

COUNCIL PENDING ORDINANCE C.P.O. 2022-23
ORDINANCE NO. _____
AS AMENDED 5.17.22
CERTIFICATION DATE _____
CERTIFIED BY _____
FAVORABLY _____
UNFAVORABLY _____

**AN ORDINANCE AMENDING THE ZONING CODE TO INCLUDE PROVISIONS
ALLOWING FOR THE INSTALLATION OF SOLAR ENERGY SYSTEMS WITHIN THE
CITY OF GARY**

WHEREAS, section 123-6 of the municipal code authorizes the Planning Commission to propose changes of the Zoning Code to the Common Council; and

WHEREAS, it is necessary to amend the Zoning code to include provisions that allow for the development and installation of smaller-scale solar energy projects; and

WHEREAS, allowing the installation of solar energy systems will encourage economic development, climate protections, and the conservation of natural resources; and

WHEREAS, approval of this ordinance will be in the best interests of the City of Gary.

WHEREAS, THE CITY OF GARY PLAN COMMISSION voted 8-0 in the meeting held on 4/21/2022 to forward Petition No. PC 2022-08 to the Common Council a favorable recommendation to adopt.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Gary, Indiana as follows:

SECTION 1. SCOPE: This article applies to all solar energy installations in the City of Gary.

SECTION 2. PURPOSE: The purpose of this ordinance is to provide for the siting, development, and decommissioning of smaller-scale solar energy projects in the City of Gary, subject to reasonable conditions that promote and support the public health, safety, and welfare of the community while promoting development of renewable energy resources. Encouraging solar development provides economic development, climate protection, and natural resources co-benefits and builds upon the city's energy efficiency and renewable energy programs.

SECTION 3. AMENDED CODES

Sec. 123-1. - Definitions.

Accessory building or use means one which is subordinate to and serves a principal building or principal use; is subordinate in area, extent, or purpose to the principal building or principal use served; contributes to the comfort, convenience, or necessity of the occupants of the principal building or principal use served; and is located on the same zoning lot as the principal building or principal use served, with the exception of any accessory off-street parking facilities **or solar energy systems** that are permitted to locate elsewhere than on the same zoning lot with the building or use served. The term "accessory building or use" includes, but is not limited to, the following:

- (1) A children's playhouse, garden house, or private greenhouse.
- (2) A garage, shed, or building for domestic storage.

- (3) Decks, fences, arbors, gazebos and swimming pools.
- (4) Storage of goods used in or produced by manufacturing activities, unless this storage is excluded by the district regulations.
- (5) The production, processing, cleaning, servicing, altering, testing, repair, or storage of merchandise normally incidental to a retail service or business use conducted by the same ownership as the principal use. In a business district, all these activities shall conform with the performance standards for the MI manufacturing districts in section 123-217, applied at the boundaries of the lot on which the use is located.
- (6) Off-street motor vehicle parking spaces or areas and loading facilities.
- (7) Signs, other than advertising signs, as permitted and regulated in each district incorporated in this chapter.
- (8) Carports.

(9) Solar Energy Systems

Building-integrated Solar Energy Systems – A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

Community-Scale Solar Energy Systems – A solar energy system that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system.

Floor area for determining floor area ratio means the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings. The floor area of a building shall include basement floor area when more than one-half of the basement height is above the established curb level or above the finished lot grade level where curb level has not been established; elevator shafts and stairwells at each floor; floor space used for mechanical equipment, open or enclosed, located on the roof or penthouses; attic space having headroom of seven feet, ten inches or more; interior balconies, mezzanines, and enclosed porches; and floor area devoted to accessory uses. However, any space devoted to **solar energy installations**, off-street parking, or loading shall not be included in floor area.

Grid-tied Solar Energy Systems – A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

Ground-Mounted – A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mounted systems can be either accessory or principal uses.

Large-Scale Solar Energy Systems – A commercial solar energy system that converts sunlight into electricity for the primary purpose of wholesale sales of generated electricity. A large-scale solar energy system will have a project size greater than 10 acres and is the principal land use for the parcel(s) on which it is located. It can include collection and feeder lines, substations, ancillary buildings, solar monitoring stations and accessory equipment or structures thereto, that capture and convert solar energy into electrical energy, primarily for use in locations other than where it is generated.

Off-grid Solar Energy Systems – A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

Photovoltaic System – A solar energy system that converts solar energy directly into electricity.

Roof-Mounted – A solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mounted systems are accessory to the principal use. **Roof Pitch** – The final exterior slope of a roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.

Solar Collector – A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.

