

Proposed amendments to the Pulaski County UDO regarding Solar Energy Systems and Small Wind Energy Facilities/Micro WECS/Non-Commercial WECS: PROPOSED UPDATED/AMENDED LANGUAGE

	Proposed use-table reference										
	A-1	A-2	R-R	R-1	C-1	C-2	L-I	H-I	R-D	P-D	STANDARDS
CSES*	S	S	X	X	X	X	X	X	X	P	4.2,F,6,a
(*Commercial Solar Energy System)											4.3.D.6.a.

(In other words, only allow *commercial/industrial solar "farms"* in Ag. zones (Special Exception) and Planned Unit Developments (per PUD plans). Per Accessory Uses section and table, small-scale, personal-power-use solar panels are permissible in most districts pursuant to this ordinance.)

Proposed 4.2.F.6.a text, page 110

a. Commercial Solar Energy System. An industrial-scale group or series of photo-voltaic (or solar) panels placed to convert solar radiation into usable direct current electricity and provide that electricity to a use on-site or to the larger electrical network, Refer to Chapters 7 and 8 of this ordinance, "Wind Energy Convergence and Solar Energy Systems," for detailed definitions and descriptions, policies and procedures, regulations and requirements, and expectations."

Proposed 4.3.D.6.a text, page 120

a. Commercial Solar Energy System (CSES). A CSES use shall comply with the following standards:

- 1) Be on a site of at least FIVE acres in area;
- 2) Meet all of the definitions and descriptions, policies and procedures, regulations and requirements, and expectations set forth in Chapters 7 and 8 of this ordinance, "Wind Energy Convergence and Solar Energy Systems."

Proposed regulations pertaining to small-scale, personal-power-use solar panels ("Solar Energy Equipment"), 4.4.C.15

"Refer to Section 7.13 of this ordinance, 'Regulations on Accessory Use SES.'" (Rules for Stable accessory use become 4.4.C.16.)

Proposed table 4.2, "Table of Common Accessory Uses"

Remove "Wind Energy Facility, Small", as this is redundant relative to Table 4.1 inclusion of Micro WECS and Non-Commercial WECS.

Proposed 4.4.C.16, "Stable" (accessory use) (per note above re: small-scale solar equipment)

Incorporate language in current 4.4.C.16.a, and b. into Section 7.2, "Regulations" to limit turbines to one per principal use and to prohibit turbines in front yards. Remove remainder of current 4.4.C.16 language, as it is redundant.

Proposed name of section 7

"Wind Energy Convergence and Solar Energy Systems"

N.b.: This change requires renaming the section in the table of contents and renaming subsections within Section 7 to clarify distinction between wind rules and solar rules.

Proposed 7.1, “General Information”

A. Purpose. The purpose of this section is to:

2. Assure that any development and production of wind- OR SOLAR-generated electricity in Pulaski County is safe and effective;
4. ~~Promote the supply of wind energy in Support of Indiana’s alternative energy EFFORTS AS A SOURCE OF INCREASED ENERGY SUPPLY AND AS AN sources potential and other such~~ economic development tools.

B. Intent. The intent of this Ordinance is to provide a regulatory scheme for the construction and operation of Wind Energy Convergence Systems (WECS) AND SOLAR ENERGY SYSTEMS (SES) in the county....

C. Applicability.

1. The provisions of this Section are applicable to those districts which allow WECS AND/OR SES, govern the siting of WECS, SES, and substations that generate electricity to be sold to wholesale or retail markets, or that generate electricity for private use. A reasonable attempt shall be made to notify all property owners within the defined area of the WECS OR SES project prior to making application for a WECS or SES permit. Notification may be done by media, separate mailings, or through the public notice requirements prescribed by IC 5-3-1 as amended from time to time. Said notice shall inform land owners of the intent to build a ~~Commercial~~ WECS and/or ~~wind farm~~ SES.

D. Prohibition.

1. No applicant shall construct, operate, or locate a WECS or SES within Pulaski County without having fully complied with the provisions of this Ordinance.

F. Definitions.

1. All definitions for WECS AND SES are located within Section 8, Definitions.

Proposed Section 7.6: “WECS Setback Requirements”

Proposed Section 7.2, “GENERAL Regulations”

A. Location.

1. Non-commercial, micro-WECS, AND SES will be permitted, or not permitted, in various districts as prescribed in Section 4, Use Standards, SPECIFICALLY AS DETAILED IN TABLES 4.1 AND 4.2
2. NEITHER WECS NOR SES MAY BE LOCATED WITHIN THE FRONT YARD OF A PROPERTY UPON WHICH A PRIMARY-USE STRUCTURE SITS. (I.E., THEY MAY NOT BE CONSTRUCTED BETWEEN A PRINCIPAL BUILDING AND ANY STREET FRONTING THE LOT.) ADDITIONALLY, ROOF-MOUNTED SES SHOULD BE INSTALLED ON THE REAR-FACING SIDE OF THE ROOF, OR ON THE BACK HALF OF ROOVES THAT RUN PERPENDICULAR TO THE FRONTING STREET, BUT THE ADMINISTRATOR MAY WAIVE, PARTIALLY OR FULLY, THIS RESTRICTION WHEN SOLAR TILES ARE USED IN PLACE OF ROOFING OR OTHER CONSTRUCTION MATERIALS.

