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54.247.1 PURPOSE AND INTENT

A. Purpose

1. The purpose of the Solar Energy Systems Siting Regulations is to promote the safe, effective, and appropriate development and production of solar-generated electricity within the jurisdiction of the Wayne County, Indiana, Advisory Plan Commission (APC) by the development of standards for solar generated energy. To achieve this goal, these regulations: a) encourage utilization of natural resources and ecologically sound energy sources, b) support Indiana's alternative energy sources potential, and c) maintain economic opportunities for local residents.

B. Intent

1. The intent of the Solar Energy Systems Siting Regulations is to provide a regulatory plan for the development, construction and operation of solar energy systems (SES) within the jurisdiction of the APC; to establish reasonable guidelines and restrictions on SES development, construction, operation, rehabilitation, and decommission (including site restoration); and to preserve the health, safety and general welfare of local residents and the general public, in accordance with the Wayne County, Indiana Comprehensive Plan.

54.247.2 APPLICABILITY

- A. The provisions of 54.247 are applicable to those zoning districts that allow or may allow a solar energy system (SES). See Appendix A.
- B. Provisions of 54.247 that are specifically applicable to a noncommercial solar energy system (SES-NC) shall apply to an SES-NC only.
- C. Provisions of 54.247 that are specifically applicable to a commercial solar energy system (SES-C) shall apply to an SES-C only.
- D. Provisions without reference to a specific type of SES shall apply to either type of SES, unless determined otherwise by the Plan Administrator of the APC.
 1. The Administrator may, upon proper notice, assign any question – in general or specific to an SES application – for discussion and/or instruction from the APC and/or the BZA.
 2. An applicant for a SES may appeal the requirement, decision, or determination of the Administrator in the manner prescribed by applicable Rules of the BZA, the Zoning Ordinance, and statute(s).
- E. When any part of the development, construction, rehabilitation, operation, decommissioning, or restoration of a SES requires action, recommendations, hearing and/or decision pursuant to the provisions of the Wayne County zoning ordinance, notice shall be given pursuant to the Zoning Ordinance and the applicable By-Laws of the Advisory Planning Commission of Wayne County, Indiana (APC) and the Rules of Procedure (Rules) of the Board of Zoning Appeals of Wayne County, Indiana (BZA).

54.247.3 EXEMPTIONS

- A. An SES-NC with an aggregate collection area of 8 square feet or less is exempt from this ordinance.
- B. An SES constructed prior to the effective date of 54.247 shall not be required to meet the terms and conditions of this Ordinance.
 1. Any physical modifications to an existing SES – even an SES existing prior to the effective date of 54.247 – that materially alters the SES shall require approval under this ordinance.

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2. Routine maintenance or like-kind replacements do not require a permit.

54.247.4 PROHIBITION

- A. No person shall construct, operate, or locate an SES within Wayne County without having fully complied with the provisions of 54.247 and all other applicable provisions of said zoning ordinance and any applicable Rules of the BZA and By-Laws of the APC.
- B. A Concentrated Solar Thermal Power System (CST) is prohibited and is not considered an SES-C for the purposes of this Ordinance.

54.247.5 CONFLICT WITH OTHER REGULATIONS

- A. Nothing in 54.247 is intended to pre-empt other applicable state and federal laws or regulations. Nor shall any provisions of 54.247 interfere with, abrogate, or annul any other ordinance, rule, regulation, statute, or other provision of law.
- B. If any provision of 54.247 imposes restrictions different from any other ordinance, rule, regulation, statute, or provision of law, the provision which is more or most restrictive or which imposes the higher or the highest standard(s) shall take precedence.
- C. Standards specified in 54.247 that conflict with standards found in other Articles of the Wayne County zoning ordinance take precedence, as 54.247 relates to a solar energy system.

54.247.6 DISTRICT REGULATIONS

- A. An SES-NC or an SES-C, as defined in 54.247, is allowed, may be allowed by special exception, or shall not be allowed in zoning districts as prescribed by Appendix A of 54.247.

54.247.7 NONCOMMERCIAL SOLAR ENERGY SYSTEM (SES-NC) GENERAL REGULATIONS

A. PERMITTED ACCESSORY USE

1. A noncommercial solar energy system that meets the requirements of 54.247 is a permitted accessory use in all zoning districts where structures of any sort are allowed. See Appendix A.
2. A solar carport is a permitted accessory use, including on a surface parking lot, in all districts regardless of the existence of another building.

B. SAFETY, DESIGN, AND INSTALLATION STANDARDS FOR A NONCOMMERCIAL SOLAR ENERGY SYSTEM (SES-NC)

1. Interference from Adjacent or Nearby Properties

- a. When selecting a site for solar panels, an applicant shall take into consideration the potential maximum allowable structure height and possible landscaping of the adjacent and nearby properties to avoid interference and potential loss of efficiency from the sun to the solar panel surface.
- b. As part of the application process, a written disclaimer is required acknowledging an issued permit does not imply any solar access rights. See 54.247.7.D “Disclaimer and Solar Easement”.

2. Roof-mounted and Wall-mounted SES-NC

- a. A roof-mounted or wall-mounted SES-NC may be located on a principal or accessory building.
 - i. Any such system shall be installed in accordance with applicable building codes.
- b. A roof-mounted system on a flat roof that is visible from the nearest edge of the building’s front right-of-way shall not be more than five feet in height above the finished roof.

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3. Building-integrated Photovoltaic SES-NC

- a. A building-integrated photovoltaic SES-NC may be utilized in the construction of a principal or accessory building.
- b. Any such system shall be installed in accordance with applicable building codes.

4. Ground Mounted SES-NC

- a. A ground-mounted SES-NC shall not be placed:
 - i. within any legal easement or right-of-way location,
 - ii. within any storm water conveyance system or flood plain,
 - iii. in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system. This includes but is not limited to State, County and privately owned waterways, ditches, drainage tiles, retention areas, and designed swells.
- b. A solar energy system must meet the accessory structure setback for the zoning district and principal land use associated with the lot on which the system is located.
- c. In a nonresidential district, a ground mounted SES-NC shall not exceed 15 feet in height above the ground elevation surrounding the system, when oriented at maximum vertical tilt.
- d. In a residential district, a ground mounted SES-NC shall not exceed 10 feet in height above the ground elevation surrounding the system, when oriented at maximum vertical tilt.
- e. Safety/warning signage as required by applicable law concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures.

5. Variance

- a. In the event any provision in 54.247.7 has the effect of prohibiting the installation of a solar energy system, the applicant shall have the right to petition the BZA for a variance from the development standards.
 - i. A site plan shall be submitted with the variance request.

6. Electrical Components Standards

- a. Electrical system components of an SES-NC shall conform to applicable Local, State and Federal safety codes for similar SES-NCs.
- b. Electric system components of an SES-NC shall have an Underwriters Laboratory (UL), or equivalent listing and a solar hot water system must have a Solar Rating & Certification Corporation (SRCC) or equivalent rating.
- c. All on-site utility, transmission lines, and plumbing shall be placed underground to the extent feasible.
- d. 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 and maintained as required by applicable law.

7. Utility Interconnection

- a. An SES-NC, if interconnected to a utility system, shall meet the requirements for interconnection and operate as required by applicable law.

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- i. **NOTE:** Duke Energy requires that the property owner notify Duke that a solar energy system has been installed as it will be noted on the account. Whitewater Valley REMC does not have this requirement.

8. Visibility

- a. Visibility standards do not apply to a system in a non-residential district.
- b. A solar energy system in residential district shall be designed to minimize visual impacts from the public right-of-way to the extent that doing so does not affect the cost or efficacy of the system, consistent with IC 36-7-2-8.
- c. A building-integrated photovoltaic solar energy system is exempt from any visibility standard.

9. Aesthetic Restrictions

- a. A roof-mounted or ground-mounted solar energy system shall not be restricted for aesthetic reasons.
- b. A roof-mounted system on a flat roof is exempt from any screening requirement for aesthetic reasons.

10. Lot Coverage

- a. A ground-mounted system shall meet the existing lot coverage restrictions as defined for the zoning district.

