

SECTION 13—SOLAR FARMS AND FACILITIES

13.01 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 Montgomery 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.

13.02 Permitted Districts. Solar energy systems, solar farms and facilities are allowed only in the Agriculture and Industrial Zoning Districts.

13.03. Exemptions. Solar devices which are part of the structure of a residence or business or part of the permitted yard of a residence or business and which are designed to provide electrical power, heating or cooling, or water heating only for the residence or business are exempt from this regulation.

13.04 Setbacks: All ground-mounted solar panels or arrays must be at least thirty (30) feet from any property line, at least one hundred (100) feet from the center of any road, street, highway, alley or public way, and at least two hundred (200) feet from the property line if adjoined by property that is zoned residential. When the solar facilities for a single project encompass multiple parcels, there is no required setback from a property line for the internal property lines in the project. Security fencing, access roads, and distribution poles and wires may be located within the set-backs but may not be located in a road right-of-way.

13.05 Height Limitations: Ground-mounted solar panels or arrays may not exceed twenty (20) feet in height as measured from the natural grade to the top of the panel or array when at its highest position.

13.06 Permits. Each property owner must obtain a solar farm permit prior to constructing, operating or maintaining a solar energy system, farm or facility. In order to obtain a permit, the applicant must submit to the Zoning Administrator a conceptual site plan which includes the general footprint of the solar energy system, farm or facility the number of panels, the generating capacity, the location of all fences, electrical poles and lines, the location of all other equipment and structures, the location of any and all underground electrical lines, facilities and structures, the location of all access roads, rights-of-way and easements, drainage plan for the site which complies with the Montgomery County Storm Water Ordinance, a road use plan for construction, specifications for equipment, compliance with all applicable industry standards and safety codes,

Federal Aviation Administration rules and regulations, and Federal Communications Commission rules and regulations. Within 15 days of receipt of an application for a permit, the Zoning Administrator will determine whether the application is complete. The Zoning Administrator will notify the applicant in writing of his determination. If the application is complete, the application will be reviewed by the Zoning Administrator and then by the Plan Commission as a request for a development plan review, as provided for in Section 13. If the application is not complete, the applicant must provide to the Zoning Administrative the supplemental information within sixty (60) days. If the applicant fails to provide the supplemental material for the application in a timely manner, the application will be dismissed.

13.07 Issuance of Permit: If the applicant has satisfied all of the requirements of this Ordinance, the Subdivision Control Ordinance, and all other applicable ordinances, rules and regulations, the Zoning Administrator will issue an improvement location permit.

13.08 Permit Fee: At the time of submission, the applicant will submit to the Zoning Administrator a nonrefundable fee in the amount of \$500.00, plus the following additional fee for solar energy systems, farms or facilities that are more than one hundred (100) acres:

Acres	Additional Fee
100+ to 200	\$50
200+ to 300	\$100
300+ to 400	\$150
400+ to 500	\$200
500+ to 600	\$250
600+ to 700	\$300
700+ to 800	\$350
800+ to 900	\$400
900+ to 1,000	\$450
1,000+	\$500

13.09 Fencing: All solar energy systems, farms and facilities shall be surrounded by a security fence not less than eight (8) feet in height and not more than twelve (12) feet in height in order to prevent unauthorized access. All gates will be locked. The applicant will place a sign, not to exceed eight square feet in area, which contains the name and address of the operator and an emergency telephone contact number for the operator.

13.10 Exterior Lighting. All exterior safety lighting will be developed in a manner which precludes light trespass onto adjoining parcels and which is limited to the amount of light needed for maintenance, safety and security.

13.11 Legal Drains: No solar energy system, farm or facility may encroach upon the seventy-five (75) easement of any legal drain or ditch. If the construction of the solar energy system,

farm or facility requires the relocation of any legal drain or ditch, such relocation must be approved by the Montgomery County Drainage Board.

