original provisions.
- C. Revival Prohibited. The express or implied repeal or amendment by this ordinance of any other ordinance or resolution or part thereof shall not be construed to revive any former ordinance, resolution, section, clause, or provision.
- D. Delayed Effect. This section does not take effect until July 19, 2022.

SECTION VI – MISCELLANEOUS

- A. References.
 - 1. Except where a specific version or edition is given, reference to another section of this ordinance or to another law, document, fund, department, board, program, public servant, or public office, shall extend and apply to the same, as may be subsequently amended, revised, recodified, renamed, reappointed, or renumbered from time to time.
 - 2. Reference in this ordinance to a law, document, fund, department, board, program, public servant, or public office, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of) LaGrange County (Indiana).”
 - 3. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy as well may do as the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.
- B. Judicial Review. This ordinance is intended only to improve the internal management of the County. Notwithstanding anything in this ordinance to the contrary, nothing in this ordinance shall be construed to create any new legal duty, right, or benefit, whether substantive or procedural, enforceable against the County; nor to waive or diminish any protection that may be applicable to the County or any of its elected or appointed officials, employees, agents, or representatives under any applicable law providing governmental immunity, or any other rights, protections, immunities, defenses, or limitations on liability that the County or such related parties are provided by law.
- C. Conflicts. No part of this ordinance shall be interpreted to conflict with any local, state, or federal laws, and all reasonable efforts should be made to harmonize same. To the extent this ordinance conflicts with the Wage and Salary Ordinance, that ordinance controls.
- D. Severability. Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole, and for this purpose the provisions of this ordinance are hereby declared to be severable.
- E. Incorporated Materials. Two (2) copies of all materials incorporated by reference herein shall be on file in the office of the Auditor for public inspection.
- F. Promulgation. The Auditor is hereby authorized and directed to take all action necessary or proper to authenticate, record, publish, promulgate, and/or otherwise make this ordinance effective.
- G. Effective Date. This ordinance shall take effect immediately upon adoption.

Mr. Kevin Myers made a motion to approve the Ordinance. Mr. Peter Cook seconded the motion and it carried

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unanimously. Mr. Peter Cook made a motion to waive the requirement for second reading. Mr. Kevin Myers seconded the motion and it carried unanimously.

AMENDMENT TO THE ZONING ORDINANCE

Mr. Kurt Bachman, County Attorney, presented the following Amendment to the Zoning Ordinance:

COUNTY OF LAGRANGE
ORDINANCE NO. 2022-07-18 B

AN ORDINANCE AMENDING THE COUNTY OF LAGRANGE ORDINANCE NUMBER 2005-11-17A, COMMONLY KNOWN AS "THE LAGRANGE COUNTY ZONING ORDINANCE," AS AMENDED, TO ADD OR AMEND REGULATIONS REGARDING ZONE DISTRICTS, USE REGULATIONS, DIMENSIONAL STANDARDS, AND DEFINITIONS AND RULES OF INTERPRETATION.

WHEREAS, the LaGrange County Plan Commission ("Plan Commission") is an advisory plan commission established pursuant to IC § 36-7-4-202; and

WHEREAS, the Plan Commission has determined that in the interest of promoting the public health, safety, and general welfare of the community, certain regulations and amendments to the LaGrange County Zoning Ordinance would be appropriate; and

WHEREAS, on June 27, 2022, the Plan Commission, after notice to all interested parties pursuant to IC 5-3-1, did conduct a public hearing on said recommended amendments pursuant to IC § 36-7-4-604; and

WHEREAS, on June 27, 2022, the Plan Commissions certified to the Board of Commissioners of the County of LaGrange a favorable recommendation for the consideration and adoption of said amendments; and

WHEREAS, on July 18, 2022, the Board of Commissioners of the County of LaGrange ("Commissioners") did conduct a regular meeting with regard to the certified proposed amendments pursuant to IC § 36-7-4-607, after all notices of its intention to consider said amendments had been provided, as required by law;

WHEREAS, the certified proposal received from the Plan Commission does not contain any findings with respect to, the relation of the Amendments to: (i) the Comprehensive Plan, (ii) matters of health and safety; (iii) the costs to be incurred by commercial solar facility owners; (iv) the costs to be incurred by the County in reviewing a site development plan or issuing an improvement location permit; and, (v) applicable law;

WHEREAS, on May 16, 2022, pursuant to Ordinance the County rejected a similar proposal of the Plan Commission for want of such findings;