11. Color, Finish, and Glare

a. Color and Finish

- i. To the extent reasonably possible, an SES-NC shall be designed using such features as color, material, texture, screening, and landscaping to blend into its setting and avoid significant visual impact.
- ii. An SES-NC shall remain painted or finished in the color and/or finish that was originally applied by the manufacturer.
- iii. The exterior surface of any visible components shall be a non-reflective, neutral color (e.g., white, gray) or another non-obtrusive color.
- iv. Finishes shall be matte or non-reflective.

b. Glare

- i. To the extent reasonably possible, solar energy panels, regardless how these are mounted, shall be oriented and/or screened year-round so that glare is directed away from adjacent properties and streets.
- ii. An SES-NC using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties, roads, or streets.
- iii. The applicant has the burden of mitigating any glare produced so as not to have significant adverse impact on adjacent land uses. NOTE: Mitigation can be accomplished by panel siting, panel orientation, landscaping and/or other means.)
- iv. The determination of the Plan Administrator, as to an SES-NC's compliance with this standard, shall be conclusive.

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12. Signage

- a. No portion of an SES-NC shall contain or be used to display advertising.
 - i. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of an SES-NC provided it complies with the prevailing Sign Ordinance.
 - ii. Appropriate warning signs will be allowed.

13. Trees and Landscaping

- a. Trees or other landscaping required by a county ordinance or attached as a condition of approval to any non-SES-NC plan, application, or permit shall not be removed for the installation or operation of an SES-NC.

C. PERMIT APPLICATION REQUIREMENTS FOR AN SES-NC

1. Site Plan

- a. An application for a ground-mounted solar energy system requiring an Improvement Location Permit, Building Permit, or other permit from Wayne County shall include a site plan for review and approval.
 - i. The site plan may be a mechanical drawing or hand-drawn sketch, but the plan shall show the location of the proposed system, property lines, lot dimensions, and setback distances, and the height above grade of the proposed system.
- b. Plan approval does not indicate compliance with applicable building codes or electric codes.

2. Engineering Certification

- a. An application for a roof-mounted or wall-mounted SES-NC shall include an engineering certification from a qualified registered professional engineer that the structure to which the solar technology will be affixed will tolerate the installed weight and wind load of said technology.

3. Description of SES-NC

- a. The description of the proposed SES-NC shall include at a minimum the following:
 - i. Type of solar technology (e.g., solar panels, thermal solar, solar shingles)
 - ii. Solar panel mounting technique (e.g., ground-mount, roof-mount)
 - iii. Solar panel installation height (ground-mounted only)
 - iv. Name plate generating capacity
 - v. The means of interconnecting with the electrical grid, if applicable
 - vi. Any accessory structure required by the installation (e.g., equipment shed)

D. DISCLAIMER AND SOLAR EASEMENT

1. Disclaimer

- a. Prior to the issuance of a zoning permit, the applicant(s) must acknowledge - in writing - that the issuing of said permit for a solar energy system shall not and does not create in the property owner, its-his-her-their successors and assigns in title, or create in the property itself:

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- i. the right to remain free of shadows and/or obstructions to solar energy caused by development of adjacent or other properties, or the growth of any trees or vegetation on such property(s); or
- ii. the right to prohibit the development on adjacent or other properties, or the growth of any trees or vegetation on such properties.

2. Solar Easement

- a. This disclaimer is subordinate to any solar easement agreement entered into with another landowner(s).
 - i. A solar easement is a private agreement between landowners and does not fall under the purview of this ordinance.
 - ii. Any term or condition stated in a solar easement agreement that conflicts with any requirement set forth in the Wayne County Zoning Ordinance (e.g., minimum setback requirements, height restrictions) does not supersede the ordinance.
 - iii. See Appendix B – Solar Easements

54.247.8 COMMERCIAL SOLAR ENERGY SYSTEM (SES-C) GENERAL REGULATIONS

A. APPLICABILITY

1. The provisions of 54.247.8 are applicable to those zoning districts that allow or may allow a solar energy system (SES). See Appendix A.

B. SAFETY DESIGN AND INSTALLATION STANDARDS FOR A COMMERCIAL SOLAR ENERGY SYSTEM (SES-C)

1. Horizontal extension

- a. The furthest horizontal extension of an SES-C, excepting the SES-C collection system, SES-C transmission lines, ingress/egress road and SES-C access roads/lanes:
 - i. shall not extend into a setback which is otherwise required for the zoning district in which the SES-C is located, and
 - ii. shall not extend into a setback required for an adjacent zoning district, and
 - iii. shall not be less than fifteen (15) feet from any structure or public right-of-way easement for any above-ground telephone line, electrical transmission line, electrical distribution line or other above ground communication or transmission line.

2. Setback Requirements

a. Minimum Setbacks

- i. The minimum setbacks for an SES-C's above-ground equipment and structures are measured in a straight-line distance from the outer edge of said equipment or structure that is nearest to the point of concern, as defined in Table 1.
- ii. Setbacks apply to solar panels, racking, accessory buildings, and other power equipment. These do not apply to underground cabling, fencing, access roads/lanes or ingress/egress roads.

b. SES-C Substation

- i. The substation setbacks shall be the same as those of an SES-C. An adjacent landowner may waive this set back requirement by execution of a written waiver.

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c. Poles and Underground Wiring

- i. For all poles carrying overhead wiring and for any underground wiring connecting the racks and components of an SES-C and/or to connect an SES-C to a substation for connection to or other direct connection to a utility's electric transmission line, there are no setback requirements from property lines of adjoining landowners so long as the poles and underground wiring are located within a recorded easement for such purpose or within a right-of-way.

d. Ground-mounted SES-C

- i. Ground-mounted SES-C shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system, or floodplain, or in any other manner that would alter or impede storm water runoff from collecting in, and/or conveyance through, and/or discharge from, a constructed storm water conveyance system (including, without limitation any swale, legal drain, water course or drainage tile) except as permitted in writing by the Wayne County Surveyor and/or Wayne County Drainage Board, and/or Floodplain Administrator, and owner of the land and/or right-of-way and/or easement. This would include, but not be limited to, State, County and/or private owned waterways, ditches, drainage tiles, retention areas and designed swells.
 1. Notwithstanding the foregoing, nothing in the preceding paragraph (d.i) shall prevent the replacement, repair, reconstruction and/or relocation of any such water conveyance system as necessary to develop and install the SES-C with any necessary approvals from the County Surveyor and/or County Drainage Board.
- e. Any inverter shall be a minimum of two hundred fifty (250) feet from any dwelling. This requirement shall not be waived.
- f. An ingress/egress entrance into an SES-C shall be no closer than fifty (50) feet to the property line of an adjoining nonparticipating parcel.
 - i. The fifty (50) feet is measured from the edge of the entrance at the road that is nearest to the property line.
- g. An SES-C is not permitted on a parcel of less than 40 acres, nor in residential subdivisions, campgrounds, recreational area, wildlife preserves, and conservation areas.

[See next page for TABLE 1 – MINIMUM SETBACKS]

TABLE 1 MINIMUM SETBACKS	
Straight-line distance from:	Minimum Setback
Nearest outer edge of SES-C's above-ground equipment and structures ¹ to middle of any road bordering the property	Must conform to setback requirement of zoning district but at least 45 feet ²
Nearest outer edge of SES-C's above-ground equipment and structures ¹ to any side or rear property line ^{3,4}	20 feet (Buffer)
Nearest outer edge of SES-C's above-ground equipment and structures ¹ to nearest point of the outer wall of a dwelling or public use building of a nonparticipating property	250 feet
Ingress/egress driveway to any adjoining nonparticipating property	50 feet
<p>¹ e.g., Setbacks apply to solar panels, racking, accessory buildings, and other power equipment. Fences are exempted.</p> <p>² In no case may any above-ground feature of the SES-C be within a designated right-of-way, including fences.</p> <p>³ Where two participating parcels adjoin in A-1, no setbacks to the property lines are required.</p> <p>⁴ Required fences may be placed on the property line in A-1.</p>	

3. Ground Cover, Trees, and Landscaping

- a. A natural vegetative ground cover shall be maintained under and around the solar arrays.
 - i. Only non-invasive species shall be used, and native species are recommended.
 - ii. In interest of protecting pollinators seed mixes consisting of native meadow grasses and pollinator-friendly wildflower and/or clover species shall be used in consultation with a USDA Farm Bill biologist or local Soil and Water Conservation District professional on the area under and around the solar arrays.
 - iii. Maintenance shall include eradication of all noxious weeds and plants prior to the weeds seeding and spreading.
- b. No trees or other landscaping otherwise required by County ordinances or attached as a condition of approval of any plan, application, or permit may be removed for the installation or operation of an SES-C.
- c. The setback from the middle of the road or from a side or rear property line constitutes a buffer. The landscaping, screening, and vegetation within a buffer shall comply with the following design and developmental standards:
 - i. A natural vegetative ground cover shall be maintained within the buffer.
 - 1. Only non-invasive species shall be used, and native species are recommended.
 - 2. Maintenance shall include eradication of all noxious weeds and plants prior to the weeds seeding and spreading.

