ORDINANCE NO. 2022-02

AN ORDINANCE TO AMEND ORDINANCE NO. 93-7, AS AMENDED, THE AREA ZONING CODE OF FAYETTE COUNTY, AND THE CITY OF CONNERSVILLE, INDIANA - 1993 REGARDING THE ADOPTION OF SOLAR ENERGY SYSTEMS PROVISION IN SECTION 153.23 CONTINGENT USES. PARAGRAPH (D) SOLAR ENERGY SYSTEMS AND NEW PROVISION TO AND SECTION 153.24: SPECIAL EXCEPTIONS, (E) SPECIAL EXCEPTIONS AND DISTRICTS WHERE THEY MAY BE PERMITTED. (68) SOLAR ENERGY, LARGE SCALE AND SOLAR FARMS, AND (F) OTHER REQUIREMENTS FOR SPECIAL EXCEPTIONS, (68) SOLAR ENERGY, LARGE SCALE AND SOLAR FARMS. OF SAID AREA ZONING CODE AND FIXING A TIME WHEN THE SAME SHALL TAKE EFFECT.

WHEREAS, I.C. 36-7-4, ET SEQ., EMPOWERS THE FAYETTE COUNTY AREA PLAN COMMISSION TO HOLD PUBLIC HEARINGS AND MAKE RECOMMENDATIONS TO THE BOARD OF COUNTY COMMISSIONERS OF FAYETTE COUNTY, INDIANA AND THE CITY COUNCIL OF THE CITY OF CONNERSVILLE, INDIANA CONCERNING ORDINANCES FOR THE ZONING OR DISTRICTING OF ALL LANDS WITHIN THE UNINCORPORATED AREAS OF FAYETTE COUNTY, INDIANA AND ALL LANDS WITHIN THE CORPORATE LIMITS OF THE CITY OF CONNERSVILLE, INDIANA; AND,

WHEREAS, THE FAYETTE COUNTY AREA PLAN COMMISSION HAS CONDUCTED A PUBLIC HEARING ON JUNE 9, 2021 IN ACCORDANCE WITH I.C. 36-7-4, ET SEQ., WITH RESPECT TO A PROPOSAL TO AMEND THE AREA ZONING CODE OF FAYETTE COUNTY, INDIANA, AND HAS CERTIFIED SUCH PROPOSAL TO THE BOARD OF COUNTY COMMISSIONERS OF FAYETTE COUNTY, INDIANA AND TO THE CITY COUNCIL OF THE CITY OF CONNERSVILLE, INDIANA WITH A FAVORABLE RECOMMENDATION:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FAYETTE COUNTY, INDIANA AND THE CITY COUNCIL OF THE CITY OF CONNERSVILLE, INDIANA AS FOLLOWS:

SECTION 1. AMENDMENT OF FAYETTE COUNTY AREA ZONING CODE

Insert new provision in Section 153.23 Contingent Uses. Paragraph (D) Solar Energy Systems and new provision to and Section 153.24: SPECIAL EXCEPTIONS, (E) Special Exceptions and Districts Where They May Be Permitted. (68) Solar Energy, large Scale and Solar Farms, and (F) Other Requirements for Special Exceptions, (68) Solar Energy, large Scale and Solar Farms.

To read as follows

Section 153.23 Contingent Uses.

(D) Solar Energy Systems

(1) Purpose. The regulation of solar energy systems, solar farms and facilities and other solar energy devices is authorized by Indiana Code §36-7-2-2 and is designed to protect the public health, welfare and safety. The purpose of this Section is to plan for and regulate the use, improvement, and maintenance of real property and the location, condition, and maintenance of structures and other improvements. These regulations allow solar energy systems, solar farms and facilities and other solar energy devices in certain areas, and, therefore, do not have the effect of unreasonably restricting the use of such facilities other than for the preservation and protection of the public health and safety. It is the policy of Fayette County to promote and encourage the use of solar energy systems and facilities, and these regulations are not intended to and do not have the effect of significantly increasing the cost of such systems, decreasing the efficiency of such systems, or impeding alternative systems of comparable cost and efficiency.

