

§ 154.511. Solar energy systems ("SES"); intent

This subchapter provides for the implementation of solar energy systems, which convert the power of the sun into the generation of electricity. The county finds that it is in the public interest to encourage the use and development of renewable energy systems that enhance energy conservation efforts and promote sustainable development. As such, the county supports the use of solar energy collection systems and in no way are these regulations intended to severely limit the siting of solar energy systems. These regulations consider the unique needs of solar energy systems and provide for the most efficient use of this renewable energy system. These sections are also intended to protect the character of residential neighborhoods and commercial corridors. Solar energy systems should be sited and constructed in a way that is harmonious and even benefit the agricultural uses in the county.

(Ord. 17-20, § 10, 2-11-2020)

§ 154.512. Solar energy systems ("SES"); applicability.

All new development or additions to existing developments within unincorporated areas of St. Joseph County shall site, construct, install, and decommission any solar energy system ("SES") as required by this subchapter.

(Ord. 17-20, § 10, 2-11-2020)

§ 154.513. Solar energy systems ("SES"); general.

(A) *Classification.* Solar energy systems ("SES") shall be classified as either a Building-mounted SES or Ground-mounted SES.

(1) Building-mounted SES is a solar energy system that is structurally mounted to a building or structure. Building-mounted SES shall be further classified as follows:

- (a) Roof-mounted SES is a Building-mounted SES that is structurally mounted and solely supported by the roof of a building or structure; or
- (b) Facade-mounted SES is a Building-mounted SES that is structurally mounted and solely supported by the facade of a building or structure.

(2) Ground-mounted SES is a solar energy system that is structurally mounted to the ground. Ground-mounted SES shall be further classified as follows:

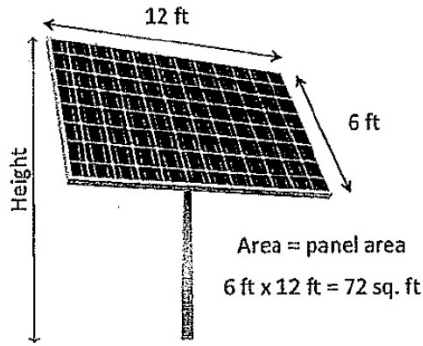
- (a) Small-scale SES is a Ground-mounted SES that is less than or equal to 40,000 square feet in panel area; or
- (b) Large-scale SES is a Ground-mounted SES that is more than 40,000 square feet in panel area.

(B) *Districts permitted.* SES shall be permitted in accordance with the following table:

Use Table for Solar Energy Systems				
Accs.—Accessory Use P—Primary Use SU—Special Use		Building-mounted SES	Ground-mounted SES	
District	Lot Size		Small-scale SES	Large-scale SES ¹
A: Agricultural	Any	Accs.	P	P

R: Single Family	Less than 5 acres	Accs.	Accs.	SU
	5 acres or more	Accs.	P	SU
R-2: Residential	Less than 5 acres	Accs.	Accs.	SU
	5 acres or more	Accs.	P	SU
O/B: Office/Buffer	Any	Accs.	Accs.	SU
O: Office	Any	Accs.	Accs.	SU
B: Business	Any	Accs.	Accs.	SU
C: Commercial	Any	Accs.	P	SU
I: Industrial	Any	Accs.	P	P
U: University	Any	Accs.	P	P
1 Preferred siting. Large-scale Ground-mounted SES shall be a permitted use on any brownfield, sites on the Superfund National Priorities List, above a parking lot, and former landfills.				

- (C) *Building permit.* A building permit is required for the installation of all SES.
- (D) *Compliance with other laws and ordinances.* All SES shall comply with all federal, state and local laws and ordinances not in conflict with this subchapter, including but not limited to building codes, fire codes, placement in floodplains and historic preservation districts.
- (E) *Compliance with Federal Aviation Agency (FAA) regulations.* SES must comply with any applicable FAA regulations, including any necessary approvals for installations close to airports.
- (F) *Signs.* No signs, unless listed as exempt signs in section 154.373, shall be placed on SES structures.
- (G) *Method of measurement.* SES are measured in the following manner:
 - (1) *Area.* The area of the SES shall be determined by the total surface area of all the panels located on a lot.
 - (2) *Height.* The height of the SES shall be calculated as the distance from grade or roof to the top of the solar panel at its greatest incline.
 - (3) *Projection.* The projection of a facade-mounted SES is measured from the facade to the outside edge of the SES that is perpendicular to the ground.
 - (4) *Setback.* Setbacks for ground-mounted SES shall be measured from the property line to the edge of the SES panels.



- (H) *Historic districts.* All SES within a local historic district or local landmark require a certificate of appropriateness from the historic preservation commission.
- (I) *Septic field.* Ground-mounted SES shall not be located over a septic field, unless approval is granted from the county health department.

(Ord. 17-20, § 10, 2-11-2020)

§ 154.514. Building-mounted solar energy systems ("SES"); development standards.

