

Commercial Solar Energy System Over Lay District (CSES-OD)

1. Commercial Solar Energy System

2. **Purpose:** to generate and sell solar power.

3. Compliance Required

No applicant shall construct, operate, locate, or enlarge a Commercial Solar Energy System (CSES) within Noble County without first obtaining approval and must fully comply with the provisions of this ordinance.

4. Prerequisites:

A. Manufacturer Installation Specifications: any permitted CSE system shall be installed according to manufacturer's specifications, unless in conflict with the applicable standards of the Noble County Unified Development Ordinance, including all Indiana State Standards. When conflicts exist, the stricter standard shall prevail.

5. **BASE ZONING:** To qualify for a CSES-OD, the base zoning shall be in any district, with the exception of Open Space (OS) and will consider the base zoning to be subordinate to a CSES Overlay District. Under no circumstances shall a planned development or rezoning of property (i.e., change to the base zoning) change the applicability of the CSES's land use restrictions and additional development standards.

The base zoning district's development standards shall apply to all improvements except all structures and improvements associated with CSES development.

The development standards for any structure or improvement associated with a CSES development shall comply with the development standards in this Commercial Solar Energy System Overlay District.

A. Minimum Parcel Size: shall be a minimum of five (5) acres in size.

1) Under no circumstances shall a planned development or rezoning of property change the applicability of the CSES-OD land use restrictions and additional development standards.

2) The boundaries for the CSES-OD shall be any parcel approved for the overlay district to be shown on the official Zoning Map as a hatched or textured pattern and noted on the map legend as CSES-OD

B. Process:

1) CSES Overlay Development Plan Application

2) Development Plan Review

a. Recommendation for further review based upon Development Plan Committee (DPC) review or

b. Recommendation to proceed to application process for Plan Commission review and Public Hearing.

3) CSES Overlay Application

4) CSES Overlay District Boundary – Zoning Map Amendment – Application:

The boundaries for the CSES-OD shall be any parcel, or portion of a parcel rezoned to apply this overlay and shown on the Official Zoning Map as a hatched or textured pattern and noted on the map legend as CSES-OD.

5) Plan Commission Recommendation

a. Plan Commission may refer application back to DPC for further review or

b. Plan Commission may move on to the findings of fact for a recommendation for the County Commissioners.

6) County Commissioners final decision.

6. **Requirement:** All applicants for CSES will be required to submit a complete Development Plan, section 23, to allow Plan Commission review no less than ninety (90) days prior to public hearing.

7. **Height Restrictions:** No part of a solar panel or other equipment associated with the CSES shall exceed fifteen (15) feet in height when oriented at maximum tilt height. The height of the transmission lines, substation or any points of interconnection shall be identified on the development plan, subject to Development Plan Committee review, (Section 23) and approved by the Commissioners.

8. **Equipment:** All components and equipment necessary for the CSES shall be commercially available. A list of the components and equipment shall be included in the Development Plan, section 23.

1) **Modifications:** Any physical modifications that alter the mechanical load, or major electrical components shall require re-certification. Review by the zoning administrator may determine Plan Commission review.

9. **Emergency Contact Signage:** CSES shall be identified with a E911 location address assigned by the Noble County Plan Commission. A standard metal sign displaying the facility name, emergency contact information and physical site address shall be posted at the entrance of the facility, substation and any other location deemed necessary by the Zoning Administrator or DPC. The sign shall be posted in compliance with the current ordinance, set outside the road right-of-way.

A. Property owner must report to the Zoning Administrator within sixty (60) days of a change of ownership of the CSES, including contact information and signage change(s) on site.

10. **Fire Codes:** To minimize the risk of fire, safeguard firefighters and other emergency responders, CSES shall offer consideration for fire codes, such as tripping, structural collapse, fire spread, electrical shock and hazards related to battery and battery storage systems. A fire safety plan shall be included in the Development Plan, Section 23.

11. Nuisance Prevention

A. Noise Generating Equipment Setback: All Equipment, including substation, shall meet minimum setbacks. Equipment that could create objectionable sounds during normal operations shall be located as far away as practically possible from any non-participating property line, and be included in the Development Plan, Section 23.

