

AN ORDINANCE TO AMEND THE TEXT OF THE ELKHART COUNTY ZONING ORDINANCE #2014-20 BY AMENDING MULTIPLE SECTIONS THEREOF AS DETAILED IN THIS ORDINANCE.

Whereas, the Elkhart County Advisory Plan Commission did, after proper legal notice, hold a Public Hearing as provided by law on the 26th day of April, 2022, and at that Public Hearing did take and consider public input and review and consider this form of ordinance showing proposed text amendments to the Elkhart County Zoning Ordinance, prepared by the Staff of the Elkhart County Advisory Plan Commission;

Whereas, the Elkhart County Advisory Plan Commission did on the 26th day of April, 2022, grant their approval of the multiple text amendments as set forth in this form of ordinance and forwarded their recommendation for the adoption of these multiple text amendments to the Board of Commissioners of Elkhart County, Indiana; and

Whereas, the contents of this Ordinance details the multiple text amendments to the Elkhart County Zoning Ordinance recommended for approval by the Elkhart County Advisory Plan Commission.

NOW, THEREFORE, BE IT ORDAINED, BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF ELKHART, INDIANA THAT THE TEXT OF THE ELKHART COUNTY ZONING ORDINANCE IS HEREBY AMENDED AS FOLLOWS:

Section 1. In ARTICLE 4- DISTRICT DEVELOPMENT STANDARDS, in 4.1.1 *Zoning Districts*, the table of Zoning Districts shall now read as follows:

Name of District	Designation
Residential Districts	
Agricultural	A-1
Single-Family Residential	R-1
Two-Family Residential	R-2
Multiple-Family Residential	R-3
Residential Mixed Use	R-4
Nonresidential Districts	
Neighborhood Business	B-1
General Business	B-2
Heavy Business	B-3
Limited Manufacturing	M-1
Heavy Manufacturing	M-2
Special Purpose and Overlay Districts	
Office and Business Park	E-3
General Planned Unit Development Overlay	GPUD-
Detailed Planned Unit Development Overlay	DPUD-
Wellhead Overlay	W-

Name of District	Designation
Farmland Preservation	A-3
Concentrated Animal Feeding Protection	A-4
Alternative Energy Overlay	A-E

In ARTICLE 4- DISTRICT DEVELOPMENT STANDARDS, following 4.2.15, add the following new text:

4.2.16 A-E, Alternative Energy Overlay

The purpose of the A-E, Alternative Energy Overlay is to accommodate the development of alternative energy resources and provide development standards for said alternative energy resources. The goals of the overlay are promotion of alternative energy production, promotion of economic development, and promotion of agricultural and/or residential coexistence.

Section 2. In ARTICLE 5- USE STANDARDS, in 5.2.2 Residential Uses, in table A. Household Living, delete “Solar Panel Array (5.5.12)” from the list of Accessory Uses.

In ARTICLE 5-USE STANDARDS, in 5.2.3. *Public and Civic Uses*, in table J. Utilities, delete “Solar Panel array (roof-mounted or ground-mounted 850 square feet or less)” from the list of Primary Uses, Minor Utilities, and delete “Solar Panel array (wall-or-ground mounted and greater than 850 square feet)” from the list of Primary Uses, Major Utilities.

In ARTICLE 5-USE STANDARDS, delete in its entirety Section 5.5.12 Solar Panel Array.

Section 3. In ARTICLE 6- SPECIAL PURPOSES and OVERLAY ZONING DISTRICT, following 6.5.3, add the following new text:

Sec. 6.6 Alternative Energy Uses and A-E Overlay

6.6.1 Applicability

The section applies to alternative energy uses associated with the collection, distribution, and/or utilization of alternative energy resources on land.

6.6.2 Use Standards

The following uses are permitted by right, permitted subject to limitations, permitted by Special Use Permit, or require a zone map change.

6.6.3 Solar Energy Systems

Solar energy systems are permitted in association as a primary and/or accessory use subject to the following standards.

A. Ground-Mounted Solar Array

Type	Size of System	A-1	R	B-1	B-2	B-3	M
Ground Mounted Solar Arrays	Up to 1,500 sq. ft. panel area	P	P	P	P	P	P
	More than 1,500 sq. ft. panel area, less than 3,000 sq. ft. panel area	S	S	S	P	P	P
	More than 3,000 sq. ft. panel area; less than 10 acres fenced area				S	S	P
	10 acres fenced area or more	Zone map change to A-E					

B. Building or Roof-Mounted Solar Arrays

1. Building or Roof-mounted solar panel arrays are permitted by right provided:
 - a. that on pitched roofs, panel arrays may not extend more than 12 inches above the peak of any roof that is viewed from the public right-of-way or from a residential property;
 - b. that they extend no more than 12 inches beyond any edge of the roof; and
 - c. where the panels are placed atop a flat roof they may not extend more than five feet above the roof and must be screened from the public right-of-way with the building's façade parapet or similar mechanism.
2. Building or Roof-mounted solar panel arrays are exempt from the building height requirement.
3. A building or roof-mounted solar panel array that cannot meet these placement standards requires a Special Use Permit.