WHEREAS, the Plan Commission attorney has proposed findings, that if found acceptable by the Plan Commission, would cause the Commissioners to approve this proposal;

WHEREAS, the Commissioners, in paying reasonable regard to the statutory criteria set forth in IC § 36-7-4-603, have determined that, subject to the adoption of appropriate findings by the Plan Commission, the adoption of the proposal of the Plan Commission is appropriate and in the best interests of the welfare of the community;

WHEREAS, the Commissioners desire to amend the certified proposal.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE, INDIANA, THAT THE ZONING ORDINANCE OF LAGRANGE COUNTY, INDIANA, PASSED AND ADOPTED ON THE 17th DAY OF NOVEMBER, 2005, AS AMENDED, BE HEREBY FURTHER AMENDED AS FOLLOWS:

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ITEM I – NAME

The name of this ordinance shall be the “Solar Amendment Adoption Ordinance to the Zoning Ordinance” or “Solar Amendment” where the context is obvious.

ITEM II – FINDINGS

The Commissioners approve the following findings of the Plan Commission.

WHEREAS, Section (J)(5)(c): The Plan Commission has proposed the inclusion of this new section in order to establish reasonable fees, left unaddressed in the original ordinance, for the submittal and review of solar facility applications. As provided in the section, the Plan Commission reasonably believes the stated fee of \$15,000 for site development review is necessary in order to defray the costs associated with the Commission reviewing each application, the hours that will be invested in same, and the costs associated with any professional expenses; such as engineers, experts, attorneys, or any other individual that may be consulted to review and approve any application. The fees proposed are aimed to reasonably compensate the County and the Plan Commission for the expenses that will be incurred and the substantial time commitment necessary to process each application.

WHEREAS, Section (J)(5)(d): The Plan Commission has proposed the inclusion of this new section in order to establish reasonable fees, left unaddressed in the original ordinance, for an improvement location permit applicable to Solar Facilities. As provided in the section the Plan Commission reasonably believes the stated fee of \$15,000 for an improvement location permit is necessary in order to defray the costs associated with the Commission reviewing each application visiting site locations, reviewing as-built documentation, and the hours that will be invested in same. Also, the Commission will incur costs associated with opinions from any professionals such as engineers, experts, attorneys, or any other individual that may be consulted to review and approve any permit. The fees proposed are aimed to reasonably compensate the County and the Plan Commission for the expenses that will be incurred and the substantial time commitment necessary to process each improvement location permit.

WHEREAS, Section (J)(6)(f): The Plan Commission has proposed certain revisions to the signage requirements for solar facilities in order to provide contact information and potential hazardous-material warnings in the case of emergency. This revision is a reasonable restriction within the meaning of such term in IC § 36-7-2-8 that will serve the general health and safety of the community; providing the public, first responders, and/or uninformed persons of any hazardous that may be present and/or provide necessary contact information in the case of any emergency on site or nearby that could pose a risk to the public or those nearby.

WHEREAS, Section (J)(6)(g): Similarly, the proposed revisions in this section address necessary contact information and the ability for neighbors and/or the public at large to make contact and/or notify Owner’s of solar facilities of any dangers or hazardous conditions that may be present at or near the subject solar facility. This revision is a reasonable restriction that will serve the general health and safety of the public and the surrounding area.

WHEREAS, Section (J)(7)(b)(ii): Proposed addition of the final sentence to this section to provide for the control and/or prevention of invasive species and noxious weeds regarding the vegetation to be planted and maintained at the site of the solar facilities. This amendment is a reasonable restriction that serves the health and safety of the public by maintaining the environment status quo as well as the preservation of resources as provided in the LaGrange County Comprehensive Plan.

WHEREAS, Section (J)(7)(c): The Plan Commission has proposed additional language to this section regarding the removal and prohibition on the storage of damaged, broken, or non-working parts or equipment on the solar facility property. This amendment is a reasonable restriction that is consistent with the aim to maintain the quality of life in LaGrange County and maintain controlled growth and the community character of the county as provided in the LaGrange County Comprehensive Plan. The additional addresses requirement addresses health and safety concerns regarding access to the site in the case of an emergency.

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WHEREAS, Section (J)(8)(a)(i): The proposed addition to this section provides for certain procedures and required compliance with the solar ordinance. The section also provides reasonable authority for the County and/or the Plan Commission to take necessary steps to enforce the solar ordinance and ensure that such a facility does not become a hazard to the community and/or danger to the health and safety of the county. This section is also consistent with the comprehensive plan regarding the quality of life and regulation of growth and community character within the County.

