

**AREA PLAN COMMISSION OF CLINTON COUNTY, INDIANA
RECOMMENDS THE FOLLOWING AMENDMENT TO
THE UNIFIED DEVELOPMENT ORDINANCE OF CLINTON COUNTY**

TO: THE BOARD OF COMMISSIONERS OF CLINTON COUNTY, INDIANA:

LUPAC #01-20-353

THE AREA PLAN COMMISSION SUBMITS A FAVORABLE RECOMMENDATION FOR THE ADOPTION OF THE ORDINANCE.

ADDITIONAL DOCUMENTS TRANSMITTED: PROPOSED UNIFIED DEVELOPMENT ORDINANCE CHANGES, ADDITIONS, AND/OR DELETIONS

RE: AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE INCLUDING ANY ADDENDUM OR PRIOR AMENDMENTS.

AMENDMENT PROPOSED BY: THE AREA PLAN COMMISSION OF CLINTON COUNTY, IN

GENERAL PURPOSE OF AMENDMENT: TO ENSURE THE SAFE AND ORDERLY DEVELOPMENT OF CLINTON COUNTY

LAND AFFECTED (IF ANY): ALL UNINCORPORATED AREAS OF CLINTON COUNTY, IN

BY MAJORITY VOTE OF THE AREA PLAN COMMISSION, THE FOLLOWING RECOMMENDATIONS TO THE ABOVE-DESIGNATED LEGISLATIVE BODY ARE MADE PURSANT TO THE REQUIREMENTS OF I.C. 36-7-4-602 THRU 36-7-4-608 AS IS APPLICABLE:

DATED THIS 9th DAY OF January, 2020.

AREA PLAN COMMISSION OF CLINTON COUNTY, INDIANA

BY: _____



LIZ STITZEL, EXECUTIVE DIRECTOR

DISPOSITION:

1. DATE OF ACTION BY A.P.C.C.C.: 01-07-2020
2. DATE CERTIFIED TO LEGISLATIVE BODY: 1/9/2020
3. THE LEGISLATIVE BODY: **ADOPTS** THE AMENDMENTS _____
4. THE LEGISLATIVE BODY: **REJECTS** THE AMENDMENTS _____
5. DATE OF ZONE ADOPTION OR REJECTION: _____

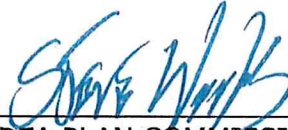
**CERTIFICATE OF THE SECRETARY OF
THE AREA PLAN COMMISSION OF CLINTON COUNTY**

TO: THE BOARD OF COMMISSIONERS OF CLINTON COUNTY, INDIANA

I, STEVE WOODS, DO HEREBY CERTIFY THAT I AM THE DULY ELECTED, QUALIFIED AND ACTING SECRETARY OF THE AREA PLAN COMMISSION OF CLINTON COUNTY. I FURTHER CERTIFY THAT THE COPY OF **A.P.C. LUPAC #01-20-353**, ATTACHED TO THIS CERTIFICATE, IS A FULL, TRUE AND CORRECT COPY OF SUCH DOCUMENT THAT WAS CONSIDERED BY THE SAID AREA PLAN COMMISSION AT ITS MEETING ON THE 7TH DAY OF JANUARY, 2020.

THE AREA PLAN COMMISSION HEREBY TRANSMITS SAID DOCUMENT TO YOU FOR CONSIDERATION UNDER YOUR AUTHORITY AS A LEGISLATIVE BODY UNDER STATE STATUTE I.C. 36-7-4-600 AND FOLLOWING.

IN WITNESS WHEREOF, I HAVE HEREUNTO AFFIXED MY HAND AND SEAL OF THE AREA PLAN COMMISSION OF CLINTON COUNTY ON THIS 9th DAY OF January, 2020.