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- ii. Where a 250-foot setback is required, a visual barrier will be required in the buffer to screen the residential use or public use building from the SES-C.
 - 1. A Visual Barrier shall provide a year-round barrier of evergreens or other similar plantings.
 - 2. The visual barrier shall extend along the length of the shared property line between the SES-C and the nonparticipating property.
 - iii. Only the following improvements shall be permitted within the buffer:
 - 1. Vehicular ingress/egress drives which tie into approved access points as determined by INDOT and/or Wayne County Highway Department
 - 2. Landscaping and landscaping fixtures
 - 3. Lighting
 - 4. Fencing
 - 5. Signage
 - 6. Underground utility lines
 - 7. Overhead utility lines
 - 8. Drainage or storm water detention or retention areas
 - iv. The access road/lane shall be adjoining the fence which shall adjoin the buffer strip. The visual order of placement shall be panels, access road, fence then buffer strip (extending to the property line or right-of-way).
- d. Visual Barrier**
- i. A right-of-way in A-1 does not require a visual barrier. A right-of-way in all other districts, except C-3, M-1, and M-2 require a forty-five (45) foot buffer with a visual barrier.
 - 1. Applicant may receive a reduction in density with a Landscaping and Screening Plan approved by the BZA, with proper notice and hearing.
 - ii. Visual Barrier Requirements
 - 1. A visual barrier shall be provided for any adjacent residential or public use building within 400 feet of solar equipment.
 - 2. A parcel that has an existing residential use and/or is parceled to five acres or less with the intent of future residential use shall be provided a visual barrier.
 - a. The five-acre maximum dimension required to be landscaped along any one side of a residential or public use property line shall be 726 feet (726' x 300' = 5 acres).
 - 3. Landscaping/screening shall be placed on all sides adjacent to the SES-C. Approval of the location of the visual barrier shall be by the residential or public use property owner.
 - a. If the property owner is unresponsive within 60 days of the mailing of a certified letter to the taxing address informing them of their choice (and said 60-day limit) then the location of the visual barrier along the property line shall be made by the developer.

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4. A visual barrier is intended to exclude visual contact with the solar equipment from any protected property.
 - a. A visual barrier may be composed of landscaping, landscaped berm, or combination thereof.
 - b. Solid fencing shall not be used as part of the visual barrier where the adjacent zoning is Residential, C-1, or C-2.
 - c. The density, buffer width, and method of screening may be waived by the adjacent property owner(s).
5. Natural areas on the same parcel as the solar farm may also be used to meet screening requirements. A natural area is an existing vegetated area. The natural area:
 - a. shall be within or include the required buffer;
 - b. shall be of sufficient height, length, and depth;
 - c. and contain adequate and sufficient healthy vegetation to provide a visual barrier where required.
 - d. The Administrator may determine that further screening improvements shall not be required.
6. The developer may choose to enter into a waiver agreement with the adjoining landowner to place the visual barrier on the adjoining property.
- iii. Buffers adjoining C-1 and C-2 districts and parcels where C-1 and C-2 permitted uses exist, may use a visual barrier composed of landscaping, landscaped berm, or any combination thereof to screen from those districts as approved by the Administrator.
 1. The Administrator should take into consideration the design wishes of the adjacent property owner/operator.
 2. Fencing and walls shall not be used for screening; however, this requirement may be waived by the adjoining property owner(s).
 3. The width and density requirements may be waived by the adjacent property owner(s) to a reduction of landscaping no less than that required in transition yard density for the district and/or a reduction of width equal to the greater of 50% of the required buffer width shown in Table 1 (see 54.247.8.A.3), or the required transition yard width for the district (an SES-C shall be considered a M-1 use as it pertains to transition yards and screening in 6.07, 6.10 and 6.12).
- iv. Landscaping required within buffer strips shall be done in accordance with a certified landscape plan that shows a visual barrier for which a predicted minimum height of seven (7) feet within three (3) years will be achieved by the selected species and planting size and density during normal growing conditions.
 1. A minimum height of fifteen (15) feet is to be maintained over the life of the project.
 2. Height is measured from original grade.
- v. Grass or ground cover shall be planted on all portions of the required buffer areas not occupied by other landscaped material.
 1. Only non-invasive species shall be used, and native species are recommended.

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2. All noxious weeds and plants shall be eradicated prior to the weeds seeding or spreading.
- vi. All landscaping materials shall be installed and maintained according to accepted nursery industry procedures.
 1. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials and shall keep them in a proper, neat, and orderly appearance free from refuse and debris at all times.
- vii. Unhealthy and dead plants shall be replaced within one (1) year of being provided written notice from the Administrator of the violation.
 1. The determination of whether a plant is unhealthy shall be at the discretion of the Administrator or a recognized landscape professional.
- viii. The effectiveness of screening shall be maintained as the plant materials mature.
- ix. A clear line-of-sight shall be maintained at all intersections and ingress/egress locations.

4. Equipment Type

- a. An SES-C shall be constructed of commercially available equipment and in conformance with 54.247.8.B.7.
 - i. Material Safety Data Sheets and/or Safety Data Sheets shall be submitted for each model of solar panel to be used.
- b. Experimental or proto-type equipment still in testing which does not fully comply with industry standards, may be approved by the BZA after notice and hearing pursuant to the variance procedures of this Zoning Ordinance.
- c. When solar storage batteries are included as part of the solar energy collector system, these must be placed in a secure container or enclosure meeting the requirements of the Indiana Building Code and IDEM regulations when in use and when no longer used shall be disposed of in accordance with all applicable laws and regulations.
- d. An SES-C shall conform to applicable industry standards, as well as all local, state, and federal regulations.
 - i. An applicant shall submit certificate(s) of design compliance that solar manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanishcher Lloyed Solar Energie, or an equivalent third party.

5. Electrical Components

- a. Electrical components of an SES-C shall conform to applicable local, state, and national safety codes for similar SES-Cs.
- b. Cables and Lines:
 - i. All cables and lines on site within the fenced area shall follow the current Indiana Electric Code (identified in 675IAC 17).
 - ii. Transmission cables and lines outside the fenced site shall be buried no less than forty-eight (48) inches underground with a warning mesh located at thirty-six inches (36) deep.
 1. No plow type installations are permitted, only open trenching or boring installations.

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- iii. All underground cabling will be marked at road crossings, creeks, riverbeds and property lines with a metal or fiberglass post at least 5 feet in height.
- iv. For any installation method of cables and lines except as provided herein, the applicant shall apply for a variance before the BZA, pursuant to this Zoning Ordinance.

6. Color, Finish, and Glare

- a. In addition to any applicable FAA requirements that now exist and are amended from time to time, the following shall also apply:
- b. The solar energy systems shall remain painted or finished in the color or finish that was originally applied by the manufacturer provided the exterior surface of any visible components are non-reflective, a neutral color like white, grey or another non-obtrusive color. Finishes shall be matte or non-reflective.
- c. To the extent reasonably possible, solar energy panels, regardless of how these are mounted, shall be oriented and/or screened year-round so that glare is directed away from adjacent properties, structures, and roadways.
- d. The applicant has the burden of mitigating any glare produced so as not to have significant adverse impact on adjacent uses. Mitigation is accomplished by panel siting, panel orientation, landscaping and/or other means.
 - i. The determination of the Plan Administrator of the APC shall be conclusive relative to applicant's compliance with this standard.

