

ORDINANCE NO. 2022-003

BEING AN ORDINANCE TO AMEND THE TEXT OF THE DELAWARE COUNTY
COMPREHENSIVE ZONING ORDINANCE REGARDING ADDITIONS TO THE
SOLAR FARM PROVISIONS

WHEREAS, the State enabling act for planning and zoning empowers the Board of Commissioners of Delaware County, Indiana to adopt a zoning ordinance and also provides for amendments to said ordinance as deemed necessary from time to time; and

WHEREAS, a zoning ordinance may establish one or more districts which may be for agricultural, commercial, industrial, residential, special, or unrestricted uses and any subdivision or combination of these uses and may, in each district, regulate how real property is developed, maintained, and used; and

WHEREAS, amending the zoning ordinance to regulate the location, construction and operation of solar energy systems is necessary and appropriate to achieve and secure the benefits and to avoid and/or minimize the impacts; and

WHEREAS, the proposed text amendments are intended to improve the provisions governing solar farm installations so a moratorium should be in place to prevent the filing of a solar farm application prior to finalizing the text amendments; and

WHEREAS, the Delaware-Muncie Metropolitan Plan Commission has given legal notice of a public hearing for consideration of the proposed amendments, all as required by law, and returned a favorable recommendation (8-0) for the text amendments set forth herein; and

WHEREAS, the Board of Commissioners of Delaware County has given reasonable regard to the comprehensive plan; current conditions and the character of current structures and uses in each district; the most desirable use for which the land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Delaware County that the text of the Delaware County Comprehensive Zoning Ordinance regarding solar farms be amended, changed and supplemented as follows:

SECTION 1. That Article XII F FARMING ZONE, Section 10 SOLAR FARM REQUIREMENTS, Subsection C SETBACKS, Item 2 shall be amended to change the setback from fifty (50) feet to two hundred (200) feet so that Item 2 shall read as follows:

A minimum two hundred (200) foot setback, which includes a screening buffer and other native vegetation as described below, shall be maintained from the solar farm structures to any non-participating owner's adjoining property which contains a dwelling, as measured from the property line to the solar farm structures. If the adjoining property does not contain a dwelling, the regular F Farming Zone side and rear setbacks of twenty-five (25) feet and fifty (50) feet, respectively, shall apply.

SECTION 2. That Article XII F FARMING ZONE, Section 10 SOLAR FARM REQUIREMENTS, Subsection A APPLICATION REQUIREMENTS, Item 3.a Maintenance Plan shall be supplemented to include provisions dealing with damaged panels that result in the release of hazardous substances so that Item 3.a shall read as follows:

Maintenance of the Panels. Panels shall be repaired or replaced when either nonfunctional or in visible disrepair. Panels that are not so maintained shall be considered a public nuisance. Damaged panels that result in a release of hazardous substances shall be reported and mitigated as set forth in the Emergency/Fire Safety Plan.

SECTION 3. That Article XII F FARMING ZONE, Section 10 SOLAR FARM REQUIREMENTS, Subsection A APPLICATION REQUIREMENTS, Item 6 Emergency/Fire Safety Plan shall be supplemented to include a plan approval by the local emergency management agency and a second paragraph for provisions that address the release of hazardous substances so that Item 6 reads as follows:

Emergency/Fire Safety Plan.

An emergency and fire safety plan shall be provided to the Delaware County Emergency Management Agency for approval and to the local fire departments whose jurisdiction is included in whole or in part within the solar farm project area. Any specialized training shall be provided at the owner/operator's expense. If entrances are locked, Knox boxes and keys shall be provided at all locked entrances to the applicable emergency personnel. The names and phone numbers for the electric utility provider and the site operator, the 911 addresses and GPS coordinates shall be provided as a part of the plan and shall be posted at each entrance to the solar farm project.

The plan shall include provisions dealing with damage to panels that result in a release of hazardous substances. It shall include a listing of potential hazardous substances, incident reporting requirements as applicable to the Emergency Management Agency, the Plan Commission Office, the Health Department Office, the Indiana Department of Homeland Security and the Indiana Department of Environmental Management, and a mitigation plan that includes the testing of water wells as deemed necessary by the applicable agencies.

SECTION 4. That Article XII F FARMING ZONE, Section 10 SOLAR FARM REQUIREMENTS, Subsection F FENCING shall be supplemented by inserting a new sentence stating "Wooded areas of 10 acres or greater must be incorporated into wildlife corridors so that fencing does not prevent access to the wooded area by large animals." so that Subsection F shall read as follows:

F FENCING

Facilities that are to be enclosed by security fencing shall have the fencing located on the interior of the buffer area. Solar farms that do not coincide with livestock shall use wildlife-permeable fence, fencing with larger holes than a traditional chain-link fence that allows for small-to medium-sized animals to move freely through the fence for at least ten (10) percent of the fence lines where the 10% shall be evenly distributed along each quarter mile section and at identified wildlife corridors. *Wooded areas of 10 acres or greater must be incorporated into wildlife corridors so that fencing does not prevent access to the wooded area by large animals.* Substation locations identified on the site plans will be allowed to use traditional chain-link fencing around the entire structure. Fencing shall be maintained in good condition for the life of the solar farm operation.