SECRETARY, AREA PLAN COMMISSION OF CLINTON COUNTY
STEVE WOODS

(SEAL)

ORDINANCE NO: 2020-02

**AN ORDINANCE OF THE
BOARD OF COMMISSIONERS OF THE
COUNTY OF CLINTON, OF THE STATE OF INDIANA,
AMENDING THE UNIFIED DEVELOPMENT ORDINANCE OF CLINTON COUNTY**

FINDINGS

The Area Plan Commission of Clinton County (hereinafter referred to as "Plan Commission") has held a public hearing in accordance with law on several proposed amendments to the Unified Development Ordinance of Clinton County, Indiana. The amendments proposed by the Plan Commission have been embraced in a single Plan Commission case number, LUPAC #12-19-349. The amendments proposed by the Plan Commission have been favorably recommended to the Board of Commissioners of the County of Clinton (hereinafter referred to as "Board of Commissioners") and the Plan Commission's favorable recommendation of the proposed amendments was certified to the Board of Commissioners on _____, 2020.

The Executive Director of the Plan Commission appeared before the Board of Commissioners at its regular meeting on _____, 2020, to review and explain the proposed amendments in detail. The Board of Commissioners reviewed and discussed in detail each amendment proposed and recommended by the Plan Commission under LUPAC #01-20-353.

The regular meeting at which the Board of Commissioners considered the amendments proposed and recommended by the Plan Commission was duly noticed and convened in accordance with law.

The Board of Commissioners finds that all requirements under I.C. 36-7-4-600 and following have been met and that the amendments to the Unified Development Ordinance of Clinton County proposed and recommended by the Plan Commission under LUPAC # 01-20-353 are properly before the Board of Commissioners and should be adopted.

NOW, THEREFORE, IT IS ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF CLINTON, OF THE STATE OF INDIANA, AS FOLLOWS:

The Unified Development Ordinance of Clinton County, Indiana, passed and adopted on November 2, 2015, is hereby amended as follows:

1. Amend UDO 1001.04 D to read as follows: "The application shall be accompanied by written approval from the Clinton County Surveyor for compliance with the Clinton County Drainage Ordinance. For all applications for dwellings of any type, the surveyor shall additionally submit a minimum elevation for the first floor of a dwelling of any type. The applicant will then commit to build to the specified elevation. Upon placement of the first floor, it shall be the duty of the permit holder to provide certification of the elevation to the County Surveyor's satisfaction. Failure to do so shall be cause to issue a stop work order for the project."

2. Add a new UDO 1001.04 K to read as follows: "Any wetlands on the subject property shall be identified and clearly marked on site if within 100' of any area where the ground will be disturbed as part of the proposed project. The markings must remain in place until construction is completed.

3. Add a new UDO 406 Solar Overlay District to read as follows:

"406 SOLAR OVERLAY DISTRICT

WHEREAS, *Solar (Commercial)* offers an opportunity to produce electrical power in an environmentally beneficial manner without the production of greenhouse gases;

WHEREAS, a *Solar (Commercial)* Project will require substantial economic investment in Clinton County which will be beneficial to the *County* and its residents, will create both temporary and permanent employment opportunities, and will generate lease payments to Clinton County landowners;

WHEREAS, the construction of a *Solar (Commercial)* Project involves the use of equipment and transportation of loads which have a potential impact on the infrastructure of the *County*, including roads, bridges, and drainage structures and affecting transportation on public roads;

WHEREAS, the failure to complete a *Solar (Commercial)* Project after the commencement of construction, the failure of a *Solar (Commercial)* Project to continue in operation and the failure to remove a *Solar (Commercial)* Project after the end of its useful life could potentially impact the property of adjacent landowners, or cause other related environmental risks, safety and security risks, and/or other risks to health, safety and the harmonious environment of Clinton County;

WHEREAS, the adoption of a zoning ordinance regulating the location, construction, and operation of a *Solar (Commercial)* Project is necessary and appropriate to achieve and secure the benefits of a *Solar (Commercial)* Project and to avoid and/or minimize the risks, dangers, and inconvenience to health, safety and harmonious environment of Clinton County;

WHEREAS, the adoption of the following *Solar (Commercial)* ordinance is necessary to achieve the goals set forth in the *Comprehensive Plan* for Clinton County;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Clinton County that a *Solar (Commercial)* Project and *Solar Overlay District* shall meet the following standards:

406.01 Permitting and Application requirements are as follows:

- A. An application for re-zoning to a *Solar overlay district* must be submitted to the Area Plan Commission and may be a combined application provided all property *owners* where the solar facilities are to be located are *Co-Applicants*. The application shall include the following items:
 1. The names, addresses and phone numbers of the Applicants, *Owners* and *Operators*, and all *Co-Applicants*
 2. All other required submittals for a rezoning application according to State Law and as specified on the application in the Area Plan Commission office
 3. A general description of the project
 4. Any application encompassing an urban growth boundary of a municipality must be accompanied by a letter of approval from that municipality.

5. All parcels included in a proposed district should be shown to be contiguous to one another, to the extent practicable. Any non-contiguous parcels included in the application shall be clearly identified and their rationale explained.

6. Boundary lines for proposed districts should be shown to be consistent with **UDO Section 301.04**

B. Following the creation of a Solar Overlay District, a Development Plan together with a petition for development plan approval as specified in UDO Article Six must be submitted to the Plan Commission. The application shall include:

1. A site plan at an appropriate scale showing proposed locations of all structures (including buildings, panels, accessory structures, signage, fences, parking lots, access roads, electric transmission lines and other infrastructure planned as part of the project), landscaping, lighting and other infrastructure or improvements proposed as part of the project
2. A drainage plan approved by the Clinton County Drainage Board
3. Number, location, and spacing of solar panels/arrays
4. Any application encompassing an urban growth boundary of a municipality must be accompanied by a letter of approval from that municipality.
5. Locations of existing and proposed underground or overhead electrical lines within the project and within 100 foot of the outer perimeter of the project.
6. Any other reasonable information requested by the Plan Commission staff.

C. After Development Plan approval is obtained, but before any construction commences and before any Improvement Location Permit may be acquired, all applicable state and federal permits, approvals, and licenses must be obtained. All state and federal statutes and regulations must be complied with and the following items provided in order to receive permits:

1. All applicable items listed under **UDO 1001.04**
2. Maintenance and decommissioning plans with acceptable financial guarantee meeting **UDO 406.03**
3. Written approval from the County Commissioners accepting a road use agreement
4. Written approval from Soil and Water showing any Rule 5 permits have been obtained and erosion and sediment control concerns are being addressed sufficiently.
5. Manufacturers specifications for all key components
6. Certification that the layout, design, and installation conform to all applicable industry standards and stating what Standards and Electrical Codes the installation is designed to meet.

406.02 A Commercial Solar Project shall meet the following standards:

A. All Structures, including solar arrays, must meet principle structure setbacks according to Table B. Additionally, solar arrays must be at least two hundred (200) feet from non-participating residences and

at least fifty (50) feet from non-participating land owners property lines, Road Right of Ways, wetlands, and floodplains.

B. A minimum bufferyard class D shall be installed around the front, side, and rear boundaries except as follows. When adjacent to the A-1 district no bufferyards will be required on side or rear property lines unless adjacent to a residential use. Where adjacent to residences, increased bufferyards shall be installed to screen the view from the residence. Where existing screening equaling or exceeding these requirements exists no added buffering will be required. The Area Plan Commission may require additional buffering in areas of concern during the development plan review process for the project.

C. All medium voltage cables between inverter locations and project substations shall be located and maintained underground. Other solar infrastructure, such as module-to-module collection cables, CAB cables, transmission lines, substations, junction boxes, and other typical aboveground infrastructure may be located and maintained aboveground.

D. All solar panels shall be constructed to eliminate glare or reflection, insofar as possible, onto adjacent properties and roadways. They must not interfere with traffic, including air traffic, or create a safety hazard. Where positioning alone does not fully mitigate glare for a residence or roadway or other specific safety related adjacent user then further mitigation shall be provided with fencing, berming, or vegetation.

E. Commercial Solar Energy Systems shall comply with all local, state, and federal regulations.

F. There shall be no signage except appropriate required warning signs or standard manufacturers, operators, or installer's identification signage. No signage shall be lit nor shall it contain any type of advertising.