7. Materials Handling, Storage, And Disposal

- a. **Solid wastes** - All solid wastes whether generated from supplies, equipment, parts, packaging, operation, maintenance, rehabilitation, decommissioning, restoration of the facility, or otherwise, including, but not limited to, old parts and equipment related to the maintenance, rehabilitation, decommissioning, or restoration of any SES-C shall be removed from the site promptly and disposed of in accordance with all federal, state and local regulations, laws and ordinances. The SES-C owner and SES-C operator shall have the same responsibility for compliance hereof.
- b. **Hazardous materials** - All hazardous materials or hazardous waste related to the construction, operation, maintenance, rehabilitation, decommissioning, or restoration of any SES-C or otherwise generated by the facility shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal regulations and laws. The SES-C owner and the SES-C operator shall have the same responsibility for compliance hereof.

8. Sewer and Water

- a. An SES-C facility shall comply with the septic system and well regulations as currently required or as hereinafter amended, of the Wayne County Health Department and the State of Indiana Department of Public Health.

9. Utility Interconnection

- a. An SES-C, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the interconnection agreement with the electrical utility, as any applicable federal and state regulations now exist and as the same are from time to time amended.

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10. Signage

- a. Signs will comply with the Sign Standards provided in applicable Articles of the Zoning Ordinance.
- b. Development Signs: An identification sign relating to an SES-C may be located on each side of the fenced facility area, provided that there shall be no more than one (1) sign located on any side of the SES-C fenced facility area, unless additional identification signs are required to provide reasonable notice to the general public.
- c. A sign shall be securely posted on each gate entry point clearly displaying an emergency telephone number(s) and other contact information.
- d. All ingress/egress roads to an SES-C shall have posted in a conspicuous location a 911 address road sign indicating the assigned address for that location.
- e. Warning signs shall comply with applicable laws.
- f. No portion of the SES-C shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the SES-C provided these comply with the prevailing sign regulations.
- g. All signage required or permitted by this Article shall be made of materials and constructed in a manner to be durable and long lasting. The same shall be painted or made of material with a distinct, high contrast background and be weatherproof paint or other weatherproof material to promote safety and protect the public from hazards and potential hazards.

11. Collection Cables/Lines

- a. Collection cables, collection lines, and communication lines installed as part of any SES-C shall not be considered essential services.

12. Other Appurtenances

- a. No appurtenances other than those associated with the SES-C construction, operations, maintenance, repair, replacement, rehabilitation, decommissioning, restoration, removal, and permit requirements shall be connected to the SES-C area except after notice of hearing and the hearing before the BZA pursuant to the applicable Article(s) of this Zoning Ordinance.

13. Height

- a. Ground mounted SES-C arrays shall not exceed twenty-five (25) feet in height when oriented at maximum tilt.

14. Fencing

- a. For security, all ground-mounted SES-C shall be completely enclosed by a minimum six (6) foot high fence with a locking gate accessed by a keypad or lock box with key.
- b. Signage will be permitted as specified in 54.247.8.B.10.
- c. The fence should be located immediately adjacent to the access road/lane and between any required landscaping in the buffer and said access.
- d. A fence installed on the property line is the sole responsibility of the SES-C owner/operator.

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15. Noise

- a. No operating SES-C shall produce noise that exceeds any of the following limitations except during construction. Adequate setbacks, barriers, enclosures, use of quieter equipment, or other effective means of reducing noise shall be used to comply with these limitations:
 - i. Fifty (50) dBA, as measured at the property line of any adjacent residentially zoned lot;
 - ii. Forty-five (45) dBA, as measured at any existing adjacent residence between the hours of 9 P.M. and 7 A.M.
 - iii. Sixty (60) dBA, as measured at the property lines of the project boundary, unless the owner of the affected property agrees to a higher noise level, as follows:
 1. The owner of an adjacent property that would otherwise be protected by the sixty (60) dBA noise limitations may voluntarily agree, by written waiver, to a higher noise level.
 - a. Any such agreement must specifically state the noise standard being modified, the extent of the modification, and be in the form of a legally binding contract or easement between the landowner (including assignees in interest) and the solar energy system developer, effective for the life of the project.
 2. This waiver must be recorded and cross-referenced with the affected property (properties).

16. Ingress/Egress and Perimeter Access

- a. At a minimum:
 - i. A twenty (20) foot wide ingress/egress road must be provided from a public street, legally established access drive, road, or other roadway into the site.
 1. This ingress/egress road shall be graveled or paved a minimum width of twelve (12) feet and must meet all State and Federal regulations.
 - ii. A minimum twelve (12) foot wide perimeter access road/lane shall be provided in the buffer around the perimeter of the SES-C between the solar arrays and required fence to allow access for maintenance vehicles and emergency management vehicles, including fire apparatus and emergency vehicles.
 1. The access road/lane may be a mown, well-maintained grass lane.

17. Lighting

- a. Ground mounted SES-C shall not be artificially lit except to the extent required for safety or applicable federal, state, or local authority.
 - i. Such lighting shall be shielded and downcast so as not to affect adjacent properties.

C. OPERATION AND MAINTENANCE

1. Repair

- a. The SES-C owner and/or operator shall repair, maintain, and replace the SES-C and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the SES-C in good repair and operating condition.

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2. Operation and Maintenance Plan

- a. The applicant shall submit a plan for the operation and maintenance of the SES-C, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operation and maintenance of the installation.

3. Physical Modifications

- a. Any physical modification to any SES-C or a part thereof which materially alters the mechanical load, mechanical load path, or major electrical components shall require re-certification by all appropriate regulatory authorities.
 - i. Like-kind replacements shall not require re-certification, unless required by a regulatory authority.
- b. Prior to making any material physical modification, other than a like-kind modification, the owner or operator of such SES-C shall confer with the Wayne County Building Commissioner, Plan Administrator of the APC, Wayne County Surveyor, Wayne County Highway Department Superintendent, and any other appropriate regulatory authority as to whether the proposed physical modification requires re-certification of such SES-C.

4. Declaration of Public Nuisance

- a. An SES-C declared unsafe by the County Commissioners by being in breach of, or, out of compliance with its SES-C permit(s) may seek to be rehabilitated and declared safe by appropriate repair(s) and other essential steps necessary to eliminate the breach(es) so as to be in compliance with such SES-C permit(s).
- b. An SES-C declared unsafe by the County Commissioners by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, abandonment, or as provided herein, is hereby declared to be a public nuisance. A Rehabilitation Plan should be submitted to the County Commissioners within sixty (60) days.
 - i. This plan shall provide procedures to rehabilitate the SES-C in a time not to exceed three hundred sixty-five (365) days except in the event of force majeure, including but not limited to unavailability of components or parts, strikes, and moratoriums which said majeure extends said time to 18 months total or a reasonable extension agreed to by the County Commissioners.
 - ii. In the absence of an approved Rehabilitation Plan or meeting the agreed to time schedule(s), or failure to execute the required repair(s) in the time determined reasonable by the County Commissioners, such SES-C shall be demolished and removed in accordance with the Decommissioning-Restoration Plan and Agreement.

5. Public Nuisance Waiver

- a. In the instance that an unavoidable Act of God inhibits, damages, or destroys part of, or most of the SES-C, the three hundred sixty-five (365) day public nuisance removal timeline will be waived so long as the SES-C owner and/or SES-C operator provides a Rehabilitation Plan to remedy the damage and said plan is submitted to, and approved by, the County Commissioners.
 - i. Said plan will outline the necessary protocol and time schedule for returning the SES-C to energy production and must be submitted to the County within sixty (60) days of the date the damage was incurred, or a time determined reasonable by the County Commissioners.

6. Contact Information

- a. The SES-C owner and/or operator shall maintain a phone number and identify a person responsible for accepting calls of inquiries and complaints from the public throughout the life of the project.
 - i. This number and the name of the responsible person shall be provided to the Administrator.
 - ii. The SES-C owner and/or operator shall make reasonable efforts to respond to the public's inquiries and complaints.