13.12 Private and Mutual Drains: No solar energy system, farm or facility may encroach upon any private or mutual drain or ditch. If the construction of the solar energy system, farm or facility requires the relocation of any private or mutual drain or ditch, such relocation must be approved by the parties to the private or mutual drain or ditch, performed at the expense of the operator, and relocated in a manner so as not to materially impede the function of the drain or ditch. This obligation to refrain from encroaching upon any private or mutual drain or ditch continues and applies even if the encroachment is discovered after construction of the project.

13.13 Damage to Roads: The applicant will be allowed to use County roads to transport equipment, materials and supplies to the location for construction. Prior to the issuance of a permit, the applicant must provide to the Zoning Administrator a road use plan. This plan must be approved by the Zoning Administrator and the County Highway Superintendent. The applicant will be responsible for any road and ditch damage caused by the applicant during construction and operations. In order to ensure the applicant's financial responsibility, the applicant must provide to the County a bond, letter of credit or other surety in an amount determined by the County Engineer to be sufficient to cover the expense of remediation of damages. The amount of the bond, letter of credit or other surety required must be the County Engineer's estimate of road damages caused during the construction of solar projects. If the applicant disagrees with the determination by the County Engineer of the amount of the bond, letter of credit or other surety, the applicant may appeal this determination to the Board of Zoning Appeals. This bond, letter of credit or surety must be in an amount and in a form acceptable to the Zoning Administrator. After construction of the project, the County Engineer will inspect the roads and ditches contained in the road use plan and determine whether damage has resulted because of the applicant's project. If the County Engineer finds that such damage has occurred, the Engineer will provide written notice to the applicant of the estimated cost of the remediation. The County will cause the remediation to occur, and the Engineer will certify to the applicant the expense of the remediation. The applicant will pay to the County the certified amount within sixty (60) days of receipt of the notice of the certified amount. If the applicant fails to timely pay the remediation expense, the County will be entitled to file a claim with the bond company or holder of the letter of credit or other surety and be paid from the bond, letter of credit or other surety.

13.14 Enforcement: In the event of a violation of this Section, the Zoning Administrator may enforce the Ordinance using the rights and remedies provided for in Section 5.04 of the Zoning Ordinance.

THIS IS THE LAST PAGE OF TEXT FOR THE MONTGOMERY COUNTY ZONING ORDINANCE.

“I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.”

Name: Daniel L. Taylor

APPENDIX A

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**TABLE A
USE TABLE**

**A, AGRICULTURE DISTRICT
PERMITTED USES**

- | | |
|---------------------------------------|--|
| 1. Accessory Uses | 15. Machine & Welding Shops |
| 2. Agriculture & Agriculture Building | 16. Manufactured/Mobile Homes |
| 3. Airports | 17. Mineral Excavations |
| 4. Bed & Breakfast | 18. Private Air Strips |
| 5. Cemeteries | 19. Private Clubs & Camps |
| 6. Churches | 20. Public Parks & Playgrounds |
| 7. Commercial Recreational Uses | 21. Recycling Collection Points |
| 8. Essential Services | 22. Riding Stable |
| 9. Farm Equipment Sales & Service | 23. Schools; Public & Parochial |
| 10. Fertilizer, Sales & Storage | 24. Single-Family Dwellings |
| 11. Grain Elevators & Feed Mills | 25. Tanks, Bulk Storage |
| 12. Greenhouses & Nurseries | 26. Telecommunications Facilities |
| 13. Golf Courses | 27. Veterinary Hospitals |
| 14. Home Occupations/Day Care | 28. Confined Feeding Operations |
| | 29. Solar Energy Systems, Farms and Facilities |

