

POSEY COUNTY, INDIANA BOARD OF COMMISSIONERS
ORDINANCE NO 2021-04-20-03

UNINCORPORATED POSEY COUNTY, INDIANA

Ref# 202001057
AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF MOUNT
VERNON, THE TOWN OF CYNTHIANA, THE TOWN OF POSEYVILLE AND
UNINCORPORATED POSEY COUNTY CHAPTER 153-ZONING CODE, SECTION 153.120
SOLAR ORDINANCE AND SECTION 153.130 WIND ORDINANCE

Be it ordained by the Posey County Commissioners, Posey County, Indiana that The Zoning Ordinance of the City of Mount Vernon, the Town of Cynthiana, the Town of Poseyville and Unincorporated Posey County, Section 153.120 Solar Ordinance and Section 153.130 Wind Ordinance be amended as follows:

Changes to the ordinances are identified as follows: new language added is underlined and language to be omitted is ~~strikeout~~.

I. Section 153.134.02(E) and Section 153.124.02(E)

E. COORDINATION WITH APPLICABLE ENTITIES. The Applicant shall submit a summary report identifying the entities the Applicant has communicated and coordinated with respect to the project. The report shall list the entity name, the primary contact person at the entity and contact information, the dates of coordination and list of documents submitted to each agency. The report shall also transmit any comments, suggestions, concerns, approvals, or disapprovals with respect to the project issued by the entity and/or communicated to the Applicant. The following entities and any other entities identified by Executive Director of the APC as applicable to the Applicant shall be contacted:

II. Add Section "H" to 153.134.03 and 153.124.03 as follows:

H. The Applicant states that the reports submitted for preliminary development plan approval remain true and correct and there has been no change in the project design that would require the Applicant to resubmit the project for coordination with applicable entities.

III. Solar Ordinance Section 153.126.03(A):

No part of the project shall be constructed in any ~~required setback~~, dedicated public easement or dedicated public right-of-way without prior written authorization from the County Commissioners.

IV. Solar Ordinance Section 153.126.03(B):

No solar panel may be located less than One Hundred (100) feet from any Non-Participating landowner property line or less than fifty (50) feet from a public right of way. No solar panel may be located less than Three Hundred (300) feet from the leading edge of a Non-Participating residence. No solar panel may be located less than Five Hundred (500) feet from the leading edge of any public building, the property line of a public recreational area, or the property line of a public, private or parochial school. Setbacks for solar panels between Participating landowners shall conform to the zoning district requirements.

V. Solar Ordinance Section 153.126.03(G)

Allowed Variances. Variances may only be granted for relief from 153.126.03 (B). However, the variance application must include an executed agreement between the applicant and all participating and non-participating landowners affected by the requested variance prior to consideration of the variance request by the Board of Zoning Appeals and if approved, the variance must be recorded on the property records with the Posey County Recorder's Office.

VI. Add as Solar Ordinance Section 153.126.03(H)

H. The Applicant shall include a Landscape Plan, as part of its preliminary development plan, visual impact mitigation report, or separately. The Landscape Plan shall provide for installation of screening to mitigate the Project's impact on the viewshed(s) from any adjacent Non-Participating residence, public building, public recreational or state/local designated scenic areas or roads, and public, private or parochial school ("Viewshed Screening"). The Viewshed Screening shall consist of a mix of non-invasive evergreen and deciduous trees and hedges planted in at least two offset rows at not less than six(6) feet in height at planting and with an expected growth height sufficient to accomplish the Viewshed Screening purpose. Setback areas required under Section 153.126.03 ("Setback Buffers"), unless continued in a use permitted in the zoning district, shall be planted in native forbes and grasses and may include pollinator gardens as verified by the County Extension Agent. The Landscape Plan shall provide for the maintenance, including controlling invasive species, of the Viewshed Screening and Setback Buffers during the life of the Project. The Viewshed Screening may be located in the Setback Buffer. Any Viewshed Screening located in the Setback Buffer of a public right of way or in a public or utility easement shall conform to safety standards set by the applicable regulatory body.

VII. Solar Ordinance Section 153.126.02(D)

All solar panels and accessory buildings for the project must be fenced in with a fence not less than 7 feet in height, shall not include any barbed or high tensile

wire, shall be of a type compatible with the character of the zoned area, and shall be compliant with applicable NEC standards.

VIII. Solar Ordinance Section 153.127.01(A) as follows:

A. DECOMMISSIONING SECURITY. At the completion of construction but before any commercial operations begins, the Applicant shall secure and provide to the Area Plan Commission a performance bond, surety bond, letter of credit, or other form of financial assurance that is acceptable to the Area Plan Commission (the "Decommissioning Security") equal to 125% of the estimated cost of decommissioning the project pursuant to the Decommissioning Plan. The Decommissioning Security, in computing the estimated cost of decommissioning, shall consider and deduct up to ~~35%~~ 65% of the Net Salvage Value (as defined) of the project. The amount of the Decommissioning Security shall be adjusted annually by January 31 by an amount equal to the increase in the CPI Index. "CPI Index" shall mean the Consumer Price Index for "All Urban Consumers, U.S. City Average, All items," issued by the Bureau of Labor Statistics of the United States Department of Labor, or, if discontinued or no longer published, such other governmental index that most closely matches the manner in which inflation had been previously tracked as selected by the Area Plan Commission. The Decommissioning Plan and Decommissioning Surety shall be reevaluated every five (5) years commencing with the operation of the project by a licensed engineer approved by the Area Plan Commission and qualified to provide an estimate of the cost of decommissioning of the project and the Net Salvage Value of the project (the "Decommissioning Engineer"). A new Decommissioning Security in the revised amount, if any, shall be provided within sixty (60) days of the approval of the updated Decommissioning Plan.

IX. This Ordinance shall be in full force upon its passage.

ORDAINED AND PASSED by the Posey County Commissioners, Posey County, Indiana, this 20th day of April, 2021.

POSEY COUNTY COMMISSIONERS
POSEY COUNTY, INDIANA

Bill Collins
William Collins

Randy Thosnburg

Carl A. Schmitz
Carl A. Schmitz

ATTEST: Maegen L. Greenwell
Maegen Greenwell, Auditor