Unless otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a CSES in Noble County unless the project owner demonstrates in the Development Plan that the CSES will operate so the sound attributed with the CSES will not exceed an hourly average sound level of fifty (50) A-Weighted decibels as measured at the CSES fence.

The requirement set forth in this section may be waived with respect to any one (1) CSES, subject to written notarized consent of the owner(s) of each adjacent nonparticipating property.

B. Illumination: A CSES shall comply with the current ordinance Lighting Standards. However, no light shall trespass the adjacent nonparticipating property line greater than ten (10) lux.

C. Laydown area: Laydown and staging area must be respectfully located a minimum of five hundred (500) feet from any nonparticipating existing dwelling, subject to review and included in the Development Plan, Section 23.

D. Employee parking and equipment trucks: Shall not park alongside any county road, must be out of any right-of-way, with employee parking placed away from any nonparticipating existing dwelling a minimum of five hundred (500') feet, subject to review and included in the Development Plan, Section 23.

E. Office Site: Developer must respectfully consider location. The structure shall be located a minimum of five hundred (500) feet from any

nonparticipating existing dwelling, shall meet the minimum building requirements, current ordinance development standards, subject to review and included in the Development Plan, Section 23.

- F. Dust Control:** Developer will be responsible for wetting out to lessen the amount of created dust during construction.
 - G. Glare:** A CSES at no time shall create glare on any non-participating property line, structure or right-of-way. All CSES using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties, including any public right-of-way.
 - H. Maximum Vibrations:** Equipment which could create vibrations as part of a CSES shall be located centrally within the CSES to reduce potential impacts on non-participating properties.
 - I. Interference with Reception:** A CSES shall be constructed and operated so it does not interfere with television, microwave, GPS, military defense radar, navigational or radio reception to neighboring areas.
- 12. Fencing Standards:** Shall meet the minimum setback standards or set no closer than the minimum setback of the buffer area; whichever is greater and included in the Development Plan, Section 23.
- A. Fences,** gates and warning signs must be maintained in good condition until the CSES is dismantled and removed from site and
 - B. Installation** shall be installed with a consideration to allowing a wildlife corridor as defined in the Noble County Comprehensive Plan and
 - C.** Must comply with the National Electric Code.
- 13. Visual Buffer:** A Berm, natural vegetation or evergreen plants to provide a reasonable visual buffer for non-participating preexisting dwelling(s), to cover the minimum required radius for the entire viewshed, meet the vision clearance standards, included in the Development Plan, Section 23.
- A. Installation:** Buffer may include more than one buffer material with a clear intent to buffer CSES.
 - B. Requirement:** At the onset of CSES installation the project owner shall install a natural landscape buffer, subject to approval by the Development Plan Committee, Section 23.
 - C. Screening:** The buffer must meet a minimum of 6' in height at the time of installation, located between the property line and CSES fence on the participating landowner property.
 - 1) Natural Disaster:** In the event of a natural disaster or natural loss of the installed or pre-existing buffer, replacement of the buffer shall be completed within no more than 1 year from the date of the event.
 - a.** A one (1) time extension may be requested. The request must be submitted in writing and received by the Zoning Administrator prior to 1-year post event. The additional allowance not to exceed six (6) months, subject to approval.
 - b. Additional extension:** no less than 14 days prior to the next available Plan Commission meeting, a written request for an additional six (6) month extension must be received by the Zoning Administrator for Plan Commission member decision.
- 14. Ground Vegetation:**
- A.** CSES property owner and the project owner shall have a conservation stewardship plan for the establishment and maintenance of ground vegetation for the life of the CSES, to be included in the Development Plan, Section 23.
 - B.** Provide site preparation and maintenance practices designed to control invasive species and noxious weeds to be included in the Development Plan, Section 23.
 - 1) Failure to maintain the ground vegetation may result in cancelation of the improvement location permit, including any cost necessary to remediate the grounds.