**C, COMMERCIAL DISTRICT
PERMITTED USES**

- | | |
|---------------------------------------|-------------------------------------|
| 1. Accessory Uses | 17. Print Shops |
| 2. Automobile sales, service & repair | 18. Private Clubs |
| 3. Churches | 19. Public Parks |
| 4. Cleaning & Laundry plants | 20. Public & Parochial Schools |
| 5. Commercial Recreation Uses | 21. Public Transportation Terminals |
| 6. Commercial Schools | 22. Recycling Collection Points |
| 7. Convenience Stores | 23. Research Laboratories |
| 8. Day Care Centers | 24. Residential, upper-story |
| 9. Drive-In Business | 25. Restaurants |
| 10. Essential Services | 26. Retail Business |
| 11. Farm implement sales & service | 27. Service Stations |
| 12. Funeral Homes | 28. Supply Yards |
| 13. Hospitals & clinics | 29. Theaters |
| 14. Hotels & Motels | 30. U-Store warehouses |
| 15. Machine & Welding Shops | 31. Veterinary Hospitals & Clinics |
| 16. Offices | 32. Wholesale Businesses |

**I, INDUSTRIAL DISTRICT
PERMITTED USES**

- | | |
|---|--|
| 1. Airports | 16. Recycling Centers |
| 2. Asphalt Mixing Plants | 17. Recycling Collection Points |
| 3. Automobile Sales, Service, & Repair | 18. Research & Testing Laboratories |
| 4. Automobile & Truck Body Shop | 19. Service Stations |
| 5. Bulk Fuel Storage | 20. Stockyards & Slaughterhouses |
| 6. Concrete Mixing Plants | 21. Supply Yards |
| 7. Convenience Stores | 22. Tanks, Bulk Storage |
| 8. Essential Services | 23. Telecommunications Facilities |
| 9. Farm Equip. Sales, Service, & Repair | 24. Truck & Railroad Terminals |
| 10. Fertilizer Plants | 25. U-Store Warehouses |
| 11. General Manufacturing | 26. Warehouses |
| 12. Grain Elevators & Feed Mills | 27. Water & Sewage Treatment Plants |
| 13. Machine and Welding Shops | 28. Wholesale Business |
| 14. Mineral Excavation | 29. Micro Wind System or tower |
| | 30. Solar Energy Systems, Farms and Facilities |

**I, INDUSTRIAL DISTRICT
SPECIAL EXCEPTION USES**

1. Wind Turbines
2. WECS
3. Sanitary Landfill
4. Waste Transfer Station
5. Meteorological Testing Towers more than 120 feet in height

**R, RESIDENTIAL DISTRICTS
PERMITTED USES**

- | | |
|-------------------------------|---------------------------------|
| 1. Accessory Uses | 11. Multi-family Dwellings |
| 2. Bed & Breakfast | 12. Nursery Schools |
| 3. Churches | 13. Nursing Homes/Asst living |
| 4. Condominiums | 14. Public Parks & Playgrounds |
| 5. Essential Services | 15. Public & Parochial Schools |
| 6. Funeral Homes | 16. Recycling Collection Points |
| 7. Home Occupations/Day Care | 17. Residential Subdivisions |
| 8. Garden Homes | 18. Single-Family Dwellings |
| 9. Duplexes | 19. Two-Family Dwellings |
| 10. Manufactured/Mobile Homes | |

ARTICLE 3 – PLAN COMMISSION

3.01 ADVISORY PLAN COMMISSION: The Montgomery County Board of Commissioners previously adopted Ordinance 2006-06 (amended by Ordinance 2006-20 and Ordinance 2008-9) in order to establish the Montgomery County Advisory Plan Commission. The Plan Commission has the authority to conduct public hearings and make recommendations to the Montgomery County Board of Commissioners regarding the adoption and amendment of the Comprehensive Plan, applications for amendments to the zoning maps (rezones), applications for adoption or amendment of a Planned Unit Development district ordinance, amendments to the Subdivision Control Ordinance, and the adoption and amendment of this Zoning Ordinance. The Plan Commission also has the authority to grant waivers from the requirements of the Subdivision Control Ordinance if such waivers are specifically authorized in the Subdivision Control Ordinance. The Plan Commission also has the authority to conduct public hearings and make determinations and decisions regarding plats, replats, amendments, and vacations of plats, and other matters as provided for in the Montgomery County Zoning Ordinance and Subdivision Control Ordinance. The adoption of this Ordinance supplements the ordinances previously adopted by the Board of County Commissioners.