D. LIABILITY INSURANCE

- 1. The owner and operator of an SES-C shall maintain a commercial general liability policy covering death, bodily injury and property damage, which may be combined with umbrella coverage, and shall be required to name Wayne County, Indiana as an additional insured solely to the extent of liabilities arising under this Ordinance, and said policy shall carry dollar amounts satisfactory to the County Commissioners and with agreed upon dollar amount limits per occurrence, aggregate coverage, and deductible amounts, all of which shall be agreed upon by the owner and operator and said County Commissioners and provided in the Decommissioning-Restoration Plan and Agreement or other appropriate plan or agreement between the County Commissioners and SES-C owner and SES-C operator.
- 2. The County Commissioners shall be authorized to require the SES-C owner and/or operator to furnish a certificate of insurance and annual renewal certificate of insurance pursuant to this provision. The County Commissioners may require the certificate of insurance and any renewal certificate at a time agreed between the County Commissioners and SES-C owner and/or operator, provided, however, the County Commissioners may require the certificate of insurance as part of the application procedures or at such earlier time that said Commissioners believe the same to be necessary and appropriate.

E. APPLICATION FOR SES-C

- 1. An application for an SES-C shall include the following information:
 - a. **Contact Information of SES-C Applicant**
 - i. The name(s), address(es), telephone number(s), and email address(es) (if available) of the applicant(s), together with a description of the applicant's business structure and overall role in the proposed project.
 - b. **Contact Information of SES-C Owner**
 - i. The names(s), address(es), telephone number(s), and email address(es) (if available) of the SES-C owner(s), together with a description of the owner's business structure and overall role in the proposed SES-C, and documentation of real estate ownership of any real property upon which any part of the proposed SES-C is to be located.
 - 1. The SES-C owner shall inform the Plan Administrator of the APC of any change of SES-C ownership, in whole or in part, and shall furnish the required information regarding such owner.
 - c. **Contact Information of SES-C Operator**
 - i. The name(s), address(es), telephone number(s), and email address(es) (if available) of the operator(s), as well as a description of the operator's business structure and overall role in the proposed project.

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1. The SES-C operator shall inform the Plan Administrator of the APC of any change of the SES-C operator and furnish the required information regarding such operator.

d. Legal Description

- i. The legal description and the 911 Emergency Address of the real property upon which the SES-C is to be located.

e. SES-C Description

- i. The SES-C description and information including, but not limited to, the following:
 1. Type of solar technology (e.g., solar panels, solar shingles)
 2. Solar panel mounting technique (e.g., ground-mount, roof mount)
 3. Solar panel installation height
 4. Name plate generating capacity
 5. The means of interconnecting with the electrical grid
 6. The potential equipment manufacturer(s); including information sheets and installation manuals
 7. Accessory structures and other appurtenances

f. Preliminary Site Plan

- i. A site plan, drawn to scale, including distances pertaining to all applicable setback and buffer requirements. All drawings shall be at a scale of one (1) inch equals thirty (30) feet (1 inch = 30 feet). Any other scale must be approved by the Plan Administrator of the APC. No individual sheet or drawing shall exceed twenty-four (24) inches by thirty-six (36) inches (24 inches by 36 inches) without the prior consent of said Plan Administrator.
- ii. The preliminary site plan shall illustrate the following:
 1. Property lines upon tract(s) subject to the application, together with property lines and with the names of owners of record of each adjacent tract(s)
 2. Location and name/number of public roads surrounding, abutting, and/or traversing the SES-C and any SES-C ingress/egress road
 3. Substations: location
 4. Location of electrical cabling outside of fenced areas
 5. Ancillary equipment
 6. Location and height of fencing, access roads, berms and landscaping associated with any buffer zone.
 7. Location and spacing of panels/arrays and key components.
 8. Setback lines: Distances from the solar energy system to each setback requirement defined in Table 1 in 54.247.8.B.2.
 9. Any structure within one quarter (1/4) mile of the proposed SES-C boundary
 10. The location of any airport within one (1) mile of the proposed SES-C boundary

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- 11.** The location of any historic or heritage sites as recognized by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources, within one (1) mile of a proposed SES-C.
- 12.** The location of any wetlands based upon a delineation plan prepared in accordance with the applicable U.S. Army Corps of Engineers requirements and guidelines, within one (1) mile of a proposed SES-C.
- 13.** All other information reasonably requested by the BZA, APC and Plan Administrator of the APC.

g. Topographic Map

- i.** A United States Geological Survey (USGS) topographical map, or map with similar data, of the property and the surrounding area, with contours of not more than five (5) foot intervals.

h. Landowner Agreements

- i.** A Memorandum of Agreement for all agreements of any description signed by participating landowners authorizing the placement of the identified SES-C on landowner's property.
- ii.** Fully executed Setback Waiver Agreements, if applicable, signed by adjacent landowners.
- iii.** An executed copy of any other waiver agreement signed by adjacent landowner(s).
- iv.** A copy of any recorded Solar Easements from adjacent landowners.

i. Engineering Certification:

- i.** For an SES-C, the manufacturer's engineer or another qualified registered professional engineer shall certify, as part of the Building Permit Application, that all structural aspects of the SES-C design are within accepted professional standards, and the structure or substrate the solar technology will be affixed to will tolerate the installed weight of said technology (e.g., roof structure, soils).

j. Proof of Correspondence and Cooperation with Wildlife Agencies:

- i.** For the purposes of demonstrating compliance with required permits, the applicant shall provide written documentation that the applicant is in direct correspondence, cooperation and in compliance and shall remain in compliance with all applicable regulations and requirements of the U.S. Fish and Wildlife Service and the Indiana Department of Natural Resources.

k. Disclaimer

- i.** Prior to the issuance of an Improvement Location Permit (ILP), SES-C applicants must acknowledge in writing that the issuing of said permit shall not and does not create in the property owner, its, his, her or their successors and assigns in title or, create in the property itself : (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjacent or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.
- ii.** This disclaimer is subordinate to any solar easements entered into with adjacent landowners and subject to the terms agreed to therein.

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I. Solar Easement

- i. Solar Easement may be entered into between affected parties (see 54.247.8.G.1.g) and must be submitted with the SES-C application.

m. Additional Required Documents

- i. Prior to the issuance of an Improvement Location Permit (ILP) and a Building Permit, and in addition to all other application requirements and any other requirements for the applicant, owner and/or operator to be in compliance with the Zoning Ordinance, the following shall be submitted to the Plan Administrator of the APC:
 1. Form, Content and Title of Agreements. NOTE: The plans and agreements set forth in subsections may be merged into one or more agreements.
 - a. Emergency Services Plan (see 54.247.8.G.1.a)
 - b. Operation and Maintenance Plan (see 54.247.8.G.1.b)
 - c. Decommissioning-Restoration Plan and Agreement (see 54.247.8.G.1.c)
 - d. Drainage Agreement (see 54.247.8.G.1.d)
 - e. Road Use and Maintenance Agreement (see 54.247.8.G.1.e)
 - f. Erosion Control Plan (see 54.247.8.G.1.f)
 - g. Pre-Construction Requirements (see 54.247.8.H)
 - h. Construction Requirements (see 54.247.8.I)
 - i. Any agreement title or document name/designation made by the parties shall be sufficient provided such plans and agreements are in compliance with the requirements of the Zoning Ordinance and all other requirements of applicable federal, state, and local laws, rules, regulations, and ordinances.

n. Waivers

- i. All waiver agreements shall be in writing and follow the requirements specified in Definitions. Copies of all waivers are required as part of the SES-C application.

o. Aggregated SES-C Applications

- i. Aggregated SES-Cs may be jointly submitted as a single application and be reviewed under joint proceedings, including notices, hearing, and reviews, and as appropriate, approvals.
- ii. All permits shall be issued pursuant to 54.247.8.F.

F. REQUIRED PERMITS

1. All application requirements as set forth in 54.247.8.E, together with all other applicable requirements of this Article and the Zoning Ordinance, shall be completed and approved by all required authorities (federal, state, and local) before an Improvement Location Permit, Building Permit, or Electrical Permit is issued.
 - a. For an aggregated SES-C, Improvement Location Permits, Building Permits, and Electrical Permits shall be issued individually per parcel.
2. An Improvement Location Permit (ILP) is required for the following:
 - a. An SES-C facility, accessory buildings and structures
 - b. Meteorological Tower

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- c. Operational Support Meteorological Tower
 - d. Application for and acceptance of an ILP is an agreement by the applicant to be bound by the terms of this Ordinance.
3. A Building Permit is required for the following:
- a. An SES-C accessory building and/or structure
4. An Electrical Permit is required for an SES-C facility.
- i. More than one permit may be required.