- 15. Maintenance, Repair or Replacement of CSES:** CSES property owner and the project owner must maintain the facility in accordance with the site plan, permit and ordinance. Maintenance shall include, but not limited to, painting, structural repairs and integrity of security measures including fencing. Any retrofit, replacement or refurbishment of equipment shall adhere to all local, state and federal requirements.
- 1) Failure to maintain facility in a neat, orderly, mechanically sound manner may result in cancelation of the improvement location permit, including any cost necessary to remediate the grounds.
- 16. Waste Management:** Solid waste generated from supplies, equipment, parts, packaging, operation, or maintenance of the facility (including old parts and equipment) shall be removed from the site within 6 months, consistent with industry standards. Hazardous waste generated by operation and maintenance of the facility, including but not limited to, rusted equipment, lubricating materials, cleaning materials, battery materials or such shall be handled in a manner consistent with local, state, and federal rules and regulations and shall not be allowed to seep into the ground or come in contact with open water. Waste management plan shall be included in Development Plan, Section 23.
- 17. Participating Land Owner Setbacks**
- A. Setback participating property line:** Shall be at the UDO minimum Development Standards, with the exception of a notarized written agreement allowing a 0' setback from an adjacent participating landowner, to be included in the Development Plan, Section 23.
 - B. Development Setbacks same ownership parcels:** Shall meet current UDO minimum development setbacks on a participating property line. All property lines adjacent to county-maintained roads shall adhere to front yard setbacks as defined in the UDO. A recorded commitment to combine parcels, as allowed by the UDO, would allow development to cross same ownership property line.
 - C.** All property lines adjacent to county-maintained roads shall be considered front yard as defined in the UDO.
- 18. Non-Participating Land Owner Setbacks**
- A. Development Setback non-participating land owner:** The CSES shall be at least three hundred (300') feet from a non-participating pre-existing residential dwelling, as measured at the closest point of the foundation to the CSES, including across any right-of-way, or fifty (50') feet from the property line, whichever is greater. Development setbacks shall be included in the Development Plan, Section 23.
 - 1)** Developer must provide Zoning Administrator an as-built survey by a licensed surveyor, within 6 months of installation, verifying the adherence to the setbacks.
 - B. Waiver from Non-Participating landowner:** A waiver from the impact of development standards via notarized statement from the nonparticipating landowner(s), allowing a less than required development standard setback shall be included in the Development Plan, Section 23.
 - C.** All property lines adjacent to county-maintained roads shall be considered front yard as defined in the UDO.
- 19. Electric Wires:** Except otherwise allowed by IC 36-7-4-1109, cables located between inverter locations and project substations shall be located and maintained underground; buried at thirty-six (36) inches below grade or if necessitated by onsite conditions at a greater depth. The CSES facility must conform with local, state and federal electrical code requirements. The location of any transmission lines shall be identified in the development plan, subject to Development Plan Committee review, (Section 23) with final approval by County Commissioners.
- If located in a public right-of-way or county drainage easement the CSES would require written approval by Noble County Highway and Noble County Drainage Board.
- 20. Damage:** Except as otherwise allowed by IC 36-7-4-1109, damage to waterways, drains, ditches, private field tiles, county tiles or any other item to regulate drainage caused by the construction, installation or maintenance of a CSES must be completely repaired by the project

owner to the original condition so as to not impede the flow of water and must be compliant with Noble County Drainage Board.

21. Decommissioning: A project owner and/or landowner may not install or locate a CSES unless the project owner and/or landowner submits a decommissioning plan and site restoration plan to include removal of all items related to the solar project to be removed at a depth of no less than 4', and posts a surety bond or equivalent means of surety acceptable to the Development Plan Committee members, Plan Commission and County Commissioners including a parent company guarantee of certification or irrevocable letter of credit, in the amount equal to 125 % of the estimated cost of decommissioning the CSES, as calculated by a licensed third party or professional with suitable experience in the decommissioning of a CSES, as agreed upon by project owner and Zoning Administrator, included in the Development Plan, Section 23.

1) **Waiver:** Relief from the Removal Standard of 4' may be allowed by notarized statement from the landowner(s), allowing a less than required removal standard.