G. A security fence at least 6' in height, but no more than 9' in height, shall be installed along all exterior sides of the facility including gates with locking mechanisms. Said fencing must sit at least 1.5 times its own height from road Right of Ways, but may be placed up to the property lines on side and rear boundaries. No part of such fencing shall trespass onto non-participating property owners property. Security fences, gates, and warning signs must be maintained in good condition until the entire facility is fully dismantled and removed from the site.

H. No part of the panels or arrays may exceed twenty (20) feet in height at their highest point. Other structures shall follow the requirements of UDO Section 307.

I. Commercial Solar Energy panels are exempt from the impervious surface requirements of the applicable zoning district, but must have an approval from the County Surveyors Office showing that any drainage concerns have been addressed to the satisfaction of the Clinton County Drainage Board.

J. Any Commercial Solar project within a mile of an airport or within the Frankfort/Clinton County Municipal Airport Authorities' approach zones shall give notice by certified mail, return receipt, to the airport authority and comply with the requirements of UDO Article 402. If requested by the airport or the FAA, a study and analyses of the project's potential effects shall also be conducted and submitted.

K. Ground cover around and under solar arrays shall be planted and maintained as perennial vegetative cover, unless producing a yearly agricultural crop for harvest.

L. All facilities, arrays, fencing, buffers, vegetative cover, bufferyards, and other assets shall be maintained in good condition. Plantings that become diseased, damaged, or dead shall be replaced within six months.

M. The approved Development Plan must be adhered to. Any non-material proposed changes, modifications, or amendments to the Development Plan must be approved by the Executive Director or Zoning Administrator after consulting appropriate County officials. All material changes to the plan must be approved by the Area Plan Commission. The Executive Director shall have the authority and discretion, considering all relevant factors, to determine whether the proposed change, modification, or amendment is material.

406.03 Abandonment and Decommissioning

A. A facility, or section of a facility, is considered to be abandoned if it has not been operated for a continuous period of twelve (12) months or if it reaches an age 60 days from the end of its projected life under its current Decommissioning Plan without updating its Decommissioning Plan and financial assurance. It shall be removed under the Decommissioning Plan unless the Board of Zoning Appeals has granted a variance to allow for a greater period of time with a specific plan and alternate date to place the panels back in use or decommission them.

B. The Decommissioning Plan shall state the anticipated life of the Commercial Solar Facility, the anticipated manner in which the project will be decommissioned, the anticipated site restoration actions, and the estimated decommissioning costs in current dollars. Estimates of net costs for decommissioning the site (decommissioning costs less salvage value [which must also be specified]) shall be included together with a methodology for calculating the adjusted costs over the life of the project.

C. Decommissioning shall include removing equipment, posts, panels, foundations, access roads, graveled areas, underground electrical wires to a depth of four feet below grade, and any other items so that the ground is restored to its preconstruction state and is ready for the resumption of agricultural use or development as another land use. Any land not immediately re-entering agricultural production must be planted with vegetative cover or forested. If there is an agreement with the landowner of leased land and it is specified in the decommissioning plan, individual assets such as drives, fences, buildings, gates, etc. may be permitted to remain if in conformance with all regulations concerning their placement, character, condition, and planned use in effect at the time of decommissioning.

D. The Decommissioning Plan shall be accompanied by a performance bond, surety bond, irrevocable letter of credit, or other form of financial assurance that is acceptable to the Area Plan Commission and County Commissioners equal to one hundred twenty five percent (125%) of the estimated net costs for decommissioning the site. The financial assurance shall automatically renew each year or have no expiration.

E. The Decommissioning Plan and financial assurance will be reviewed by Clinton County and the company operating the Commercial Solar Project every five (5) years and adjusted as necessary to ensure sufficient resources are available to decommission the project over its life.

3. Amend UDO 1202 Defined Words Add new definitions for Solar (Commercial) and Solar (Private) to read as follows:

SOLAR (COMMERCIAL) A group of interconnected solar panels/arrays for the primary purpose of wholesale or retail sales of generated electricity, including all equipment and facilities necessary for the proper operation of the facility such as electrical collection and transmission lines, transformers, substations, and operations or maintenance facilities. Also referred to as Commercial Solar Facilities.