G. PLANS AND AGREEMENTS

1. All reasonable attorney fees incurred in the preparation of any agreement or plan required hereunder shall be borne by the applicant.
2. Plans and agreements for a single SES-C or in aggregate must be approved by the County Commissioners and shall include all the following:
- a. **Emergency Services Plan**
 - i. Prior to issuance of a building permit, the SES-C owner or operator shall provide a plan including but not limited to the project summary, electrical schematic, and site plan to the appropriate local safety officials including the Wayne County Homeland Security Emergency Management, Sheriff Department, the responding Fire Department, the responding police department, Wayne County Fire Chief Association and Building Inspector. Upon request the owner or operator shall cooperate with local safety officials in developing an emergency response plan.
 - ii. Specialized training will be provided at the operator's expense to these entities. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
 - b. **Operation and Maintenance Plan**
 - i. The applicant shall submit a plan for the operation and maintenance of the SES-C which shall include:
 - 1. measures for maintaining safe access to the installation;
 - 2. storm water controls (see 54.247.8.B.2.d and 54.247.8.C.2.a);
 - 3. general procedures for operation and maintenance of the facility; and
 - 4. maintenance of vegetation within the buffer strip and underneath the ground mounted solar arrays (see 54.247.8.B.3.c).
 - c. **Decommissioning/Restoration Plan and Agreement**
 - i. Prior to receiving an Improvement Location Permit and Building Permit, under this Ordinance, the applicant, owner, and operator shall submit and shall enter into a Decommissioning-Restoration Plan and Agreement with the County.
 - ii. Commissioners outlining the anticipated means, costs, and method of payment of all costs in carrying out such Decommissioning-Restoration Plan and Agreement at the end of the SES-C life or the life of any part of an SES-C, upon becoming an abandoned use, or being declared a public nuisance (see 54.247.8.C.4 and 54.247.8.C.5).

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iii. Discontinuation and Abandonment

1. Owner operator shall give written notice of intent to abandon use of an SES-C facility 60 days prior to the discontinuation of electrical production to the County Commissioners and Advisory Plan Department.
2. An SES-C or portion of an SES-C shall be considered an abandoned use after one (1) year without energy production, unless a Rehabilitation Plan developed by the SES-C owner and SES-C operator is submitted to and approved by the County Commissioners outlining the necessary procedures and time schedule for commencing or returning the SES-C to energy production (see 54.247.8.C.4 and 54.247.8.C.5).
3. Failure by the SES-C owner and/or operator to commence energy production at such SES-C or return such SES-C to energy production within the time schedule which has been approved by the County Commissioners, said SES-C or portion of SES-C shall be considered an abandoned use and/or a public nuisance (see 54.247.8.C.4 and 54.247.8.C.5).

iv. Removal and Restoration

1. The SES-C owner and/or the SES-C operator is required to remove all physical material pertaining to the SES-C above-ground level and all improvements of said SES-C below-ground level to a depth of thirty-six (36") inches for an SES-C declared irreparably damaged, and/or an abandoned use and/or a public nuisance.
2. All materials shall be so removed and the SES-C site restored within 365 days of the discontinuation of energy production, or in accordance with agreements developed under 54.247.8.C.4 and 54.257.8.G.1.b.
3. An SES-C which is irreparably damaged, abandoned or declared to be a public nuisance shall, within said time limit (365 days), require the SES-C owner and/or SES-C operator to have completed restoration of the SES-C site to as near as practicable to the original condition of the SES-C site prior to the development of such SES-C.
4. If any portion of the SES-C is found to be hazardous in nature by State or Federal regulatory agency(s) or required to be recycled, the SES-C owner and/or SES-C operator is required to remove said portion in a manner as prescribed by law.

v. Identification and Removal of Hazardous Materials

1. During removal and restoration, the SES-C owner and/or operator shall identify all hazardous materials and non-hazardous materials, and indicate the appropriate handling, storage and transport during disposal and/or diversion of both kinds of material.
 - a. Hazardous materials are those identified by and regulated by State and Federal regulatory agencies, such IDEM and the EPA.

vi. Performance Guarantee

1. Prior to issuance of an ILP or Building Permit, the applicant must provide the County with a performance guarantee in the form of a bond, irrevocable letter of credit and agreement, or other financial security acceptable to the County Commissioners in the amount of 125% of the estimated decommission and

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restoration cost minus the salvageable value, or \$50,000 whichever is greater. Estimates shall be determined by a licensed engineer.

2. Unless otherwise agreed to by all parties, every five (5) years a new engineer's estimate of probable cost of Decommissioning and Restoration shall be submitted for approval in the same manner as the initial submission, and the bond, letter of credit, or other financial security acceptable to the county shall be adjusted upward or downward as necessary. A new estimate will be submitted to the Commissioners prior to the sale of any portion of the SES-C and the Performance Guarantee adjusted appropriately and made part of the sales contract.
3. All expenses involved in such removal and restoration shall be paid by the SES-C owner and SES-C operator, or removal and restoration will be completed by Wayne County at the SES-C owner's expense and SES-C operator's expense as specifically provided by the Decommissioning-Restoration Plan and Agreement.

vii. Written notices

1. Prior to implementation of any procedures or remedy for the resolution of any SES-C owner's and/or operator's failure to decommission the SES-C pursuant to the Decommissioning-Restoration Plan and Agreement, and/or Rehabilitation Plan and/or the Ordinance, the County Commissioners shall first provide written notice to the owner and/or operator, setting forth the alleged default(s).
2. Such written notice shall provide the owner and/or operator a reasonable time period not to exceed sixty (60) days, except upon such longer time to which all said parties agree, for good faith negotiations between the SES-C owner and/or operator and the County Commissioners or its duly appointed representative, to resolve the default(s).
3. In the event the negotiations fail to resolve the default issue(s), either party may pursue any and all remedies available by the terms of the Zoning Ordinance and/or Decommissioning-Restoration Plan and Agreement and/or Rehabilitation Plan.

viii. Costs incurred by the County

1. In the event, after written notice, the owner and/or operator shall fail to enter into a Rehabilitation Agreement (54.247.8.C.4) or decommission the SES-C in accordance with the Zoning Ordinance and the Decommissioning-Restoration Plan and Agreement, the owner and/or operator shall pay all reasonable cost, including reasonable attorney fees, incurred by the County to remove the SES-C. The County shall be entitled to apply the salvage value of the SES-C to the costs of removal, subject to any rights of the SES-C Owners lenders.

d. Drainage Agreement

- i. A Drainage Agreement approved by the County Commissioners or their designees must prescribe or reference provisions to address field tile damages and repairs thereof for any field tile owned by Wayne County.
- ii. Except as otherwise allowed by IC 36-7-4-1109, all damages to waterways, drainage ditches, field tiles, or other drainage related infrastructure caused by the construction, installation, or maintenance of an SES-C must be completely repaired by the project owner or remedied with the installation of new drainage infrastructure so as to not impede the natural flow of water.
 1. All repairs must be completed within a reasonable period of time and:

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- a. to the satisfaction of the Wayne County Drainage Board;
 - b. as stated in an applicable lease or another agreement with the landowner;
and
 - c. subject to applicable federal, state, and local drainage laws and regulations.
- e. Road Use and Maintenance Agreement**
- i. A Road Use and Maintenance Agreement shall be submitted for approval and include the requirements of 54.247.8.H.1 and 54.247.8.J.1.
 - 1. Said plan shall be approved by the County Commissions and/or the County Highway Department.
- f. Erosion Control Plan**
- i. An erosion control plan developed in accordance with the Natural Resources Conservation Services (NRCS) guidelines, and any storm water quality management plan adopted by the applicable jurisdiction(s).
 - ii. The area beneath a ground-mounted SES-C is considered pervious cover, therefore, natural (pervious) ground covers are required beneath the solar arrays.
- g. Solar Easements**
- i. Where a land development proposes an SES-C, solar easements may be provided. Said easements and any subsequent amendments shall be in writing and shall be subject to the conveyance and instrument recording requirements prescribed in IC 32-23-2-5.
 - ii. Any such easements shall be appurtenant; shall run with the land benefited and burdened; and shall be defined and limited by conditions stated in the instrument of conveyance. Instruments creating solar easement shall include but not be limited to:
 - 1. A description of the dimensions of the easement including vertical and horizontal angles measured in the degrees at which the solar easement extends over the real property that is subject to the solar easement, and a description of the real property to which the solar easement is appurtenant;
 - 2. Restrictions on the placement of vegetation, structures, and other objects which may impair or obstruct the passage of sunlight through the easement;
 - 3. Enumerate any terms and conditions under which the easement is granted and may be revised or terminated.
 - iii. If necessary, an SES-C owner and/or operator must obtain any solar easements necessary to guarantee unobstructed solar access by separate civil agreement(s) with adjacent property owner(s). Copies of such easements shall be submitted as part of the application process with proof of appropriate recording in the Wayne County Recorder Office.