A. Bond must be equal to 125% of the decommissioning costs. The bond requirements shall be included in the Development Plan, Section 23 and must:

- 1) Allow the County the ability to use the surety and right, including entry onto the CSES site, also
- 2) Allow the County to recuperate from the bond costs that incur to the extent the County takes part in the decommissioning of the CSES.
- 3) Project owner must submit a report to the Zoning Administrator every five (five) years and adjust as necessary to ensure sufficient funds are available to decommission the project with, final approval by County Commissioners.

B. Project owner and/or landowner must provide to the Plan Director written notice of the project owner's intent to decommission a CSES no later than sixty (60) days before discontinuation of the facility.

- 1) Structures, foundations, roads, gravel areas and cables associated with the project shall be removed to a depth of at least thirty-six (36) inches below grade.
- 2) The ground shall be restored to a condition reasonably similar to its condition before the start of construction.

C. The facility Owner and/or landowner shall agree to pay all attorney costs and fees in the enforcement of the terms of this ordinance if necessary.

D. Decommissioning must be complete within 1 year of the start date, with the allowance of no more than a 6-month extension by the Zoning Administrator. If necessary, the Zoning Administrator may engage qualified contractors to:

- 1) Enter the site
- 2) Remove CSES project assets
- 3) Sell assets removed
- 4) Remediate the site
- 5) Initiate proceedings to recover costs of decommissioning.
- 6) Bond may be released upon receipt of certificate of inspection by the Building Inspector, County Surveyor, County Highway Department and Zoning Administrator and any other department necessary indicating that decommissioning is complete with no unresolved issues related to the CSES Development.

22. Abandonment - Natural Disaster: A CSES is considered abandoned three hundred and sixty-five (365) days after the date on which the CSES last generated electricity. In the event of a natural disaster, flood, tornado or any other natural disaster including an act of God, war, civil strife, a terrorist attack or similar unforeseen event under which the project owner has no control:

A. Project owner must submit a letter of intent for decommission in writing to the Plan Director, 60 days prior to deconstruction.

B. All assets must be removed within 1 year.

C. The County has the ability to use the surety and right of entry to perform the decommissioning of the CSES if the facility is considered abandoned.

D. The facility Owner shall agree to pay all attorney costs and fees in the enforcement of the terms of this ordinance if necessary.

23. Development Plan: The Development Plan Committee shall consist of the following: Noble County Zoning Administrator, Noble County Highway Department, INDOT (if applicable), Noble County Surveyor, Noble County Building Department, Floodplain Administrator, Noble County Economic Development Corporation, GIS, Local Fire Chief and Ag Educator. The following items, referred to as the Development Plan, must be reviewed by the Development Plan Committee:

- A. Road Usage-Repair agreement
- B. Decommissioning agreement
- C. Traffic Management Plan
- D. Storm Water Erosion Control Ordinance
- E. Economic Development Agreement
- F. Visual Buffer & Vegetative ground cover
- G. Site Plan
- H. Proof of Liability Insurance
- I. Noble County Plan Commission shall retain the services of a professional engineer, licensed in Indiana, with expertise in Commercial Solar Energy Systems at the cost of the developer to review any proposed development plan.
- J. Fire Safety Plan
- K. Recycle Plan
- L. Waste management plan
- M. CSES Contact Information

1) Owner name, address, contact information.

N. No later than the time of application the CSES developer must submit a copy of the Interested Party Notice list to include names and addresses of interested parties.

1) Developer must show proof of Interested Party Notification, 28 days prior to the first public hearing. Notice shall include proof of mailing (including USPS Tracking numbers and certified mailing list).

2) Notification shall apply to all property owners within 300' of the proposed CSES, submitted no later than 60 days prior to the first public hearing.

Definitions:

A-Weighted Decibels – expression of the relative loudness of sounds in air as perceived by the human ear. (Abbreviated as dBA)

Commercial Solar Energy System (CSES): A solar energy system for the purpose of generating and selling solar power, includes all components associated with the generation and transmission of electricity.