SOLAR (PRIVATE) Small scale solar installations placed on site and designed primarily to provide power to a residential, agricultural, commercial, or other on-site user or users."

4. Amend UDO 303, Table A-1 to read as follows: Revise Use 13.17 to be labeled "SOLAR (PRIVATE)".

5. Amend UDO 303, Table A-1 to read as follows: Revise Use 13.18 to be a prohibited use, "X", in all districts, with a footnote in each district that reads "Except it is a permitted use where a Solar Overlay District has been created according to **UDO 406**" and insert the phrase "**UDO 406**" as the Development Standards.

6. Amend UDO 306.13 A to read as follows: "*Bufferyards*, where required, shall be located along side and rear property lines. In the B-4, B-5, I-1, or I-2 *districts*, *bufferyards* shall also be required along the front property line when adjacent to or facing a residential *district*. For Commercial Solar Facilities, bufferyards shall be installed according to **UDO 406.02 B**. In the LD *district*, *bufferyards* shall be around the *solid waste boundary* and all *accessory uses* except for *agricultural* uses and except where the entrance is located. On lots which abut a *street* along more than one property line, the *site plan* designate which property line shall be considered the front and *bufferyards* shall be provided along all other lines. *Bufferyards* shall have the necessary widths and planting and fencing material as required below."

7. Amend UDO 503.13, adding a new R, to read as follows: "Security fencing for Commercial Solar projects shall be placed according to **UDO 406.02 G**".

8. Adopt a new UDO 302.21 under district definitions to read as follows:

"**302.21 Solar Overlay** This district is intended to define areas, which because of their location and topography, are recommended and suited for the establishment of Solar (Commercial). This district will permit and regulate the development of Solar (Commercial) to minimize impact on the underlying district and potential for conflict with other uses."

9. Amend UDO 601.01 to add a new J to read as follows:

"J. Solar Overlay Districts as specified in **UDO Section 406**."

10. Amend UDO 601.02 to renumber the existing "D" to "E" and add a new D to read as follows:

"D. In the Solar Overlay District, any amendment to the Solar Development Plan that was approved by the Area Plan Commission, provided it is deemed to be a non-material change under **UDO 406.02 M**."

This ordinance shall be in full force and effect from and after the date of its passage in accordance with law.

Adopted _____, 2020, after unanimous consent to its consideration on the date of its introduction.

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF CLINTON

ATTEST:

Britt Ostler, Auditor

BY _____
Josh Uitts, President

BY _____
Scott Shoemaker, Member

BY _____
Steve Woods, Member

CERTIFICATE OF AUDITOR

STATE OF INDIANA)

) **SS:**

COUNTY OF CLINTON)

I, BRITT OSTLER, HEREBY CERTIFY THAT I AM THE DULY ELECTED AND ACTING AUDITOR OF CLINTON COUNTY, INDIANA, AND AS SUCH I AM CUSTODIAN OF RECORDS OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF CLINTON. I FURTHER CERTIFY THAT THE ATTACHED AND FOREGOING DOCUMENT IS A TRUE AND COMPLETE COPY OF ORDINANCE NO. _____-_____, AS ADOPTED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF CLINTON ON THE _____ DAY OF _____, 2020; AND THAT SAID ORDINANCE WAS DULY ADOPTED IN A REGULAR MEETING OF SAID BOARD OF COMMISSIONERS, DUE NOTICE HAVING BEEN GIVEN THEREOF, AND A QUORUM BEING PRESENT THROUGHOUT SAID MEETING.

IN WITNESS WHEREOF, I HAVE HEREUNTO AFFIXED MY HAND AND THE SEAL OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF CLINTON, OF THE STATE OF INDIANA, ON THIS, THE ____ DAY OF _____, 2020.

BRITT OSTLER
AUDITOR OF CLINTON COUNTY, INDIANA

(SEAL)