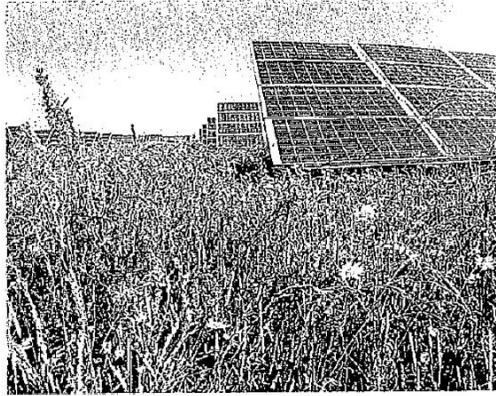
- (A) *Height.* Roof-mounted SES may exceed the maximum allowed building height of the building or structure on which it is located by five feet in residential districts and ten feet in all other districts.
- (B) *Projection.* Facade-mounted SES may project off a building facade up to three feet into the required setback.
- (C) *Legal nonconforming.* Building-mounted SES may be installed on:
 - (1) Legally established nonconforming buildings as long as the installation of the SES does not increase the nonconformity, except for the allowances in height and projection as outlined above; or
 - (2) Accessory to legally established nonconforming uses as long as the installation of the SES does not increase the nonconformity.
- (D) *Safety and emergency access.* Building-mounted SES shall be located in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide for smoke ventilation opportunities, and provide emergency access to the roof. Building-mounted SES shall be located in accordance with the Indiana Fire Code and enforced by the City of South Bend/the county building department.

(Ord. 17-20, § 10, 2-11-2020)

§ 154.515. Ground-mounted solar energy systems ("SES"); development standards.

- (A) *Accessory buildings.* Ground-mounted SES shall not be calculated in the maximum area of accessory buildings.
- (B) *Maximum height.* Ground-mounted SES shall not be taller than 22 feet above grade.
- (C) *Minimum setback.* Ground-mounted SES shall meet the required setbacks of the district in which they are located. Setbacks shall be the same as what is required for accessory buildings.
- (D) *Maximum lot coverage.* Ground-mounted SES shall not be calculated in the floor area ratio of the district in which they are located.

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- (E) *Landscaping required.* Accessory use SES for residential uses shall be exempt from all required landscaping. All other SES shall be exempt from any required landscaping except for the following:
- (1) Pollinator-friendly seed mixes and native plants are required around the SES at a rate of two square feet of plantings for every one square foot of solar panels. For reference, best practices, and maintenance information see Technical Guide: Establishment and Maintenance of Pollinator-Friendly Solar Projects (2020) — Northern Indiana — Michiana Area Council of Governments, as amended.
 - (2) The zoning administrator may approve the redistribution of the required landscaping to other locations on the site.



- (F) *Power lines.* Power transmission lines, not including lines that connect one panel to another or from the project to the main transmission lines, from Ground-mounted SES must be underground and must be completely shielded against shock hazard.
- (G) *Pavement.* Driveways shall be paved with hard surfaced with asphalt, concrete, pervious pavement, pavers or other material to provide a durable, dust-free surface which meets the minimum specifications prescribed by the county engineer for the first 50 feet from the edge of pavement. Interior access drives, and interior access driveways are not required to be paved.
- (H) *Off-street parking.* Parking areas are exempt from the off-street parking regulations in sections 154.415—154.423, but must still meet the required setbacks in the underlying zoning district and the landscaping requirements contained in this section.

(Ord. 17-20, § 10, 2-11-2020)

§ 154.516. Abandonment and removal of ground-mounted solar energy systems.

- (A) *Decommissioning and removal.* Any ground-mounted SES which has reached the end of its useful life or has been abandoned shall be removed by the owner. The owner or operator shall physically remove the installation no more than 120 days after the date of discontinued operations, or by a timeframe determined by the zoning administrator for extenuating circumstances. For large-scale SES, decommissioning shall consist of:
- (1) Physical removal of all SES, structures, and equipment from the site;
 - (2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
 - (3) Stabilization or re-vegetation of the site as necessary to minimize erosion. The zoning administrator may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

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- (B) *Abandonment.* Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the ground-mounted SES shall be considered abandoned when it fails to operate for more than one year without the written consent of the zoning administrator.
- (C) *Right to remove.* If the owner or operator of the ground-mounted SES fails to remove the installation in accordance with the requirements of this section within 90 days of abandonment or the proposed date of decommissioning, the county retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned ground-mounted SES. As a condition of issuance of an Improvement Location Permit, the applicant and landowner shall agree to allow entry to remove an abandoned, hazardous, or decommissioned installation.
- (D) *Security fund.* Any owner of a ground-mounted SES over 200,000 square feet in panel area shall establish a cash security fund, bond, irrevocable letter of credit or other means to secure the payment of removing any abandoned SES, including the solar panels and associated equipment and buildings that have been determined to be abandoned, or found to be in non-compliance with this chapter, and to provide the county a fund from which to deduct fines and penalties for non-compliance with this chapter or other applicable laws in the amount of 125 percent of the cost of demolition and removal of the SES, up to a maximum of \$250,000.00, based upon a licensed engineers estimate of the cost of demolition and removal. Any reduction in the security fund provided, because of deductions of fines, penalties, or removal costs, shall be replenished to the total of the required amount within 30 days after notice from the county of the amount deducted and the deficiency created hereby. Within a reasonable period of time, not to exceed three months after the SES is removed, any remaining funds on deposit with the county pursuant to this chapter, after application and above all expenses provided for herein, shall be refunded to the appropriate owner or provider who created the security fund. The requirement for a security fund shall not apply to a municipal corporation or a school corporation, as defined in IC 36-1-2-10 and 36-1-2-17 respectively.

(Ord. 17-20, § 10, 2-11-2020)