Solar Energy – Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector. **Solar Energy System** – A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage, and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.

Sec. 123-332. - Principal and accessory buildings.

(b) No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory, **except for solar energy systems**. No accessory building(s) or structures shall occupy more than 40 percent of the area of a required rear yard. No accessory building or portion thereof located in a required rear yard shall exceed 15 feet in height. **Ground or pole-mounted solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt.** On a reversed corner lot in a residence district and within 15 feet of any adjacent property to the rear in a residence district, no accessory building or portion thereof located in a required rear yard shall be closer to the side lot line abutting the street than a distance equal to 60 percent of the least depth which would be required under this chapter for the front yard on the adjacent property to the rear. Further, in the above instance, no accessory building shall be located within five feet of any part of a rear lot line which coincides with a side lot line or portion thereof of property in an R1, R1A, R2, R3, or R4 district.

Sec. 123-333. - Bulk regulations.

(e) Permitted obstructions in required yards.

(3) In rear yards. Enclosed, attached, or detached off-street parking spaces; open off-street parking spaces; accessory sheds, tool rooms, and similar accessory buildings or structures for domestic and agricultural storage; balconies; breezeways and open porches; one-story bay windows projecting three feet or less into the yard; overhanging eaves and gutters projecting three feet or less into the yard, **ground or pole-mounted solar energy systems** are permitted. No accessory building, structure, or use shall be nearer than three feet to the side lot line. No accessory building or use shall be nearer than three feet to the rear lot line.

(4) In side yards. Overhanging **eaves, gutters and roof or building-mounted solar energy systems** projecting into the yard for a distance not exceeding 40 percent of the required yard width, but in no case exceeding 30 inches are permitted. **Solar collectors mounted on the sides of buildings and serving as awnings** are

considered to be building-integrated systems and are regulated as awnings; Ground-mounted Solar Energy Systems are permitted in side yards and shall not be nearer than three feet to the side lot line.

Sec. 123-155. - R1 and R1A One-Family Dwelling Districts.

(c)The following land uses may be allowed as special uses by approval of the board of zoning appeals of the city in accordance with this chapter:

- (1) Cemeteries, including crematories and mausoleums in conjunction therewith, if not located within 300 feet of any other property in a residence district.
- (2) Colleges or universities, but not business colleges or trade schools.
- (3) Convents and monasteries.
- (4) Hospitals, nursing home/convalescent center; assisted living center; intermediate care facility; independent living center; group home - community residence, state-licensed;
- (5) Golf courses, but not including commercially-operated driving ranges or miniature golf courses.
- (6) Institutions for children.
- (7) Open spaces, parks, playgrounds, and community centers, publicly and privately owned and operated.
- (8) Planned developments, residential.
- (9) Public utility and public service uses, including the following: a. Bus turnarounds (off-street). B. Fire stations. c. Police stations. d. Public art galleries and museums. e. Telephone exchanges. f. Railroad facilities. g. Water filtration plants. h. Water pumping stations. i. Public libraries. j. Water reservoirs. k. Electric and gas public utilities.
- (10) Community and recreational buildings, privately owned and operated, not-for profit.
- (11) Nursery schools and day care.
- (12) Type I manufactured homes.
- (13) Accessory off-street motor vehicle parking lots for other than residential uses.
- (14) Churches, temples, mosques, or other places of religious worship, including rectors and parish houses.

(15) Community solar energy systems for other than residential uses provided the following requirements are met:

- a. **Front, side, and rear setbacks from the property lines of contiguous parcels included in the project area shall be at least 10 feet, measured from the edge of the solar energy system array, excluding security fencing, screening, or berm and no closer than 50 feet of a residential building of a non-participating property owner.**
- b. **Approved Solar Components Electric solar energy system components must have an Underwriters Laboratory (UL) or equivalent listing and solar hot water systems must have a Solar Rating & Certification Corporation (SRCC) or equivalent rating.**
- c. **A decommissioning plan is required to dispose of the components after their useful life and define the financial responsibility to restore the soil and vegetation on the site.**

Sec. 123-192. - B1 Limited retail districts

(a)The following conditions shall be placed upon the land uses authorized as permitted or special use land uses in a B1 Limited Retail District:

- (4) All business, servicing, processing, or storage, except for, **solar energy systems**, off-street parking or loading, shall be conducted or located within completely enclosed buildings.