(2) Permitted Contingent Use. Solar energy systems are a permitted as a contingent use in all zoning districts where structures of any sort are allowed, subject to certain requirements as set forth below. Solar carports and associated electric vehicle charging equipment are a permitted use on surface parking lots in all districts regardless of the existence of another building. Solar energy systems that do not meet the following design standards will require a special exception permit.

(3) Intent. In order to protect the public health, safety, and general welfare of the community while accommodating the energy needs of residents and businesses, these regulations are necessary in order to:

(a) To bring the benefits of solar energy to Fayette County, including the potential to add local jobs,

reduce energy bills, and reduce pollution in a manner that preserves reliability and affordability;

(b) 2. Minimize adverse effects of SES facilities through careful design and siting standards;

(c) 3. Avoid potential damage to adjacent properties from SES failure through structural standards and setback requirements.

(d) 4. A Solar Energy System is considered a Primary Use if there is no other Primary Use on site.

(4) Authority The Fayette County Area Plan Commission office is vested with the authority to review, approve, and disapprove applications for Solar Energy Systems, including a sketch, preliminary plans and final plans.

(5) Public Purpose Regulations of the siting of SES facilities is an exercise of valid police power delegated by the State of Indiana. The developer has the duty of compliance with reasonable conditions laid down by the Fayette County Area Plan Commission.

(6) Definitions

(a) Agrivoltaics: A solar energy system co-located on the same parcel of land as agricultural production, including crop production, grazing, apiaries, or other agricultural products or services.

(b) Building-integrated Solar Energy Systems – A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

(c) Community-Scale Solar Energy System – A commercial solar energy system that converts sunlight into electricity for the primary purpose of serving electric demands off-site from the facility, either retail or wholesale. Community-scale systems are principal uses and projects typically cover less than 10 acres.

(d) Community Shared Solar – A solar energy system that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system.

(e) Grid-tied Solar Energy System– A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

(f) Ground-Mounted – A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mounted systems can be either accessory or principal uses.

(g) Large-Scale Solar Energy System – A commercial solar energy system that converts sunlight into electricity for the primary purpose of wholesale sales of generated electricity. A large-scale solar energy system will have a project size greater than 10 acres and is the principal land use for the parcel(s) on which it is located. It can include collection and feeder lines, substations, ancillary buildings, solar monitoring stations and accessory equipment or structures thereto, that capture and convert solar energy into electrical energy, primarily for use in locations other than where it is generated.

(h) Off-grid Solar Energy System – A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

(i) Passive Solar Energy System – A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

(j) Photovoltaic System – A solar energy system that converts solar energy directly into electricity.

(k) Pollinator-Friendly Solar Energy – A community- or large-scale solar energy system that meets the requirements of the 2020 Indiana Solar Site Pollinator Habitat Planning Scorecard developed by Purdue University or another pollinator-friendly checklist developed by a third-party as a solar-pollinator standard designed for Midwestern eco-systems, soils, and habitat.

(l) Renewable Energy Easement, Solar Energy Easement – An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

(m) Roof-Mounted – A solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mounted systems are accessory to the principal use.

(n) Roof Pitch – The final exterior slope of a roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

(o) Solar Access – Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

(p) Solar Carport – A solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.

(q) Solar Collector – A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.

(r) Solar Daylighting – Capturing and directing the visible light spectrum for use in illuminating interior building spaces in lieu of artificial lighting, usually by adding a device or design element to the building envelope.

(s) Solar Energy – Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

(t) Solar Energy System – A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage, and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.

(u) Solar Hot Air System – (also referred to as Solar Air Heat or Solar Furnace) A solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance includes a solar collector to preheat air or supplement building space heating, typically using a vertically mounted collector on a south-facing wall.

(v) Solar Hot Water System (also referred to as Solar Thermal)– A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

(w) Solar Mounting Devices – Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground. Solar Resource – A view of the sun from a specific point on a lot or building that is not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on all days of the year, and can be measured in annual watts per square meter.

(x) Solar-Ready Design – The design and construction of a building that facilitates and makes feasible the installation of rooftop solar.

(y) Stand alone solar energy system: The solar panels of a standalone solar energy system are not connected to an electric grid but instead are used to charge a bank of batteries. These batteries store the power produced by the solar panels and then your electrical loads draw their electricity from these batteries.