Interested Party: Adjacent landowner within 300' of the entire property line of the participating landowner.

Kilowatt (kw): A unit of electrical power. 1 Kw is equal to 1,000 watts.

Laydown Area: The area used for the receipt, temporary storage, and sometimes for the assembly of construction equipment and supplies.

Liability Insurance: To protect the county from any landowner property damage, injury, site contamination or any other issues that may be caused by the CSES, developer and/or site owner. Policy shall also include a fixed site pollution policy. Policy(s) shall be reviewed every five (5) years for the lifetime of the development to verify adequacy of coverage, to be reviewed by the Development Plan Committee, Plan Commission, with final approval of all insurance coverage by County Commissioners. Failure to show proof of insurance at any time shall result in loss of the improvement location permit and be subject fine(s).

- a) All contractor(s) must show proof of liability insurance and include Noble County as additionally insured.
- b) Property-owner, CSES owner and/or developer must have proof of insurance throughout the lifetime of the project which ends at certification of completion of decommission.
- c) Proof of insurance shall be submitted annually, to the Zoning Administrator and Noble County Commissioners. Submission shall include all carrier certificate(s), the amount of coverage, and acknowledge Noble County as an additional insured party.

Megawatt (MW): A unit of electrical power 1,000 KW = 1 MW; 1 MW = 1,000,000 watts

Non-Participating Property: A property in which land is not participating in a current CSES.

Overlay District (OD): Will not replace the base zoning district regulations in the areas where the overlay zoning is applied. An overlay zoning district may add restrictions on the use of the property in the underlying zoning district. In the event of an inconsistency between the overlay zoning district regulations and the base zoning district regulations, the more restrictive shall apply.

Participating Property: Property of land that is owned or leased (by a signed & recorded document between the property owner and the CSES owner) in order to facilitate CSES development.

Radius: A direct line extending from the foundation at the closest point of an existing primary structure to CSES, excluding obstructed view by existing structure(s) and or terrain.

Site Plan:

A Site Plan, drawn to scale, by a licensed surveyor to include the following items.

- i. North arrow.
- ii. Graphic scale.
- iii. Site Address.
- iv. Boundary lines of the site including all dimensions.
- v. All tax parcel numbers included.
- vi. Names, centerlines, and right-of-way widths of adjacent streets, alleys, and easements; including environmental, utility and private easement or private drive.
- vii. Layout, number, dimension, and area of all lots.
- viii. Location and dimensions of all existing and proposed additions including, noise generating equipment, structures, panel placement, number of panels, batteries, inverters, and substation(s).
- ix. Location of Special Flood Hazard Area, floodway, floodway fringe areas, and wetlands within the boundaries of the site.
- x. Labeled use of each structure.
- xi. Distance of all structures from front, rear, and side lot lines.
- xii. Proposed landscaping buffers or landscaped areas.
- xiii. Compliance with the Noble County Comprehensive Plan and the Noble County Unified Development Ordinance.
- xiv. Any other information necessary to support a thorough review of the project as requested on the application form or from the Plan Commission, County Commissioners, or Zoning Administrator.

Staging Area: A smaller laydown area between material and construction point on a specific tract.

Stewardship Plan: Evaluation of the proposed habitat within the CSES site in order to assess the projects conservation. The plan must include a native species list and an assessment similar to a planning score card, such as the Indiana Solar Site Pollinator Habitat Planning Score Card or something similar.

Viewshed: Surrounding points in line-of-sight from existing primary structure excludes points obstructed by terrain or other features such as buildings or trees.

Waste Management Plan: Consistent with local, state, and federal rules and regulations. No harmful waste shall be allowed to seep into the ground or come in contact with open water.

Findings of Fact CSES-OD

The Plan Commission shall consider the following findings of fact:

- (1) The development plan complies with applicable standards of the underlying district in which the lot is located.
- (2) The development plan complies with applicable provisions of the overlay district.
- (3) The proposed development is compatible to the site and its surroundings.
- (4) The development plan complies with applicable provisions of the Unified Development Ordinance.
- (5) The proposed development is consistent with the Noble County Comprehensive Plan.