H. PRE-CONSTRUCTION REQUIREMENTS

1. Avoidance and Mitigation of Damages to Public Infrastructure

- a. In addition to complying with the approved Road Use and Maintenance Agreement, an applicant, owner, and/or operator proposing to use any county road(s) for the purposes of transporting any component of an SES-C, substation, and/or any other equipment for the construction, operation or maintenance of an SES-C shall comply with the following pre-construction requirements:

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i. Identification of roads and services

1. All roads and services, to the extent that all proposed routes that will be used for transportation of construction materials, construction of the SES-C, and/or maintenance of the SES-C shall be identified. If the route includes a public road, such route shall be approved by the Wayne County Highway Department Superintendent. To the extent possible State or Federal Highways shall be utilized for the purposes of transporting any component of an SES-C, substation and/or any other equipment for the construction, operation, or maintenance of an SES-C.

ii. Pre-construction survey

1. The applicant, owner and/or operator shall conduct a pre-construction baseline survey in coordination with, and acceptable to, the Wayne County Highway Superintendent and such survey shall be a part of the Road Use and Maintenance Agreement to determine existing road conditions for assessing current needed improvements and potential future damage.
2. The survey shall include, but not be limited to, photographs, and/or video, or a combination thereof, and a written agreement to document the condition of the public facility as the same exists on the date of the baseline survey.
3. This survey shall be the basis for determining the minimum width of roads (not platted width) when repair or replacement is required in the Road Use and Maintenance Agreement (54.247.8.G.1.e).

2. Amendments and Changes to the Preliminary Site Plan

- a. Any material change of location of the SES-C fenced boundary and any material change in the location of SES-C facilities outside of the SES-C fenced boundary shall be furnished to the Plan Administrator of the APC, Building Commissioner, Highway Superintendent, County Surveyor, and any other person(s) designated and authorized by the County Commissioners.
- b. It shall be the duty and responsibility of the applicant, owner and/or operator to obtain any variance required by such change and to comply with any other requirement necessitated by such change.
 - i. Any variance required by this Section shall be obtained prior to construction or implementation of such change.

I. CONSTRUCTION REQUIREMENTS

1. During construction, the applicant shall demonstrate and document to the satisfaction of the Building Commissioner, Highway Superintendent, County Surveyor, Plan Administrator of the APC, and any other person(s) designated and authorized by the County Commissioners, that the following requirements are being met:
 - a. **Dust control**
 - i. All reasonable dust control measures required by the County Commissioners during construction of the SES-C are being followed together with any additional steps or adjustments for dust control which may from time to time be required by the County Commissioners.
 - b. **Drainage**
 - i. Reasonable storm water best management practices as required by the approved Drainage Plan/Agreement.

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c. Noise

- i. Near a residence or public use parcel noise shall be kept to a minimum during the hours of 7 pm to 7 am.

J. POST-CONSTRUCTION REQUIREMENTS

1. Post-construction, the applicant shall comply with the following provisions:

a. Road Repairs

- i. Any road damage caused by the transport of any matter or material utilized in any way regarding the SES-C, in the construction of the SES-C, the installation of the same, and/or the removal and decommissioning of the same, shall be repaired to the satisfaction of the Wayne County Highway Department Superintendent and the Wayne County Engineer.
- ii. The Superintendent or Engineer may choose to require either remediation of road(s) upon completion of the SES-C or said Superintendent is authorized to collect fees for oversized load permits.
- iii. A surety bond or letter of credit in an amount to be determined by a professional highway engineer selected by the Wayne County Commissioners may be required by the County to ensure that future repairs are completed to the satisfaction of the Superintendent and/or Engineer.
 1. The cost of such bond or letter of credit shall be paid by the SES-C owner and said bond shall remain in full force and affect until the decommissioning and restoration is fully completed as prescribed by this Zoning Ordinance and the Decommissioning-Restoration Plan and Agreement.

b. As-Built Plans Requirement

- i. Where upon completion of all development, the exact measurements of the location of utilities, structures, and components erected during the development are necessary for public record and shall, therefore, be recorded.
- ii. The applicant, owner, and/or operator shall submit a copy of the final as-built survey to the Plan Administrator of the APC with the locations of the SES-C facilities shown thereon.
- iii. Said Plan Administrator, after being satisfied that the locations of the SES-C facilities are substantially similar to the locations on the originally approved final plan(s) or as the same were from time to time amended, shall approve, date, and sign said as-built survey for the SES-C.
- iv. Once the Plan Administrator approves the as-built survey, the survey will then be reviewed by the Wayne County Drainage Board for its approval.
- v. The applicant, owner, and/or operator shall then record and provide to the Plan Administrator a copy of said recorded Plans.

c. Change in Ownership

- i. It is the duty and responsibility of the SES-C applicant, SES-C owner, and/or SES-C operator and any subsequent SES-C owner and SES-C operator, in addition to the notice requirements of any SES-C plan(s) and SES-C agreement(s) to notify by written notice the Wayne County Commissioners and the Plan Administrator of the APC of any change in the ownership of the SES-C or any part of the ownership thereof to and through the time that the final Decommissioning Restoration Plan and Agreement are

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concluded and all applicable acceptances, releases and performance standards of any description have been met and concluded and accepted by the appropriate local, state, federal or private authority, department, agency, and person(s) and all financial payments or other financial obligations are fully satisfied and all appropriate parties are in receipt thereof.

- ii. The written notice shall be sent by certified mail with certified funds for any required recording fees and any other applicable fee(s) to:
 - 1. Wayne County Board of County Commissioners, 401 E. Main Street, Richmond, IN 47374, and
 - 2. Plan Administrator of the Advisory Plan Commission of Wayne County, 401 E. Main Street, Richmond, IN 47374, or
 - 3. Personally delivered to said County Commissioners and Plan Administrator.

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54.247.9 DEFINITIONS

1. **Adjacent:** Lying near, close; contiguous; adjoining; neighboring.
2. **Adjoining:** Being in contact at some point or line; contiguous; bordering.
3. **Battery Back-Up:** A battery system that stores electrical energy from a solar PV system, making the electricity available for future use. A battery back-up system is common in off-grid systems and hybrid systems.
4. **Building-integrated Photovoltaic System:** A solar energy system that is an integral part of a principal or accessory building rather than a separate mechanical device. This type of system replaces or substitutes for an architectural or structural component of the building. A building integrated system includes, but is not limited to, a photovoltaic or hot water solar energy system that is contained within roofing materials, windows, skylights, and awnings.
5. **Buffer:** The required space between the solar energy equipment and structures and a property line or right-of-way on the SES-C site.
6. **Concentrated Solar Thermal Power System (CST):** A solar energy system that use lenses or mirrors, and often tracking systems, to focus or reflect a large area of sunlight into a small area. The concentrated energy is absorbed by a transfer fluid or gas and used as a heat source for either a conventional power plant or a power conversion unit.
7. **Glare, Solar Glare:** The potential for solar panels to reflect sunlight, with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.
8. **Ground-Mount System:** A solar energy system that is directly installed on specialized solar racking systems, which are attached to an anchor in the ground and wired to connect to an adjacent home, building or utility. A ground-mount system may be applicable when insufficient space, structural and shading issues, or other restrictions prohibit a rooftop solar system.
9. **Hybrid Solar Photovoltaic System (aka, grid-tied PV with battery back-up):** A solar photovoltaic electricity generation system designed to serve the electricity needs of the building to which it is connected, thus offsetting a dwelling or business's electricity usage, while also utilizing a battery back-up in the event of a power outage. This is the only system that provides the ability to have power when the utility grid is down.
10. **IAC:** Indiana Administrative Code
11. **Indiana Electric Code:** Identified in 675 IAC 17
12. **Indiana Building Code:** Identified in 675 IAC 13
13. **Inverter:** A device that converts the direct current (DC) electricity produced by a solar photovoltaic system into useable alternating current (AC).
14. **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.
15. **National Electric Code (NEC) -** Sets standards and best practices for wiring and electrical systems.