(7) Types and Sizes of Solar Energy Systems

(a) Types

i. Roof Mounted. A solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mounted systems are accessory to the principal use and may be mounted to the primary or an accessory use structure.

ii. Ground-Mounted – A solar energy system that is self supporting and set into or onto the ground mounted on a rack or pole that rests or is attached to the ground. Ground-mounted systems can be either accessory or principal uses

(b) Sizes of Solar Energy Systems

i. Shall be measured by the surface of all panels and is referenced below in square feet.

ii. Micro-scale solar energy system: A solar energy system that occupies less than 120 square feet of panel. Stand alone micro scale systems are exempt from permits unless mounted on an occupied structure and are permitted in all zoning districts.

iii. Small-scale solar energy system: A solar energy system that occupies 120 square feet to 1,750 square feet of panel area and permitted in all zoning districts.

iv. Medium-scale solar energy system: A solar energy system that occupies more than 1,750 square feet, but less than 43,560 square feet of panel area and permitted in all zoning districts.

v. Large-scale solar energy system: A solar energy system that occupies more than 43,560 square feet, but less than 435,000 square feet of panel area. Allowed as a special exception in RS, A1, A2, I-1 and I-2 zoning districts.

vi. Farm-scale solar energy systems: A solar energy system that occupies more than 435,000 square feet of panel area. Allowed as a special exception in RS, A1, A2, I-1 and I-2 zoning districts.

(8) General approval and development standards

(1) Setbacks and separation distances

i. Ground mounted, micro-scale, small-scale, medium scale, and large-scale solar energy systems when considered contingent use accessory accessory structures must be installed in either in the Side Yard, Second Street Front Yard, or Rear Yard. Ground mounted solar energy systems shall be located no closer to public right-of-way than the front foundation line of the primary structure and no closer than the side and rear yard setbacks for their zoning district.

ii. Ground-mounted Micro-Scale , Small-Scale, Medium-Scale, and Large-Scale Solar Energy Systems that are primary uses on property shall be located no closer to public right-of-way than the front setback line for dwellings from the fronts, side and rear property lines.

iii. Farm-Scale Solar Energy Systems shall be setback 75' from all property lines, 250' from the nearest corner of residential structures, and from a non-agriculture zoning district. Interior project property lines don't have setback requirements.

(2) Height

i. Roof mount: Roof-mounted solar energy systems may exceed the maximum building height,

provided the SES does not exceed five feet in height above the roofline in residential districts and ten feet above the roof line in all other districts.

ii. Ground mount: The maximum height of PV module and racking system shall not exceed 15' as measured from the highest natural grade below each solar panel. The recommend minimum height from grade from bottom of panel is 3' for pollinator species to grow without obstructing the panel efficiency.

iii. Farm-scale and large-scale solar energy system: The maximum height of PV module and racking system for Farm scale and large-scale solar energy systems shall not exceed 30 feet in height as measured from the natural grade to the top of the panel or array when at its highest position. Security fencing, access roads, and distribution poles and wires, and vegetative buffers may be located within set-backs but may not be located in a road right-of-way. Security fencing may be located to the inside of vegetative screening to reduce visual impact.

(3) Lot coverage:
The area covered by ground mounted solar energy systems, measured by a rectangle encompassing the various system components. Ground mounted systems shall meet the existing lot coverage restrictions for the zoning district except as defined below.

i. Ground-mounted systems shall be exempt from lot coverage or impervious surface standards if the soil under the collector is maintained in vegetation and not compacted.

ii. Ground-mounted systems shall not count toward the maximum number of accessory structures permitted.

iii. Solar carports in non-residential districts are exempt from lot coverage limitations.

(4) Drainage and Erosion Control

a. Applicants must submit approved drainage plan from the Fayette County Drainage Board and erosion control plan from Indiana Department of Environmental Manegement for projects outside of the corporate limits of the City of Connersville and erosion .

b. Applicants must submit approved drainage plan and erosion control plan from the Connersville Drainage Board for projects within the corporate limits of the City of Connersville.