WHEREAS, Section (J)(8)(c)(iv): The Plan Commission has proposed this amendment to address the reasonable requirements for the restoration plan in order for an Owner to properly decommission the facility at the termination of use and ensure the release of any bond posted in connection with said site. The section is consistent with the comprehensive plan in that it encourages the quality of life and reasonable regulation of growth and community character of the County.

WHEREAS, Section (J)(8)(d): The Plan Commission has proposed this section to expand upon and to provide Owners with further guidance to the necessary procedures for the decommission and/or abandonment of a solar facility. The proposed regulations aim to encourage/promote appropriate and orderly procedures for the decommissioning of solar facilities upon the decommissioning and removal. The orderly decommissioning promotes the health and safety of the community in preventing dangerous or hazardous materials being left behind and/or causing possible environmental issues to the surrounding areas. The proposed regulations are also consistent with the comprehensive plan as it promotes and protects the quality of life of the County, preserves resources of the County, and also protects growth and community character.

WHEREAS, Section (J)(9): The Plan Commission has proposed that the Plan Commission be notified of any sales or transfers of ownership of any solar facilities to ensure that the County has correct contact information regarding any issues that may arise and/or to ensure proper enforcement of the zoning ordinance can be accomplished.

WHEREAS, Section (J)(10)(b): The Plan Commission has proposed an amendment to the bond requirements for a solar facility to be increased to 125% of the decommission costs to ensure that sufficient funds are available in the event of substantial increase in the price of decommission during the bond term. This regulation is a reasonable restriction that is consistent with the Comprehensive Plan, which encourages a quality of life and protects growth and community character. This regulation will also ensure the health and safety of the community as a whole, ensuring that sufficient funds are available for decommissioning and ensuring that hazardous structures and/or materials are not left behind.

WHEREAS, Section (J)(11): The Plan Commission has proposed the inclusion of required liability insurance for Solar Facility Owners to ensure coverage for any possible injuries or damages that may be caused by the facility or by any extension thereof that may be covered by the policy of insurance. This proposed amendment seeks to ensure the health and safety of the community as a whole and any party that may be damaged in connection with the operation of said facility. This regulation is also consistent with the Comprehensive Plan in protecting infrastructure and ensuring the quality of life of the citizens of the County.

WHEREAS, Section (J)(12): The Plan Commission has proposed regulation for the safe storage of any batteries or energy containment equipment located at the solar facility. This proposal is a reasonable restriction that aims to ensure the health and safety of the community and any individual that may come into contact with the solar facility. The regulation also calls for properly recycling of said materials, which also encourages protection of the environment near the facility and preservation of resources.

WHEREAS, Section (J)(13): The Plan Commission has proposed to add provisions regarding possible damage caused by the construction and/or operation of the Solar Facilities. These provisions aim to avoid possible damage to waterways, regulated drains, ditches, county tiles, roadways, public utilities, and other similar structures. This proposal is a reasonable restriction that is consistent with the Comprehensive Plan in preserving resources, more specifically the waterways of LaGrange County, as well as the protection of infrastructure and public services. This proposal would also ensure the health and safety of the community at large.

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WHEREAS, Section (J)(14): The Plan Commission has proposed an amendment to the ordinance to provide for a requirement of Owners to submit an as-built drawing to the Plan Commission upon completion of construction of any facility. This requirement is a reasonable restriction that is consistent with all construction within LaGrange County, commercial or otherwise.

WHEREAS, Section (J)(15): The Plan Commission has proposed an amendment to regulate solar facilities to prohibit interference with communication systems. This proposal is to ensure the health and safety of the community, for example, by preserving emergency communications. It is also consistent with the Comprehensive Plan, which aims to protect infrastructure and public services in the County.

WHEREAS, Section (J)(16): The Plan Commission has proposed regulation of illumination and/or lighting of commercial solar facilities. This is a reasonable restriction aimed at ensuring public health and safety by aiding inspectors and guests when entering the facilities, by keeping away wild animals, and by reducing crime and its associated negative effects.

WHEREAS, public comments were heard at the public meeting held on June 27, 2022 at 6:00 p.m. and they are summarized as follows: Ethan Sternberg appeared on behalf of Invenergy, an interested solar company, and provided praise for the proposed amendments and for the work that the Plan Commission had invested to prepare the amendments. Kerry McKibben, an interested party, appeared and also provided his approval for the proposed amendments to the solar ordinance.

No remonstrators appeared at said hearing nor did the Plan Commission receive any written comments disfavoring the proposed amendments.