3.02 DUTIES AND POWERS: The Plan Commission will have all of the authority, powers, duties and responsibilities provided by this Ordinance and Indiana Code §36-7-4-200 series, 36-7-4-300 series, and 36-7-4-400 series.

3.03 COMPOSITION: The Plan Commission consists of nine (9) members, appointed as follows:

- (A) One member appointed by the Board of County Commissioners from its membership;
- (B) One member appointed by the County Council from its membership;
- (C) The County Surveyor or the Surveyor's designee, as long as the Surveyor's designee is a resident of Montgomery County;
- (D) The County Extension Educator, so long as the Educator is a resident. If the Educator is not a resident of Montgomery County, he or she may serve on the Commission to and until October 1, 2021. Thereafter, the County Extension Board will select a resident of Montgomery County who is a property owner with agricultural interest to serve on the Commission, and the non-resident Educator will serve the Commission in a nonvoting advisory capacity;
- (E) Five citizen members appointed by the Board of County Commissioners. Of these citizen members, not more than three may be from the same political party. Each of these five citizen members must be either a resident of the unincorporated area of the County or a resident of the County who is also the owner of real property located in whole or in part in the unincorporated area of the County. However, at least three of these citizen members must reside in the unincorporated area of the County.

3.04 CITIZEN MEMBER ELIGIBILITY: Each citizen member of the Plan Commission will be appointed because of the member's knowledge and experience in community affairs, the member's awareness of the social, economic, agricultural, and industrial problems of the area, and the member's interest in the development and integration of the area. A citizen member may not hold an elective office, as defined by Indiana Code §3-5-2-17, or any other appointed office in municipal, county, or state government, except for membership on the Board of Zoning Appeals as required by Indiana Code §36-7-4-902

3.05 TERMS: The member appointed by the Board of County Commissioners from its membership and the member appointed by the County Council have has a term of office that is coextensive with the members' term of office on the appointing authority Board unless the appointing authority Board appoints another of its members to serve at the Board's first regular meeting of the year. The Surveyor's term is coextensive with the member's term of office. The County Extension Educator's term is coextensive with the member's term of office. A property owner appointed by the County Extension Board when the Educator is not a resident of Montgomery County has a term of one (1) year. All citizens members have four-year terms. These terms expire on the first Monday of January of the fourth year after the member's appointment.

3.06 REMOVAL: The appointing authority may remove a member of the Plan Commission for cause. If the appointing authority wishes to remove a member, the authority must mail notice to the member at the member's residential address. This notice must state the reasons for the removal. A member who is removed may, within 30 days after receiving the notice of removal, appeal the removal to the circuit court or superior court of Montgomery County.

3.07 VACANCIES: If a vacancy occurs among the Plan Commission members who are appointed, then the appointing authority will appoint a new member to serve the unexpired term of the vacating member. The new member must meet the same requirements as the vacating member, including residency requirements. The appointing authority must appoint this new member within 90 days after the vacancy occurs. If a vacancy occurs in the Office of the County Surveyor while the Surveyor is serving on the Plan Commission, the County Engineer will participate with the Plan Commission during the time the Office of Surveyor is vacant. During this time, the County Engineer has all the powers and duties of a regular member.

3.08 ABSENCES: A member who misses three consecutive regular meetings of the Plan Commission may be treated by the appointing authority, in its discretion, as if the member has resigned.

3.09 RULES OF PROCEDURE: The Plan Commission has the authority to adopt rules of procedure for the proper administration of the Zoning Ordinance, Subdivision Control Ordinance and its other statutory duties and responsibilities.