(5) Additional large-scale and farm-scale conditions

i. Buffer requirements

1. Shall have a 25 foot planted buffer along the perimeter of the project area.
2. The buffering shall be a minimum 3 row, 4 season tree stand providing four season screening with offset spacing as to minimize the view of the project. Buffering may replace one-third of the trees with native shrubs to provide wildlife habitat. Plant materials used in vegetative buffer shall be drought tolerant noninvasive species.

ii. Must be approved by the Fayette County Drainage Board or City of Connersville Drainage Board and the solar system components must be a minimum 75' from any county ditch, tile, stream or river.

iii. Must repair all drainage systems damaged during construction.

iv. Must be reviewed by the Technical Review Committee consisting of at a minimum a representative from Area Plan Commission, Board of Zoning Appeals, County Commissioners for projects outside of City of Connersville corporate limits, City of Connersville for projects within City of Connersville corporate limits, and a licensed engineer approved the Fayette County Board of Commissioners and City of Connersville and paid for by the applicant.

v. Must meet floodplain regulations. Any portions of projects within FEMA Flood Hazard Areas require a Construction in a Floodway Permit approved through Indiana Department of Natural Resources.

vi. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

vii. Exterior lighting shall be limited to that required for safety and operational purposes and will not produce glare across lot lines onto properties not associated with the project and minimized for same property residences.

viii. The Applicant shall certify that the Applicant will comply with the Damage to Underground Facilities Law (Ind. Code 8-1-26) and accompanying regulations of the Indiana Utility Regulatory Commission.

ix. A decommissioning agreement must be executed by the Applicant.

x. A traffic management plan shall be approved by the Fayette County Highway Superintendent and Fayette County Board of Commissioners.

xi. A property operation and maintenance plan shall be submitted with the Special Exception application.

xii. The facility shall have a perimeter security fence. All medium scale, large scale and farm scale

solar energy installations shall be surrounded by a security fence not less than 8 feet in height and not more than 12 feet in height in order to prevent unauthorized access. All gates will be locked. Barbed wire or razor wire not permitted. Security fence may be located on the project area side of the vegetative buffer anywhere within the required project area setback.

xiii. Signage on the solar farm fencing shall display the facility name, facility address, name and address of operator and emergency contact information shall not exceed 8 square feet.

xiv. Must provide reasonable accessibility for emergency vehicles

(6) Permitting

i. Districts permitted

1. Small-scale rooftop, micro, and ground mount solar installations are permitted in all zoning districts. Micro solar systems are exempt from permit requirements.
2. Medium-scale ground mounted solar installations are permitted in all zoning districts.
3. Large-scale and farm scale solar installations are permitted as a special exception in RS, A1, A2, I-1, and I-2. Large-scale and farm scale solar installations are not permitted in R-1, R-2, R-3, LB, PB, GB, MS, and FEMA designated Special Flood Hazard Areas.

ii. Application and submission requirements for roof mounted systems.

1. Small scale: roof top requires engineering assessment by an Indiana licensed engineer to determine structural integrity of roof system with additional loads imposed by rooftop solar system.
2. Medium scale: roof top requires engineering assessment by an Indiana licensed engineer to determine structural integrity of roof system with additional loads imposed by rooftop solar system.

iii. Application and submission requirements

1. A complete building permit application for all Solar Energy Systems will include the following:

1. Solar System Specifications including manufacturer and model information.
2. Module design and site plans.
3. Equipment used as part large scale or commercial scale solar project must new and certified as having passed the Environmental Protection Agency's Toxicity Characteristic Leaching Procedure (TCLP).

2. Business plan indicating how all conditions will be addressed for large scale and farm scale solar energy systems.

iv. A Technical Review Committee (TRC) site plan approval is required for Medium-Scale, Large-scale and Farm-Scale solar energy systems prior to building permit approval.

v. System upgrades will require a new building permit.