ITEM III – SOLAR ORDINANCE AMENDMENT

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

(J) Commercial Solar Facilities

The standards in this section shall apply to all development of Commercial Solar Facilities. The general district zoning regulations shall apply; however, where conflicts exist between the general district regulations and regulations contained in this section, this section shall control.

- (1) Scope. This section only applies to a Commercial Solar Facility.
- (2) Definitions. Whenever the following terms are used in this section, they shall have such meanings herein ascribed to them unless the context clearly indicates or requires a different meaning.
 - (a) “Applicant” means the person who signs and submits an application for a Permit on behalf of an Owner.
 - (b) “Bond” includes a performance bond, surety bond, irrevocable letter of credit, or other form of financial assurance in an amount that is sufficient to meet Owner’s financial responsibilities under the Permit.
 - (c) “Facility” when capitalized, refers to a Commercial Solar Facility.
 - (d) “Owner” means each person who owns a respective Facility. The term also includes, as applicable, Owner’s legal representatives, successors, and assigns. If a provision of this ordinance imposes a duty on an “owner,” the duty is satisfied when the duty is performed by an agent of the owner.
 - (e) “Permit” means a commercial solar facility improvement location permit.
 - (f) “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.

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- (3) Prohibition. No Facility shall be constructed or operated unless within a zone designated as A-1, and then only if in conformity with this section.
- (4) Required information. A prospective Owner may 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:
 - (a) Number, location, and spacing of solar panels/arrays.
 - (b) Planned location of underground or overhead electric lines.
 - (c) Project development timeline.
 - (d) Operation and maintenance plan.
 - (e) Vegetation management and landscaping plan, including grading.
 - (f) Decommissioning plan.
- (5) Application Requirements.
 - (a) Agency. An Applicant who is acting in an agency capacity must show authorization to apply on behalf of Owner.
 - (b) Landowner Authorization. The Applicant must provide a list of landowners who authorized placement of solar facilities on their properties.
 - (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 \$15,000.00. The application fee shall be used to defray the costs associated with the application, including professional fees and expenses. This fee is nonrefundable and is exclusive of the review costs of other County Departments.
 - (d) Application for an Improvement Location Permit. Each Facility shall require an Improvement Location Permit. The fee applicable for the Improvement Location Permit shall be payable at the time of submission of the application, and such fee shall be \$15,000.00. The Improvement Location Permit fee shall be used to defray the costs of professional services, as well as other expenses associated with the issuance of Permits / Zoning Compliance Certificates. This fee is nonrefundable and is exclusive of the review costs of other County Departments.
- (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 one 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
 - (c) Utility Connections. All medium voltage cables between inverter locations and project substations shall be located and maintained underground without interfering with or causing damage to existing infrastructure. Other solar infrastructure, such as module-to-module collection cables, CAB cables,

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transmission lines, substations, junction boxes, and other typical aboveground infrastructure may be located and maintained aboveground.

- (d) Glare Minimization. All solar panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic, including air traffic, or create a safety hazard. In appropriate cases, the Plan Commission may require anti-reflective coatings.
 - (e) Compliance with Local, State, and Federal Regulations. Each Facility must comply with applicable local, state, and federal laws and regulations.
 - (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, or point of contact phone number. All hazardous materials, public hazards, and potential hazards must be marked with signage.
 - (g) Contact Information. The Facility owner and/or operator shall maintain a phone number and identify a person responsible for the public to contact with inquiries and complaints throughout the life of the project and provide this number and name on all entry signs of the Facility. The Facility owner and/or operator shall make all reasonable efforts to respond to the public's inquiries and complaints.
 - (h) Fencing/Security. A security fence must be installed along all exterior sides of the Facility and be equipped with a minimum of one gate and locking mechanism on the primary access side. Security fences, gates, and warning signs must be maintained in good condition until the utility scale solar installation is dismantled and removed from the site. The fence must be a minimum of six (6) feet tall. The use of a deer fence to secure the panels will be encouraged.
 - (i) Site Access/Emergency Response. Access to the site for emergency responders shall be provided on the Site Development 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.
 - (j) Concentrating Solar Power Facilities. Concentrating solar power facilities are prohibited.
- (7) Operation and Maintenance Plan. Applicant shall submit a plan for the operation and maintenance of the Facility, which shall include measures for maintaining safe access to the Facility, stormwater and erosion controls, as well as general procedures for operation and maintenance of the installation.
- (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 Development Plan to the LaGrange County Soil & Water Conservation District for review and potentially further development of a sediment control plan.
 - (b) Ground Cover and Buffer Areas. Ground around and under solar arrays and in project site buffer areas shall be planted and maintained in perennial vegetated ground cover, and meet the following standards:
 - (i) Topsoil shall not be removed during development, unless part of a remediation effort.
 - (ii) Perennial vegetation shall be planted and maintained in a density sufficient to prevent erosion, manage runoff, and build soil. Seeds should include a mix of grasses and forbs, when feasible native to the region of the project site. Invasive species and noxious weeds must be controlled.
 - (iii) Maintenance practices shall be consistent with recommendations made by qualified natural resource professionals such as those from the Indiana Department of Natural Resources, the County Soil and Water Conservation District, or the USDA Natural Resource Conservation