SECTION 5. That Article XII, Section 10, Subsection N, Item 3, shall be amended to add a sentence at the end to read as follows:

Installation of solar farm facilities must not interfere with existing drainage tiles unless mitigation measures are taken such as reconstruction, repairs, replacing tile, installing additional drainage features, or re-routing. This is the obligation of the project owner which continues and applies even if the interference is discovered after construction of the project.

SECTION 6. That Article XII, Section 10, shall be supplemented as follows:

- A. Subsection A, shall be supplemented by inserting a new third sentence to read as follows:
As a part of the application submittal, the applicant shall provide proof of notification of the proposed project as set forth below; and
- B. A new Subsection A.8 shall be added that would read as follows:
8. Notification of Project
The applicant shall provide a copy of the written notice sent to all surrounding property owners within 300 feet or 2 properties deep, whichever is greater, from the boundaries of the solar farm project area along with proof of the sending of such notice (i.e. return receipts or certified mail receipts). The applicant shall also provide a list of the surrounding property owners to whom notice was sent.


SECTION 7. That solar farms shall be considered a special use rather than a permitted use and the following amendments to Article XII F FARMING ZONE and Article XXXI SPECIAL USES are necessary to accomplish that change:

- A. That Article XII, Section 1 PERMITTED USES, shall be amended by deleting Item 21. Solar Farms.
- B. That Article XII, Section 2 SPECIAL USES, shall be supplemented by adding a new Item 15 as follows: 15. Solar Farms provided they meet the requirements set forth in Article XXXI, Section 13. Only photovoltaic and thermal solar energy systems may be installed; concentrated solar power systems are not permitted.
- C. That Article XII, Section 10. SOLAR FARM REQUIREMENTS shall be deleted from Article XII and shall be inserted in its entirety into Article XXXI, SPECIAL USES as a new Section 13, SOLAR FARM REQUIREMENTS.

D. That all of the amendments set forth above in Sections 1 through 6 shall be incorporated into the new Article XXXI, Section 13 and re-codified accordingly.

This Ordinance is hereby approved by the Board of Commissioners of Delaware County, Indiana, this 22 day of FEBRUARY, 2022.

BOARD OF COMMISSIONERS
DELAWARE COUNTY, INDIANA
BY:



Sherry Riggins, President

James King, Member


Shannon Henry, Member

ATTEST:



Steven Craycraft, Delaware County Auditor

REPORT TO THE BOARD OF COUNTY COMMISSIONERS
OF DELAWARE COUNTY, INDIANA

February 18, 2022

ORIGINAL

To the Honorable:

Board of Commissioners of Delaware County, Indiana

Dear Commissioners:

The Delaware-Muncie Metropolitan Plan Commission hereby submits to you the following report on the matter of text amendments to the Delaware County Comprehensive Zoning Ordinance regarding Solar Farm requirements and a moratorium on filing and accepting any new applications for solar farms.

WHEREAS, the Commission conducted a public hearing on February 17, 2022, and approved favorable recommendations regarding amendments to the Solar Farm requirements contained in the said Zoning Ordinance; and

WHEREAS, the Commission has prepared an Ordinance to Amend the Text of said Zoning Ordinance that incorporates the recommendations; and

WHEREAS, the Commission also approved the moratorium dealing with solar farm applications; and

WHEREAS, the Commission has given reasonable regard to the comprehensive plan; current conditions and the character of current structures and uses in each district; the most desirable use for which the land in each district is adapted; the conservation of property values throughout the jurisdiction; and responsible growth and development.

NOW, THEREFORE, the Delaware-Muncie Metropolitan Plan Commission hereby:

Section 1. FAVORABLY RECOMMENDS (8-0, 1 absent) Ordinance 2022-003 BEING AN ORDINANCE TO AMEND THE TEXT OF THE DELAWARE COUNTY COMPREHENSIVE ZONING ORDINANCE REGARDING ADDITIONS TO THE SOLAR FARM PROVISIONS which is attached hereto.

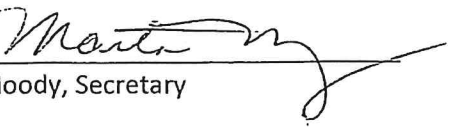
Section 2. Approves the moratorium (8-0, 1 absent) on the basis that the proposed text amendments are intended to improve the provisions governing solar farm installations so a moratorium enacted by the Board of Commissioners of Delaware County should be in place to prevent the filing of a solar farm application prior to finalizing the text amendments.

DELAWARE-MUNCIE METROPOLITAN
PLAN COMMISSION

BY:


Allen Wiseley, President

ATTEST:


Marta Moody, Secretary