(7) Site Plan. Site Plan documents for medium scale, large scale and farm scale solar energy systems shall include, but not limited to signed off by a licensed Engineer in the State of Indiana.

a. Property lines and physical features, including roads, for the project site;

b. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

c. Drawings of the Solar energy System showing the proposed layout of the system, the distance between the proposed solar collector and all property lines, and the tallest finished height of the solar collector.

d. Name, address, and contact information for proposed system installer;

e. Name, address, phone number and signature of the project Applicant, as well as all co-applicants or property owners;

f. Zoning district designation for the parcel(s) of land comprising the project site.

g. Ground cover and buffer areas (alternative A) – large scale or farm-scale ground-mounted solar energy systems are required to adhere to the following standards.

a. Ground around and under solar panels and in project site buffer areas shall be planted, established, and maintained for the life of the solar project in perennial vegetated ground cover meeting the definition of Pollinator-Friendly Solar Energy in Section III above.

i. All applicants shall submit a completed pollinator-friendly solar scorecard such as the 2020 Indiana Solar Site Pollinator Habitat Planning Scorecard developed by Purdue University, or a similar third-party solar pollinator standard designed for Midwest eco-systems and conditions.

ii. When the scorecard results demonstrate the project does not qualify as pollinator-friendly, the applicant shall submit a landscaping plan detailing site conditions that prevent the site from being qualified and alternative means of meeting the water quality and habitat goals of the pollinator friendly standard.

iii. The site shall be planted and maintained to be free of invasive or noxious species, as listed by the Indiana Invasive Species Council. No insecticide use is permitted on the site. This provision does not apply to insecticide use in on-site buildings, in and around electrical

boxes, spot control of noxious weeds, or as otherwise may be deemed necessary to protect public health and safety.

iv. Projects maintained as pollinator-friendly compliant are exempt from landscaping requirements and post-construction storm water management controls (as stated in Section V. A.2. below) that may be otherwise required under Fayette County's development regulations, unless required due to special conditions by the Fayette County Area Board of Zoning Appeals.

h. Ground cover and buffer areas (alternative B) – large scale- or farm-scale ground-mounted solar energy systems are required to adhere to the following standards.

i. Ground around and under solar panels and in project site buffer areas shall be planted, established, and maintained for the life of the solar project in perennial vegetated ground cover.

ii. To the maximum extent feasible for site conditions, perennial vegetation ground cover shall be based on a diverse seed mix of native species consistent with guidance specific to the local area provided by the Soil and Water Conservation District office or the Indiana Native Plant Society.

iii. The owner/operator shall demonstrate site maintenance that is intended to remove invasive or noxious species, as listed by the Indiana Invasive Species Council, without harming perennial vegetation.

iv. No insecticide use is permitted on the site. This provision does not apply to insecticide use in on-site buildings, in and around electrical boxes, spot control of noxious weeds, or as otherwise may be deemed necessary to protect public health and safety.

v. Plant material must not have been treated with systemic insecticides, particularly neonicontinoids. Community- or large-scale ground-mounted solar energy systems that propose to install, establish, and maintain pollinator-friendly vegetative cover are to demonstrate the quality of their habitat by using guides such as Purdue University 2020 Indiana Solar Site Pollinator Habitat Planning Scorecard, or other third party solar-pollinator scorecards designed for Midwestern eco-systems, soils, and habitat.

vi. Projects certified and maintained as pollinator-friendly compliant are exempt from landscaping requirements and post-construction storm water management controls (as stated in Section V. A.2. below) that may be otherwise required under Fayette County's development regulations, unless required due to special conditions by the *Fayette County* Board of Zoning Appeals.

i. Foundations – A qualified engineer shall certify, prior to application for building permits, that the foundation and design of the solar panel racking and support is within accepted professional standards, given local soil and climate conditions.

j. Power and communication lines –

i. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by Fayette County Board of Zoning Appeals in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the zoning administrator.

ii. Power and communication lines between the project and the point of interconnection with the transmission system can be overhead.

k. Fencing – Perimeter fencing for the site shall not include barbed wire or woven wire designs and shall preferably use wildlife-friendly fencing standards that include clearance at the bottom. Alternative fencing can be used if the site is incorporating agrivoltaics.

l. Storm water and NPDES – Large- and community-scale solar projects are subject to Fayette County's storm water management and erosion and sediment control provisions and Nonpoint Pollution Discharge Elimination System (NPDES) permit requirements. Solar collectors shall not be considered impervious surfaces if the project complies with ground cover standards, as described in A.1.d and e of this ordinance.