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Service.

- (c) Maintenance, Repair, and/or Replacement of Facility. Owner shall maintain the Facility in accord with the Site Plan, Permit, and the Zoning Ordinance. Maintenance shall include, but not be 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.
- (8) Decommissioning and Site Reclamation Plan.
- (a) Plan – Generally. 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) In the event, after written notice, the Owner should fail to submit, execute, and abide by a decommissioning plan (including a restoration agreement) for the Facility, in accord with the Zoning Ordinance, the Owner, landowner, and/or operator shall pay all reasonable costs, including reasonable attorney fees, incurred by the County to remove and/or decommission the Facility. The County shall be entitled to apply the salvage value of the Facility to the costs of removal.
 - (ii) The County may institute proceedings to recover assets.
 - (b) Plan – Financial Requirements. The decommissioning plan shall describe the mechanism for 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.
 - (c) Plan – Restoration Activities. Restoration or reclamation activities shall include, but not be limited to, the following:
 - (i) Restoration of the pre-construction surface grade and soil profile after removal of structures, equipment, graveled areas, and access roads.
 - (ii) Re-vegetation of restored soil areas with native crops, seed mixes, and/or plant species suitable to the area.
 - (iii) For any part of the Facility on leased property, the plan may incorporate agreements with the landowner regarding leaving access roads, fences, gates or repurposed buildings in place or regarding restoration of agricultural crops or forest resource land to the extent such structures comply with this ordinance. Any use of remaining structures must be in conformance with the regulations in effect at that time, including any grandfathered allowances for such structures.
 - (iv) 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.
 - (d) Decommissioning/Abandonment.

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- (i) A Facility is considered abandoned six (6) months after the date on which the Facility last generated electricity, unless a rehabilitation plan developed by the Owner 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 Owner to commence energy production at such Facility or return such Facility to energy production within the time schedule provided in the rehabilitation plan shall be considered abandonment and/or a public nuisance.
 - (ii) A temporary Facility production stoppage due to a 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 shall not constitute abandonment as provided herein.
 - (iii) When an Owner abandons or intends to close a Facility, the Owner must submit a letter of intent for decommissioning in writing to the Plan Commission, no later than sixty (60) days before the planned decommissioning of the property.
 - (i) 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.
 - (ii) Decommissioning must be complete within one (1) year, with the allowance of no more than one (1) six-month extension by the Plan Commission. If necessary and as allowed by applicable law, the Zoning Administrator, Plan Commission, County Surveyor, County Commissioners, and/or other County agencies may engage with qualified contractors to:
 - enter the site;
 - remove Facility project assets;
 - sell assets removed; *and/or*
 - remediate the site.
- (9) Change in Facility Operator or Owner. With respect to any transfer of ownership of a Facility, the new Owner shall agree to any and all provisions of any and all prior owner duties, including the delivery of a satisfactory bond to the Zoning Administrator. The prior owner shall remain liable for its bond until its formal release by the Plan Commission. Release of liability by the prior owner by the Plan Commission shall only be approved when the new Owner provides a new bond satisfactory to the Plan Commission.
- (10) Bond.
- (a) Upon approval of the Site Plan, and before the facility is in operation, Owner shall provide a bond that complies with the Site Plan and Permit. The bond shall either automatically renew each year or, if possible, have no expiration; 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 Zoning Administrator. 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.
 - (b) Except as limited by applicable law, the Owner must submit a bond equal to 125% of the decommissioning costs included in the Site Development Plan, as calculated by a third-party licensed or registered engineer or professional with suitable experience in the decommissioning of commercial solar facilities, as agreed upon by the Owner, Zoning Administrator, & County Commissioners. The amount of the bond shall be recalculated every five (5) years to ensure sufficient funds are available to decommission the Facility. The bond must allow the County to recuperate from the bond the costs that

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the County may incur in the decommissioning of the Facility. The bond adjustment must be submitted to the Zoning Administrator.