B. Height.

1. Any non-commercial WECS or meteorological tower greater than two hundred (200) feet in height shall require a special exception use permit. No Micro-WECS shall exceed sixty (60) feet in height. ALL BULIDING- AND ROOF-MOUNTED SES SHALL MEET THE HEIGHT RESTRICTIONS APPLICABLE TO THE DISTRICT IN WHICH THEY ARE BUILT, PURSUANT TO SECTION 3 OF THIS ORDINANCE, “ZONING DISTRICTS.” GROUND- AND POLE-MOUNTED SES SHALL NOT EXCEED TWENTY (20) FEET IN HEIGHT AT MAXIMUM TILT.

C. Horizontal Extension.

1. The furthest horizontal extension of a WECS (including guy wires) OR SES shall not extend into a required setback by the zoning district OR THIS CHAPTER or be closer than twelve (12) feet to any primary structure, or right-of-way easement for any above-ground telephone, electrical transmission or distribution lines.

D. QUANTITY

- 1. TOWERS AND TURBINES SHALL BE LIMITED TO A MAXIMUM OF ONE PER PRIMARY USE.
- 2. THE NUMBER OF SOLAR PANELS CONSTRUCTED FOR AN ACCESSORY-USE/PERSONAL-USE SOLAR ARRAY SHALL BE LIMITED TO THE LARGEST WHOLE-NUMBER QUANTITY OF PANELS REQUIRED TO PROVIDE POWER TO THE PARCEL WHERE INSTALLATION OCCURS. (I.E., IF MEETING POWER DEMANDS REQUIRES 3.4 PANELS, THEN A MAXIMUM OF FOUR (4) MAY BE INSTALLED.) THIS RESTRICTION SHALL APPLY EQUALLY TO GROUND- AND ROOF-MOUNTED PANELS, BUT THE ADMINISTRATOR MAY WAIVE, PARTIALLY OR FULLY, THIS RESTRICTION WHEN SOLAR TILES ARE USED IN PLACE OF ROOFING OR OTHER CONSTRUCTION MATERIALS.

Current Section 7.4	Safety, Design, and Installation Standards
Proposed Section 7.7	Safety, Design, and Installation Standards FOR WECS

Current Section 7.5	Other Applicable Standards
Proposed Section 7.8	Other Applicable WECS Standards

Current Section 7.6	Operation and Maintenance
Proposed Section 7.9	WECS Operation and Maintenance

Proposed Section 7.4

Decommissioning Plan

A. Plan Outline.

- 1. Any WECS ~~thereof~~ OR SES declared to be unsafe by the Pulaski County Building Inspector by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan.

B. EFFECTIVE DATE

- 1. A SIGNED AND EXECUTED PLAN MUST BE IN PLACE PRIOR TO THE START OF CONSTRUCTION.

C. Content.

- 1. A decommissioning plan shall include, at a minimum, language to the following:
 - a. Written assurance guaranteeing that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned; DETAILING HOW FUNDS WILL BE DISTRIBUTED; ENSURING THAT THE COUNTY OR ITS CONTRACTED AGENTS SHALL BE GRANTED ACCESS TO THE SIT, PURSUANT TO REASONABLE NOTICE, TO EFFECT OR TO COMPLETE DECOMMISSIONING; GRANTING THE COUNTY THE RIGHT TO INJUNCTIVE RELIEF TO EFFECT OR COMPLETE DECOMMISSIONING AND THE RIGHT TO SEEK REIMBURSEMENT FROM APPLICANT OR APPLICANT SUCCESSOR FOR DECOMMISSIONING COSTS IN EXCESS OF THE AMOUNT DEPOSITED IN THE ACCOUNT AND TO FILE A LIEN AGAINST ANY REAL ESTATE OWNED BY THE APPLICANT OR APPLICANT SUCCESSOR, OR IN WHICH THEY HAVE AN INTEREST, FOR THE AMOUNT OF THE EXCESS, AND TO TAKE ALL STEPS ALLOWED BY LAW TO ENFORCE SAID LIEN.