(m) Other standards and codes – All large- and community-scale solar projects shall be in compliance with all applicable local, state and federal regulatory codes, including the State of Indiana Uniform Building Code, as amended; and the National Electric Code, as amended.

(n) Site Plan Required – The applicant shall submit a detailed site plan for both existing and proposed conditions, showing locations of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands, and other protected natural resources, topography, electric equipment. The site plan should show all zoning districts and overlay districts

(o) Aviation Protection – For large- and farm-scale solar projects located within 500 feet of an airport or within approach zones of an airport, the applicant must complete and provide the results of a glare analysis through a qualitative analysis of potential impact, field test demonstration, or geometric analysis of ocular impact in consultation with the Federal Aviation Administration (FAA) Office of Airports, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

(p) Agricultural Protection – Dual use for large-scale and farm-scale solar projects is encouraged and shall be included as part of application.

(9) Abandonment and decommissioning requirements

a. Small-Scale, Medium-Scale, and Large-Scale removal requirements: Any Ground Mounted Solar energy system which has reached the end of its useful life or has been abandoned shall be removed (by the owner or operator). The Owner or operator shall physically remove the installation no more than 150 days after the date discontinued operations. The owner or operator shall notify the Fayette County Plan Department by certified mail of the proposed date of discontinued operation and plans for removal. Decommissioning shall consist of:
   i. Physical removal of all solar energy systems, structures, and equipment from the site.
   ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations. Verification of proper hazardous waste disposal must be provided to Area Plan Commission office.
   iii.
   iv. Stabilization or re-vegetation of the site as necessary to minimize erosion.

b. The Fayette County Area Plan Commission Director may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

c. Small-Scale, Medium-Scale, and Large-Scale Abandonment: Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the small, medium- or large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than one (1) year without the written consent of the Fayette County Plan Department. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the County retains the right enter and remove an abandoned, hazardous, or decommissioned small, medium, or large-scale ground-mounted solar energy system at the owner/operator's expense. As a condition of Site Plan approval, the applicant and property owner shall agree to allow entry to remove an abandoned or decommissioned installation.

d. Farm-Scale Construction, decommissioning and removal requirements:
   a. Prior to the issuance of improvement location and building permits, a decommissioning plan must be approved by the Board of Zoning appeals and recorded with the Fayette County Recorder, cross-referenced to the deed(s) to all associated project parcels. Once a project has not generated energy for 1 month the developer/owner shall notify the Fayette County Plan Commission Director. Once a facility has not generated power for 12 consecutive months, the decommissioning plan shall be activated.
   b. The decommissioning plan will include, but is not limited to , the following:
      i. Lifetime of the project.
      ii. Timeline for construction, and general operation.
      iii. Decommissioning cost estimate, including salvage value of materials.

e. Restoration and reclamation requirements shall adhere to the following:
   a. Restoration of the pre-construction surface grade and soil profile after removal of the structures, equipment, graveled areas and access roads.
   b. Re-vegetation of restored soil areas with crops, native seed mixes, plant species suitable to the area.
   c. For any part of the Solar Energy System 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. Any remaining structures must be in conformance with all ordinances and regulations in effect at the time of decommissioning. Copies of said agreements must be provided as a part of the decommissioning plan pending approval of the Fayette County Area Board of Zoning Appeals.

f. Bonds or Financial assurance are required:
   a. Bond or financial assurance that will cover the reconstruction of public infrastructure due to construction activity related to the Solar Energy System installation that will be approved in association with the traffic management plan.
   b. Bond or financial assurance that will cover damage to the drainage infrastructure that may be damaged during the construction process beginning once construction has been completed and is to last for 5 years once construction has been completed.
   c. Bond or financial assurance that will cover the decommissioning of the Solar Energy system as described in the decommissioning plan.
   d. Bonds and financial assurance shall be reevaluated every 3 years with contributions adjusting at that time to cover costs at the time of decommissioning.
   e. The amount of the Bonds or Financial assurances must be approved by the Fayette County Commissioners.
   f. Financial surety requirements: Prior to receiving an Improvement Location Permit, any owner of a solar energy shall establish a cash security fund, bond, irrevocable letter of credit or other means as determined by the Fayette County Board of Commissioners. This fund is meant to secure the payment of removing any abandoned solar energy system. The