- (11) **Liability Insurance.** Applicant shall obtain liability insurance in the amount of \$2,000,000 per occurrence and \$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 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 Owner to the near original condition. All repairs must be compliant and approved, as applicable, by the 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 landowner and/or adjoining landowner 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 the Zoning Administrator.
- (15) **Interference with Reception.** A Facility shall be constructed and operated so it does not interfere with television, internet, telecommunications, microwave, GPS, agriculture guidance systems, military defense radar, navigational, Federal Aviation Administration, or radio reception to neighboring areas.
- (16) **Illumination.** A Facility shall comply with the lighting standards of the Zoning Ordinance. However, no light shall cross the adjacent nonparticipating property line.

ITEM IV – EFFECT OF AMENDMENT

- A. **Effective Date.** This amended proposal shall take effect as of the date of the filing of the Plan Commission's report of approval with the legislative body, which approval must be filed within 45 days of the adoption of this ordinance. If no such report of approval is filed within such time, this ordinance shall be construed to amend the existing Zoning Ordinance as if it made no changes thereto.

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B. Continuance.

1. The express or implied repeal or amendment by this ordinance of any other ordinance or part thereof does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.
 2. To the extent the provisions contained in this ordinance substantially restate the provisions of a prior ordinance or resolution, such provisions shall not be deemed to be a new enactment of the original provisions, but rather shall be deemed to be the continuation of the original provisions.
 3. All other terms and conditions of the LaGrange County Zoning Ordinance that have not been modified or amended herein, including all sections and subsections thereof that have not been amended or set forth within this ordinance, shall remain in effect and shall be renumbered to account for the amendments set forth herein.
- C. Revival Prohibited. The express or implied repeal or amendment by this ordinance of any other ordinance or resolution or part thereof shall not be construed to revive any former ordinance, section, clause, or provision.
- D. Nonconforming Use. The lawful nonconforming use of a structure, land, or water existing at the time of the adoption of this ordinance may be continued although the use does not conform with the provisions of this ordinance. However, only the portion of the land or water in actual use may be so continued, and the structure or area within which the use is contained may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or official order, so as to comply with the provisions of the Zoning Ordinance, as amended herein. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to the provisions of this Ordinance as amended herein.

ITEM V – MISCELLANEOUS

A. References.

1. Except where a specific version or edition is given, reference to another section of this ordinance or to another law, document, fund, department, board, program, public servant, or public office, shall extend and apply to the same, as may be subsequently amended, revised, recodified, renamed, reappointed, or renumbered from time to time.
 2. Reference in this ordinance to a law, document, fund, department, board, program, public servant, or public office, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of) LaGrange County (Indiana).”
 3. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy as well may do as the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.
- B. Conflicts. No part of this ordinance shall be interpreted to conflict with any local, state, or federal laws, and all reasonable efforts should be made to harmonize same.
- C. Severability. Should any section or part thereof of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole, and for this purpose the provisions of this ordinance are hereby declared to be severable.
- D. Effective Date. This ordinance shall take effect upon adoption.

Mr. Peter Cook made a motion to approve the Ordinance. Mr. Terry Martin seconded the motion and it carried with Mr. Kevin Myers abstaining.

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ORDINANCE REPEALING PRIOR ORDINANCES RELATED TO PRIVATE SEWAGE DISPOSAL SYSTEMS IN THE COUNTY

Mr. Kurt Bachman, County Attorney, presented the following Ordinance for consideration:

COUNTY OF LAGRANGE
ORDINANCE NO. 2022-07-18 C

AN ORDINANCE REPEALING PRIOR ORDINANCES RELATED TO PRIVATE SEWAGE DISPOSAL SYSTEMS IN THE COUNTY.