- CC. SET BACK:** The distance between the right-of-way of a public way and a principal and/or accessory structure.
- DD. SOLAR ENERGY SYSTEMS, FARMS AND FACILITIES:** Any solar collector or other solar energy device, group of devices (solar array, solar farm or solar distribution facility), or structural design feature of a building whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, water heating.
- EE. SPOT ZONING:** The process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners. The extension or expansion of an adjacent area of a zoning classification shall not be construed as spot zoning.
- FF. SUPPLY YARD:** A commercial establishment storing or offering for sale wholesale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. A supply yard does not include the wrecking, salvage, cannibalizing, dismantling, or storing of automobiles or similar vehicles.
- GG. USE:** The purpose or activity for which the lot, parcel, tract, building, or structure thereon is designated, arranged, or intended, or for which it is occupied or maintained.
- HH. WATER & SEWAGE TREATMENT PLANT:** A building, structure or facility where water and/or sewage are treated and processed for the health and safety of the public by either a Legislative Body or private enterprise.
- II. WIND ENERGY CONVERSION SYSTEM (WECS):** The equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, wind tower, transformer, turbine, vane, wind farm collection system, wire, or other component used in the system.
- JJ. WIND FARM:** Two or more large or small wind systems on a single property or aggregated properties for the purpose of converting and then storing or transferring energy from the wind into usable forms of energy.
- KK. WIND FARM COLLECTION SYSTEM:** All the low-voltage wiring and cabling connecting any wind turbine with another wind turbine or to a place where voltage is stepped up, commonly known as a substation or switching

Article 12 – FEE SCHEDULE

12.01 FEE SCHEDULE: The following fees are required for applications pursuant to the Zoning Ordinance:

Item	Type of Application	Fee	Other
1	Rezone	\$300 for 2 acres or less; \$300 plus \$25 for each additional acre in excess of 2 acres	(1) Certified mail (return receipt requested) postage to all adjacent and other property owners, as required by zoning ordinance or Indiana law – paid by applicant to postal service; and (2) Publication of Notice of public hearing in the <i>Journal Review and The Paper 24-7</i> – paid by applicant to newspapers.
2	Variance	\$200	(1) Certified mail (return receipt requested) postage to all adjacent and other property owners, as required by zoning ordinance or Indiana law – paid by applicant to postal service; and (2) Publication of Notice of public hearing in the <i>Journal Review and The Paper 24-7</i> – paid by applicant to newspapers.
3	Special Exception	\$200	(1) Certified mail (return receipt requested) postage to all adjacent and other property owners as required by Indiana law – paid by applicant to postal service; (2) Publication of notice of public hearing in the <i>Journal Review and The Paper 24-7</i> – paid by applicant to newspapers.
4	CFO	\$500	(1) Certified mail (return receipt requested) postage to all property owners required by zoning ordinance – paid by applicant to postal service.
5	Planned Unit Developments (original and amendments)	\$750	(1) Certified mail (return receipt requested) postage to all adjacent and other property owners as required by Indiana law – paid by applicant to postal service; and (2) Publication of notice of public hearing in the <i>Journal Review and The Paper 24-7</i> – paid by applicant to newspapers
6	Stormwater Review, traffic study, fiscal study or other required study	Cost of Study to County	Paid by applicant directly to reviewing engineer or engineering firm, traffic engineer or traffic engineering firm, fiscal consultant or other consultant.
7	Solar Energy System, Farm or Facility Permit	\$500 for projects of 100 acres or less; \$550 for projects of more than 100 acres but not more than 200 acres; \$600 for projects of more than	

		<p>200 acres but not more than 300 acres; \$650 for projects of more than 300 acres but not more than 400 acres; \$700 for projects of more than 400 acres but not more than 500 acres; \$750 for projects of more than 500 acres but not more than 600 acres; \$800 for projects of more than 600 acres but not more than 700 acres; \$850 for projects of more than 700 acres but not more than 800 acres; \$900 for projects more than 800 acres but not more than 900 acres; \$950 for projects more than 900 acres but not more than 1,000 acres; \$1,000 for projects more than 1,000 acres.</p>	
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