removal shall include the solar panels and associated equipment and buildings that have been determined to be abandoned, or found to be in non-compliance with this chapter. The fund shall contain and be maintained at the amount of 125% of the cost of demolition and removal of the solar energy system, based upon an estimate of the cost of demolition and removal by a licensed engineer agreed upon by the developer and county commissioners. The established fund will be used by Fayette County to deduct fines and penalties for non-compliance with this Chapter or other applicable laws. Any reduction in the security fund provided, because of deductions of fines, penalties, or removal costs, shall be replenished to the total of the required amount within 30 days after notice from Fayette County of the amount deducted and the deficiency created hereby. Within three months after the solar energy system is removed, any remaining funds on deposit with Fayette County pursuant to this Chapter, after application and above all expenses provided for herein, shall be refunded to the appropriate owner or provider who created the security fund. The requirement for a security fund shall not apply to a municipal corporation or a school corporation, as defined in IC 36-1-2-10 and 17 respectively.

g. Enforcement: In the event of a violation of this Section, the Area Planning Executive Director may enforce the Ordinance using the rights and remedies provided in the Zoning Ordinance.

h. Road Repairs Any road damage caused by the construction of project equipment, the installation of the same, or the removal of the same, shall be repaired as per the Road Use and Maintenance Agreement approved by the County Commissioners. The Fayette County Highway Superintendent may choose to require either remediation of road repairs upon completion of the project or is authorized to collect fees for oversized load permits. Further, a corporate financial surety in an amount to be fixed by a professional engineer may be required by the Fayette County Highway Superintendent to insure the county that future repairs are completed to the satisfaction of the unit of local government. The cost of financial surety is to be paid by the applicant. Road Use and Maintenance Agreement and financial surety must be in place prior to issuance of Improvement Location Permit.

Insert new provisions to SECTION 153.24: SPECIAL EXCEPTIONS, (E) Special Exceptions and Districts Where They May Be Permitted. (68) Solar Energy, large Scale and Solar Farms, and (F) Other Requirements for Special Exceptions, (68) Solar Energy, large Scale and Solar Farms.

INSERT THE FOLLOWING.

SECTION 153.24: SPECIAL EXCEPTIONS

(E) Special Exceptions and Districts Where They May Be Permitted.

(68) Solar Energy, large Scale and Solar Farms

NO.	SPECIAL EXCEPTION	DISTRICT(S) IN WHICH USE MAY BE PERMITTED
(68)	Solar Energy, large Scale and Solar Farms	RS, A1, A2, I-1 and I-2

(F) Other Requirements for Special Exceptions, (68)

(68)	Solar Energy, large Scale and Solar Farms See Section 153.23 Contingent Uses. Paragraph (D) Solar Energy Systems for Special Exception requirements

SECTION 2. SEVERABILITY

IF ANY SECTION OF THIS ORDINANCE SHALL BE HELD INVALID BY A COURT OF COMPETENT JURISDICTION, ITS INVALIDITY SHALL NOT AFFECT ANY OTHER PROVISIONS OF THIS ORDINANCE THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID PROVISION, AND FOR THIS PURPOSE, THE PROVISIONS OF THIS ORDINANCE ARE HEREBY DECLARED TO BE SEVERABLE.

SECTION 3. EFFECTIVE DATE

THIS ORDINANCE SHALL BE EFFECTIVE WITHIN THE UNINCORPORATED AREAS OF FAYETTE COUNTY, INDIANA, UPON ITS ADOPTION BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY, INDIANA AS PROVIDED IN I.C. 36-7-4.

PASSED, ORDAINED AND ESTABLSIHED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY, INDIANA THIS 6TH **DAY OF** SEPTEMBER**, 2022.**

BOARD OF COMMISSIONERS

FAYETTE COUNTY, INDIANA

Dale L. Strong

DALE STRONG, PRESIDENT

Tracie Bever

TRACIE BEVER, VICE-PRESIDENT

Dale Munson

DALE MUNSON

ATTEST: Jane E. Downard

JANE DOWNARD, AUDITOR