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16. **Off-Grid Solar Photovoltaic System with Battery Back-up:** A solar photovoltaic electricity system designed to operate independently from the local utility grid and provide electricity for noncommercial uses. This system typically requires a battery bank to store the solar-generated electricity for use during nighttime or cloudy weather.
17. **Passive Solar:** Techniques, design, and materials designed to take advantage of the sun's position throughout the year (and the local climate) to heat, cool, and light a building with the sun.
18. **Photovoltaic (PV) System:** A solar energy system that produces electricity using semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof-mounted, ground-mounted, or pole mounted.
19. **Plan Administrator:** The departmental head of the Wayne County Planning and Zoning Office.
20. **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 as a solar-pollinator standard designed for Midwestern ecosystems, soils, and habitat.
21. **Racking:** A system of installation that securely attaches and anchors a solar energy system to structural sections of a roof-mounted or pole-mounted system.
22. **Roof-Mount System** (aka rooftop mounted, building mounted): A solar energy system consisting of solar panels installed directly on the roof of a home, commercial building, and/or an accessory structure. Solar panels are mounted and secured using racking systems. Roof-mount systems can be mounted flush with the roof or tilted toward the sun at an angle.
23. **SES-C:** see Solar Energy System, Commercial (SES-C)
24. **SES-NC:** see Solar Energy System, Non-Commercial (SES-NC)
25. **SES-C Owner:** The person or entity who has legal ownership of the SES-C facility.
26. **SES-C Operator:** The authorized person or entity responsible for the operation of the SES-C facility. The operator may or may not also be the SES-C Owner.
27. **Solar Access:** The ability of one property to continue to receive sunlight across property lines without obstruction from an adjacent property's buildings, foliage, or other impediment.
28. **Solar Array:** Multiple solar panels combined to create one system.
29. **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.
30. **Solar Collector:** A solar PV cell, panel, or array, or solar thermal collector device that relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.
31. **Solar Easement:** An easement recorded pursuant to IC 32-23-4, obtained to ensure exposure of a solar energy device or a passive solar energy system to the direct rays of the sun.
32. **Solar Energy:** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
33. **Solar Energy System (SES):** - The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing, buffer, and landscaping. The term applies, but is not limited to, a solar photovoltaic (PV) system, solar

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thermal system, and solar hot water system. A regulated system fits into one of two system types: Commercial (SES-C) or Noncommercial (SES-NC).

- 34. Solar Energy System, Commercial (SES-C):** A utility-scale commercial facility that converts sunlight into electricity with the primary purpose of wholesale or retail sales of generated electricity. (See Large-Scale Solar Energy System.)
- 35. Solar Energy System, Noncommercial (SES-NC):** A photovoltaic, solar thermal, or solar hot water device that is accessory to, and incorporated into the development of an authorized use of the property, and which is designed for the purpose of reducing or meeting on-site energy needs.
- 36. Solar Hot Water System:** see Solar Thermal System.
- 37. Solar Photovoltaic (Solar PV) System:** A solar energy system consisting of photovoltaic cells, made with semiconducting materials, that produce electricity when exposed to sunlight.
- 38. Solar Panel:** A device for the direct conversion of sunlight into useable solar energy (including electricity or heat).
- 39. Solar Thermal System** (aka, Solar Hot Water or Solar Heating System): A solar energy system that directly heats water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water, and heating pool water.
- 40. Wall-Mounted System:** A solar energy system consisting of solar panels installed directly on the exterior wall(s) of a home, commercial building, and/or an accessory structure. Wall-mounted solar panels are typically installed as modules on a south-facing wall.
- 41. Visual Barrier:** A density of landscaping equal to Thuja Green Giant Arborvitae spaced four feet apart which initial planting size and density is expected to attain a height of seven feet in three years under normal growing conditions. A minimum height of fifteen feet is to be maintained thereafter. The intent is to completely exclude visual contact with solar panels and equipment.

**APPENDIX A
SOLAR ENERGY SYSTEMS – ZONING DISTRICTS**

Zoning District	A-1	A-2	R-S,1,2,3	C-1	C-2	C-3	M-1	M-2	M-3
SES-C ^{1, 2}	SE ³	SE ³	X	SE ³	SE ³	SE ³	SE ³	SE ³	SE ³
SES-NC	P	P	P	P	P	P	P	P	P

KEY:

- P:** permitted use
- SE:** special exception use
- X:** not permitted, no variance allowed

¹ An SES-C is not permitted on a parcel of less than 40 acres

² An SES-C is not permitted in residential subdivisions, campgrounds, recreational area, wildlife preserves, and conservation areas.

³ The provisions of Section 54.247, including but not limited to, those set out in 54.247.8(G), are subject to limitation, waiver, modification, or variance pursuant to the provisions of Indiana Code (IC) 36-7-4-918.2 and IC 36-7-4-918.5, as part of the BZA’s exercise of its authority to impose reasonable conditions on the granting of Special Exceptions, as well as on the granting of Variances from the Development Standards, and after compliance with the applicable provisions of the Wayne County Zoning Ordinance and the Ordinance for Flood Hazard Areas for Wayne County, Indiana.

APPENDIX B
SOLAR EASEMENT AGREEMENTS
SES-NC Only

When considering entering into a solar easement agreement with an adjacent landowner, the following are points to consider. These points are not recommendations or requirements of the Wayne County Office of Planning and Zoning, the Advisory Plan Commission, or the Board of Zoning Appeals, but are offered only as points to consider when developing a solar easement agreement. Other considerations not listed below are likely. Seeking advice from an attorney may be prudent.

IC 32-23-4 is provided below as the State of Indiana has specific requirements for a Solar Easement.

Points to Consider

- The purpose of a solar easement is to secure unobstructed exposure of a solar energy device or a passive solar energy system to the direct rays of the sun, now and in the future.
- The nature of a solar easement requires a landowner to give up or limit certain property rights (e.g., building a barn, planting trees or other landscaping) to ensure that the other landowner has and will have unobstructed exposure of a solar energy device or a passive solar energy system to the direct rays of the sun, now and in the future.
- A solar easement is a private agreement between landowners and does not fall under the purview of this ordinance; however, any term or condition stated in a solar easement agreement that conflicts with any requirement set forth in the Wayne County Zoning Ordinance (e.g., minimum setback requirements, height restrictions) does not supersede the ordinance.
- Recording an easement at the Recorder's Office offers protection to both parties as it becomes a permanent public record. See IC 32-23-2-5.
- An easement can be amended in the future by agreement of the landowners.
- An easement typically will pass to subsequent owners of either property involved in the easement.

Indiana Code 32-23-4 Chapter 4. Solar Easement

IC 32-23-4-1 "Passive solar energy system" defined

Sec. 1. As used in this chapter, "passive solar energy system" means a structure specifically designed to retain heat that is derived from solar energy.

IC 32-23-4-2 "Solar easement" defined

Sec. 2. As used in this chapter, "solar easement" means an easement obtained for the purpose of exposure of a solar energy device or a passive solar energy system to the direct rays of the sun.

IC 32-23-4-3 "Solar energy device" defined

Sec. 3. As used in this chapter, "solar energy device" means an artifice, an instrument, or the equipment designed to receive the direct rays of the sun and convert the rays into heat, electricity, or another form of energy to provide heating, cooling, or electrical power.

IC 32-23-4-4 Creation; requirements

Sec. 4. A solar easement:

- (1) must be created in writing; and
- (2) is subject to the conveyancing and recording requirements of this title.

IC 32-23-4-5 Instrument; requisites

Sec. 5. An instrument that creates a solar easement must include the following:

- (1) The vertical and horizontal angles, expressed in degrees, at which the solar easement extends over the real property that is subject to the solar easement, and a description of the real property to which the solar easement is appurtenant.
- (2) Any terms and conditions under which the solar easement is granted or will be terminated.