WHEREAS, around 1984-5 and again in 1990, the Board of Commissioners of the County of LaGrange adopted various regulations related to onsite sewage systems;

WHEREAS, in 1993, pursuant to Indiana Code ("IC") § 16-19-3-4, the State of Indiana transferred the power to regulate private on-site sewage systems to its State Board of Health;

WHEREAS, the State Board of Health has adopted various regulations regarding on-site sewage systems, as codified under 410 IAC 6-8.3;

WHEREAS, pursuant to IC §§ 16-20-1-22 and -23, the Health Officer already has sufficient powers and duties to inspect on-site sewage systems under its jurisdiction;

WHEREAS, pursuant to IC § 13-26-5-2.5, a local health department has a duty to inspect septic tank soil absorption systems with a regional sewer district upon request;

WHEREAS, pursuant to IC § 36-1-3-8(a)(7), a unit does not have the power to regulate conduct that is regulated by a state agency, except as expressly granted by statute;

WHEREAS, the Indiana Code and the State Board of Health on-site sewage systems regulations have largely rendered the County's ordinances regulating the same as superfluous;

WHEREAS, pursuant to IC § 36-1-4-11, a unit may adopt ordinances; *and*

WHEREAS, pursuant to *Corn v. City of Oakland City*, 415 N.E.2d 129, 131 (Ind. Ct. App. 1981), "it is well settled in Indiana Law that the power to enact ordinances has as a necessary incident thereto the power to repeal unless that power is restricted in the law conferring it."

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF LAGRANGE, INDIANA, THAT:

SECTION I – NAME

The name of this ordinance shall be the "On-Site Sewage System Repeal Ordinance."

SECTION II – RECITALS

The foregoing recitals, including all defined terms, are hereby incorporated into this ordinance and found to be true, accurate, and correct.

SECTION III – REPEAL OF PRIOR LAW

- A. Repeal. The ordinance entitled "LAGRANGE COUNTY ORDINANCE REGULATING THE INSTALLATION, CONSTRUCTION, MAINTENANCE AND OPERATION OF PRIVATE SEWAGE DISPOSAL SYSTEMS IN ALL AREAS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF,"

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sometimes referred to as Ordinance 1984-4-1 and adopted on April 16, 1985, as well as Ordinance 1990-4-3A, are hereby repealed in their entirety.

- B. Continuance. The express or implied repeal or amendment by this ordinance of any other ordinance or part thereof does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.
- C. Revival Prohibited. The express or implied repeal or amendment by this ordinance of any other ordinance or resolution or part thereof shall not be construed to revive any former ordinance, resolution, section, clause, or provision.
- D. Scope. Nothing in this repeal shall be construed to diminish the power or duty of Health Department employees to charge an appropriate fee for septic inspection services pursuant to the 2022 Health Department Fee Schedule Adoption Ordinance.

SECTION IV – MISCELLANEOUS

A. References.

- 1. Reference in this ordinance to a law, document, fund, department, board, program, public servant, or public office, either generally or by title, without reference to another jurisdiction, shall be construed as though it were preceded or followed, as appropriate, by the words “(of) LaGrange County (Indiana).”
- 2. Should a provision of this ordinance require an act to be done which, by law, an agent or deputy as well may do as the principal, the requirement is satisfied by the performance of the act by an authorized agent or deputy.

B. Promulgation. The Auditor is hereby authorized and directed to take all action necessary or proper to authenticate, record, publish, promulgate, and/or otherwise make this ordinance effective.

C. Effective Date. This ordinance shall take effect immediately upon adoption.

Mr. Peter Cook made a motion to approve the Ordinance. Mr. Kevin Myers seconded the motion and it carried unanimously. Mr. Peter Cook made a motion to waive the requirement for second reading. Mr. Kevin Myers seconded the motion and it carried unanimously.

EXECUTIVE SESSION

Mr. Kevin Myers made a motion to set a Joint Executive Session for September 6, 2022 following the Commissioner meeting and authorize Mr. Kurt Bachman to prepare the notice. Mr. Peter Cook seconded the motion and it carried unanimously.

INFORMATION TECHNOLOGY – REQUEST TO PURCHASE COMPUTERS

Mr. Dave Warren, Information Technology Director, requested permission to purchase 25 OptiPlex 5000 Small Form Factor computers, from Dell Technologies, in the amount of \$17,817.25, to be paid out of ARPA funds. Mr. Kevin Myers made a motion to approve the request. Mr. Peter Cook seconded the motion and it carried unanimously.

ARK ANIMAL SANCTUARY – MARY JANE ECKER IRREVOCABLE TRUST EXPENSE

Ms. Cindy Miller, Director of the ARK Animal Sanctuary, presented a bill from LaGrange Veterinary Clinic, in the amount of \$5,904.51 and a bill from King Veterinary Clinic in the amount of \$16,784.73. The invoices would be paid out of the Mary Jane Ecker Irrevocable Trust account. Mr. Peter Cook made a motion to approve the expenses to be paid out of the Mary Jane Ecker Irrevocable Trust account. Mr. Kevin Myers seconded the motion and to carried unanimously.