- b. The applicant shall provide a contractor cost estimate for demolition and removal of the WECS OR SES facility. The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience
- c. ~~Applicant will provide~~ Financial assurance in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, ~~letter of credit~~, ESCROW DEPOSIT, or other security acceptable to the County, for the cost of decommissioning each tower OR SOLAR ARRAY and related improvements constructed under the permit. Said security will be released when each tower OR SOLAR ARRAY, AND RELATED IMPROVEMENTS ARE is properly decommissioned as determined by the Pulaski County Building Commissioner. **The applicant will have the financial assurance mechanism in place prior to the start of the construction and will re-evaluate the decommissioning cost and financial assurance at the end of years five, ten, and fifteen. Every five years after the start of construction, updated proof of acceptable financial assurance will be required prior to the start of commercial operation.**
- d. A DESCRIPTION OF THE MEANS BY WHICH DECOMMISSIONING/DEMOLITION WILL OCCUR AND THE TIMELINE FOR SUCH WORK.

D. Discontinuation and Abandonment.

- 1. All WECS and SES shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Pulaski County Building Department outlining the steps and schedule for returning the WECS or SES to service WITHIN TWENTY-FOUR MONTHS OF THE INITIAL CESSATION OF OPERATIONS. **If such a PLAN FOR RENEWAL OF OPERATIONS is not made to Pulaski County's satisfaction, the decommissioning must be initiated eighteen months after the CESSATION OF OPERATIONS.**
- 2. In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the Pulaski County Building Department representing that all easements for wind turbines OR SOLAR ARRAYS shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within one (1) year of expiration or earlier termination of the project.

E. Removal.

- 1. An applicant's obligations shall include removal of all physical material pertaining to the project improvements ON THE GROUND AND to no less than a depth of four (4) feet below ground level within three hundred sixty-five (365) days of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of such improvements by the owner, or by Pulaski County at the owner's expense. **ANY HAZARDOUS MATERIALS SHALL BE REMOVED IN ACCORDANCE WITH FEDERAL AND STATE LAW.**

F. Written Notices.

- 1. Prior to implementation of the existing procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the owner and/or operator, setting forth the alleged default(s). Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, for good faith negotiations to resolve the alleged default(s).

G. Costs Incurred by the County.

- 1. If the County removes a tower OR SOLAR ARRAY and appurtenant facilities, it may sell the salvage to defray the costs of removal. By approval, the permitted or grantor grants a license to Pulaski County to enter the property to remove a tower OR SOLAR ARRAY pursuant to the terms of an approved decommissioning plan.

H CONTINUITY OF DECOMMISSIONING PLAN.

- 1. The terms of the Decommissioning Plan shall be binding upon the owner/operator and any of their successors, assignees, or heirs, and the Plan's language shall reflect this.

Proposed 7.3, "Liability"

- A. The owner or operator of any WECS or SES shall maintain a current general liability policy covering bodily injury and property damage and may be required to name Pulaski County as an additional insured with dollar amount limits per occurrence, in the aggregate, and a deductible, which is suitable to the County. Home owners that have electrical power generating equipment of 10 kw or less on their property are required to carry \$100,000.00 of liability insurance. The owner of any electrical power generating equipment over 10 kw that is directly connected to the local utility provider is required to carry liability insurance with LIMITS OF A MINIMUM OF \$2-MILLION PER OCCURRENCE AND \$5-MILLION IN AGGREGATE, WITH A DEDUCTIBLE OF NO MORE THAN \$5,000.**

- B. THE APPLICANT, OWNER, AND/OR OPERATOR OF THE SES SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS PULASKI COUNTY AND ITS OFFICIALS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, SUITS, CAUSES OF ACTION, DAMAGES, INJURIES, COSTS, EXPENSES, AND LIABILITIES WHATSOEVER, INCLUDING ATTORNEY'S FEES, WITHOUT LIMITATION, ARISING OUT OF ACTS OR OMISSIONS OF THE APPLICANT, OWNER, AND/OR OPERATOR ASSOCIATED WITH THE CONSTRUCTION AND/OR OPERATION OF THE SES.**

Proposed 7.5, "Application Procedures"

- A. Permits and variances shall be applied for and reviewed under the procedures established by this UDO and the application procedures application for a ~~Commercial~~ WECS OR SES Improvement Location Permit.**
 - 1. See section 2.3.Q, "Applications for All Wind Energy Conversion Systems (WECS)", for application procedures.
 - 2. SEE SECTION 2.3.R, "APPLICATIONS FOR ALL SOLAR ENERGY SYSTEMS (SES)," FOR APPLICATION PROCEDURES.

(This will require making the current R become S, etc., within 2.3.)

Current Section 7.10	Pre-Construction Requirements
Proposed Section 7.10	WECS Pre-Construction Requirements
Current Section 7.11	Construction Requirements
Proposed Section 7.11	WECS Construction Requirements
Current Section 7.12	Post-Construction Requirements
Proposed Section 7.12	WECS Post-Construction Requirements