Type	Size of Array	A-1	R	B-1	B-2	B-3	M
Roof Mounted Solar Arrays	Arrays that cannot meet placement standards in B.1 & B.2 above	S	S	S	S	S	S

C. Solar Thermal Systems

1. Reserved

6.6.4 Dimensional Standards

The following table sets forth the dimensional standards in the A-E Overlay

Setbacks (min ft.)	
Major road (between fence and centerline)	120 ft.
County Road (between fence and centerline)	75 ft.
Property line (between fence & non participating property line)	50 ft.
Property line (between fence & non participating residential building)	200 ft.
Side (adjacent* to Res use or district)	
Bodies of water, wells, septic systems	100 ft.
Height (max ft.)	25 ft.
Buffering	See 7.3.4 B
Fencing	
Solar side of buffering	6 ft. min.
Entire panel area	
Noise	
Not audible from a nonparticipating parcel zoned R or A	
Lighting	Downcast
Signage	Refer to 7.4.4

6.6.5 Other Alternative Energy Uses

- A. Reserved

6.6.6 Rezoning Process

- A. Rezoning

A rezoning to the A-E Overlay (hereinafter referred to in 6.6.6 as “A-E”) must follow the same process as that established for a Zoning Map Amendment in Sec. 3.3.

- B. Site Plan

1. Except as modified below, the Plan Commission and appropriate legislative body must review and take final action on the A-E Site Plan and Ordinance portion of an A-E application, following the review process and review criteria established for a Zoning Map Amendment set forth in Sec. 3.3.
2. In addition to the Zoning Map Amendment review process set forth in Sec. 3.3, prior to review and recommendation by the Plan Commission, the Technical Review Committee must deem the A-E Site Plan and supporting submittals a correct application. The process for determination of correctness is described in subsection 3.1.4E.

3. The Plan Director and Plan Commission may recommend and the appropriate legislative body may require additional modifications to the submitted A-E Site Plan deemed necessary to create a reasonable transition to, and protection of, adjacent property and public areas, including but not limited to, modifications related to:
 - a. Access and circulation;
 - b. Landscaping;
 - c. Screening;
 - d. Outdoor lighting;
 - e. Signs;
 - f. Underground utilities; and
 - g. Drainage systems (i.e., farm tiles).
4. The Plan Director and Plan Commission may recommend and the appropriate legislative body may require that the A-E Ordinance mandate any of the design elements listed in paragraph 3 above for the project.

C. Other Plans & Agreements

Other plans and or agreements may be required by the appropriate legislative body, including but not limited to:

- a. Operating & Maintenance Plan
- b. Emergency Services & Response Plan
- c. Decommissioning & Restoration Plan
- d. Road Impact & Maintenance Agreement

D. Review Criteria

The Plan Commission and the appropriate legislative body must review and give reasonable regard to the proposed A-E based on the degree to which the proposal meets all of the following criteria.

- a. The proposal is consistent with the Purpose of the Zoning Ordinance as established in Sec. 1.2.
- b. The proposal is consistent with the applicability of an A-E as established in Sec. 6.6
- c. The proposal is consistent with the Comprehensive Plan.
- d. The proposal addresses potential conflicts with and attempts to conserve the value of adjacent properties.
- e. The proposal demonstrates responsible development and growth.

Section 4. In ARTICLE 7-GENERAL DEVELOPMENT STANDARDS, in 7.3.4.B. the Boundary Buffer Table shall now read as follows:

		Adjacent District								
		A-1, R-1, -2, -3 (Res. use)	R-4 (Res. use)	B-1	B-2	B-3	E-3	M-1	M-2	A-E
Subject District	R-1, -2, -3, -4 (Nonres. use)	I	--	--	--	--	--	--	--	--
	B-1	I	--	--	--	--	--	--	--	--
	B-2	II	I	I	--	--	I	--	--	--
	B-3	II	II	I	I	--	I	--	--	--
	E-3	II	II	I	I	--	--	--	--	--
	M-1	III	III	II	I	I	I	--	--	--
	M-2	III	III	III	II	I	II	--	--	--
	A-E	III	III	III	II	I	II	--	--	--

In ARTICLE 7-GENERAL DEVELOPMENT STANDARDS, in 7.4.5.1. the portion of the sign table applicable to free standing signs, add zoning district “A-E” following “A-3, A-4”.

Section 5. In ARTICLE 11- DEFINITIONS, in 11.2 Definitions, add the following four new definitions in their proper alphabetical order:

ALTERNATIVE ENERGY. Usable energy derived from naturally replenishable sources such as the Sun (solar energy), wind (wind power), rivers (hydroelectric power), hot springs (geothermal energy), and tides (tidal power).

SOLAR ARRAY. Multiple solar panels combined together to create one system.

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 yard, and landscaping.

SOLAR PANEL (or module). A device for the direct conversion of sunlight into useable solar energy (including electricity or heat).

Section 6. This Ordinance shall be effective upon adoption by the Board of Commissioners of Elkhart County, Indiana.

**ORDAINED AND ADOPTED THIS ____ DAY OF _____, 2022 BY THE
BOARD OF COMMISSIONERS OF ELKHART COUNTY, INDIANA.**

By
Frank Lucchese

By
Brad Rogers

By
Suzanne Weirick

Attest:

Patricia A. Pickens
Auditor for Elkhart County