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REGULAR SESSION

SALT QUOTES

At 8:45 a.m. Mr. Ben Parish, Highway Supervisor, opened the following quotes for salt:

<u>Company</u>	<u>Location</u>	<u>Bid Amount</u>
Cargill	North Olmsted, OH	Declined to bid
Compass Minerals	Overland Park, KS	\$79.27 ton – delivered
Morton Salt	Chicago, IL	\$89.39 ton – delivered

Mr. Peter Cook made a motion to take quotes under advisement. Mr. Kevin Myers seconded the motion and it carried unanimously.

THE ARK OF LAGRANGE COUNTY – 2023 BUDGET REQUEST

Mrs. Debra Seman, Chief Executive Officer of The ARK of LaGrange County, presented the 2023 budget request of \$166,105.

PETITION TO VACATE – PUBLIC WAY IN IDLE HOUR ADDITION, MILFORD TOWNSHIP

At 9:00 a.m. Mr. Terry Martin opened the public hearing for the petition to vacate an unused and undeveloped public way in Idle Hour Addition lying between Lot 40 and the shore of Pretty Lake, Milford Township. The petitioners are Norman R. Strater and Teresa M. Strater, and they are represented by Mr. Richard Muntz, Attorney.

Mr. Muntz explained that the petitioners would like to vacate the strip of land between Lot 40 and the shore of the lake. The DNR has told them that they cannot put a pier in, because they do not own the strip of land, known as Columbia Park. The area is underdeveloped and has not been used as a public way.

Mr. Martin asked for input from the County Surveyor and Plan Administrator. Various individuals from Pretty Lake spoke against the petition: Jim Hensel, owner of Lot 43; Betsey Batesole, owner of Lot 42; Barb Butler, owner of Lot 71; Thomas Tassler, owner of Lot 45; Julie Goodman, owner of Lot 41;

Donna Lampke, owner of Lot 69, stated that over the years there has been erosion of the lake fronts. Columbia Park was never platted out. She is in support of the petition to vacate.

There being no further comments from the public, Mr. Terry Martin closed the public hearing. Following discussion, Mr. Kevin Myers made a motion to deny the petition to vacate. Mr. Peter Cook seconded the motion and it carried unanimously.

COUNCIL ON AGING – TRANSPORTATION GRANT

Mrs. Cheri Perkins, Council on Aging Executive Director, presented the 2nd quarter voucher for the transportation grant. Mr. Peter Cook made a motion to approve the voucher and have the President sign it outside of a public meeting. Mr. Kevin Myers seconded the motion. Upon roll call vote, the motion carried unanimously.

PROSECUTOR TITLE IV-D – REQUEST TO PURCHASE

Ms. Della Jennings, Prosecutor Title IV-D Administrator, and Mr. Dave Warren, Information Technology Director, explained that the child support system will be going to a new program called Invest. They presented an agreement from SBS Portals to do the data extraction from DocuWare to INvest, in the amount of \$3,393.85, and the funding would come out of the Prosecutor's IV-D Incentive. Mr. Peter Cook made a motion to approve the request. Mr. Kevin Myers seconded the motion and it carried unanimously.

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ACCOUNTS PAYABLE VOUCHERS

Mrs. Kathryn Hopper, County Auditor, presented the Accounts Payable Vouchers. Mr. Kevin Myers made a motion to approve the vouchers. Mr. Peter Cook seconded the motion and it carried unanimously.

MINUTES

Mr. Kevin Myers made a motion to approve the minutes of the July 5, 2022 Regular Session meeting. Mr. Peter Cook seconded the motion and it carried unanimously.

MEMORANDUM

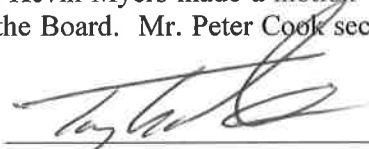
Mr. Kevin Myers made a motion to approve the memorandum for the July 13, 2022 staff meeting. Mr. Peter Cook seconded the motion and it carried unanimously.

FLOWER

Mr. Kevin Myers thanked Cindy Schmidt for cleaning the flower beds on the Courthouse lawn.

ADJOURNMENT

There being nothing further to come before the Board at this time, Mr. Kevin Myers made a motion to adjourn and meet on any subsequent day necessary to carry on the business of the Board. Mr. Peter Cook seconded the motion and it carried unanimously.


Terry A. Martin


Kevin R. Myers


Peter A. Cook

ATTEST:


Kathryn Hopper
LaGrange County Auditor