(b) In the B1-1 and B1-2 districts the following land uses are authorized as permitted land uses, contingent upon the conditions under subsection (a) of this section:

- (1) Neighborhood related and pedestrian-orientated retail and services uses, as follows:
 - a. Book and stationery stores.
 - b. Custom dressmaking, tailor and millinery shops.
 - c. Drug and pharmaceutical stores.
 - d. Dry cleaning and laundry receiving stations, processing to be done elsewhere.
 - e. Florist shops.
 - f. Food stores, including grocery stores, meat markets, bakeries, candy and ice cream shops, delicatessens.
 - g. Hardware and home improvement store.
 - h. Personal service salons and shops: barber and beauty shops and nail salons.
 - i. Photography studio.
 - j. Restaurants, including cafes, coffee shops, tea houses, and internet/computer cafes.
- (2) Offices: business and professional.
- (3) Miscellaneous uses, as follows:
 - a. Open spaces, plazas and common greens.
 - b. Shared parking facilities.
 - c. Post offices.
 - d. Electric and gas public utilities.
 - e. Public libraries.
 - f. Nursery schools and day care/child care facilities, licensed by the state.
 - g. solar energy systems.**
- (4) Residential land uses, subject to subsection (a)(1) of this section.
- (5) Uses incidental to principal permitted uses, as follows:
 - a. Accessory uses.
 - b. Home occupations.
 - c. Temporary buildings for construction purposes for a period not to exceed the duration of the construction.

Sec. 123-217. - M1 Limited Manufacturing Districts.

- (5) Miscellaneous land uses ancillary but acceptable within the M1 district, as follows:
 - a. Cellular, radio, television, satellite or cable transmission/reception towers.
 - b. Above ground water storage tank.
 - c. Signs, as regulated by chapter 117.
 - d. Solar energy systems, including Community-Scale Solar Energy Systems, Grid-tied Solar Energy Systems, Large-Scale Solar Energy Systems, Off-grid Solar Energy Systems.**

Chapter 103 - AIRPORT ZONING

Sec. 103-9. - Airport hazards. It is found that an airport hazard endangers the lives and property of users of the Gary Municipal Airport and of occupants of land in its vicinity, and if of the obstruction type, reduces the area available for the landing, taking off, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Gary Municipal Airport and the public investment therein. Accordingly, the following regulations are established.

- (1) The erection or establishment of an airport hazard is a public nuisance and an injury to the region served by the Gary Municipal Airport.
- (2) It is necessary, in the interest of public health, public safety, and general welfare of the inhabitants of the city, that the creation or establishment of airport hazards be prevented to obviate the destruction or impairment of the utility of the airport and the public investment therein.

- a. **Solar energy systems located within the Gary/Chicago Municipal Airport Zones must complete and provide the results of a glare analysis through a qualitative analysis of potential impact, field test demonstration, or geometric analysis of ocular impact in consultation with the Federal Aviation Administration (FAA) Office of Airports, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.**

(3) The prevention of airport hazards shall, to the extent legally possible, be accomplished by the exercise of the police power without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes, for which political subdivisions may raise and expend public funds and acquire land or interests in land.

(4) Notwithstanding other provisions of this chapter, no use may be made of land within any zone established by this chapter in such a manner as to create electrical interference with radio communication between the airport and aircraft or make it difficult for flyers to distinguish between airport lights and others and which may result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking off, or maneuvering of aircraft.

SECTION 6. This ordinance shall be in full force and effect from and after its passage.

PASSED BY THE COMMON COUNCIL of the CITY OF GARY, INDIANA this _____ of _____, 2022.

PRESIDING OFFICER

ATTEST:

CITY CLERK

Presented by me to the MAYOR for her signature this _____ day of _____, 2022.

CITY CLERK

APPROVED and SIGNED by me his _____ day of _____, 2022.

MAYOR JEROME A. PRINCE, CITY OF GARY, INDIANA

RECOMMENDED FOR APPROVAL BY: PLAN COMMISSION

PREPARED BY: Steve D. Jenkins, Law Department

SPONSORED BY: Mayor Jerome Prince, Brenda Scott-Henry, Director of Sustainability and Environmental Affairs, City of Gary, and Eric Boria, Zoning Administrator, City of Gary

COMMITTEE ASSIGNMENT _____ REPORTED-OUT DATE ____/____/____

1ST READING DATE ____/____/____ COMMITTEE HEARING DATE ____/____/____

2ND READING DATE ____/____/____ PUBLIC HEARING DATE ____/____/____

3RD READING DATE ____/____/____ FINAL HEARING DATE ____/____/____

PASSED DATE ____/____/____ DEFEATED DATE ____/____/____

TABLED DATE ____/____/____ OVERDUE DATE ____/____/____ ADOPTED DATE ____/____/____