

# HOUSE BILL No. 1381

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1; IC 36-1-3; IC 36-7.

**Synopsis:** Commercial wind and solar standards and siting. Establishes default standards concerning the following with respect to developments to install or locate wind power devices in local units: (1) Setback requirements. (2) Height restrictions. (3) Shadow flicker limitations. (4) Sound level limitations. (5) Project decommissioning. Provides that a permit authority for a local unit may not restrict, or impose conditions or limitations on, the construction, installation, siting, modification, operation, or decommissioning of wind power devices in the unit unless the unit first adopts a wind power regulation. Provides that a permit authority may not impose standards that: (1) concern wind power devices in the unit; and (2) are more restrictive than the default standards. Establishes procedures for the permitting or approval process for the siting of wind power devices in a local unit. Sets forth various elements of the required procedures. Establishes default standards concerning the following with respect to projects to install or locate commercial solar energy systems (CSE systems) in a unit: (1) Setback requirements. (2) Height restrictions. (3) Ground cover. (4) Fencing. (5) Cables. (6) Glare. (7) Signal interference. (8) Sound level limitations. (9) Project decommissioning. Provides that a permit authority for a local unit may not restrict, or impose conditions or limitations on, the construction, installation, siting, modification, operation, or decommissioning of CSE systems in the unit unless the unit first adopts a commercial solar regulation. Provides that a permit authority may not impose standards that: (1) concern CSE systems in the unit; and (2) are more restrictive than the default standards. Establishes procedures for the permitting or approval process for the siting of CSE systems in a local unit. Sets forth various elements of the required procedures. Makes conforming amendments to Indiana's home rule statute.

**Effective:** Upon passage; July 1, 2021.

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January 14, 2021, read first time and referred to Committee on Utilities, Energy and Telecommunications.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

# HOUSE BILL No. 1381

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 8-1-41 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
3 PASSAGE]:

4 **Chapter 41. Default Standards for Wind Power Devices**

5 **Sec. 1. (a) This chapter applies to a project owner that, after**  
6 **June 30, 2021, seeks to install or locate one (1) or more wind power**  
7 **devices in a unit that:**

8 (1) **has not adopted a wind power regulation; or**

9 (2) **has:**

10 (A) **adopted a wind power regulation that includes**  
11 **standards that are more restrictive, directly or indirectly,**  
12 **than the standards set forth in this chapter; and**

13 (B) **failed to amend the wind power regulation as required**  
14 **by IC 36-1-3-8.7(g).**

15 (b) **Subject to a unit's planning and zoning powers under**  
16 **IC 36-7, this chapter does not apply to a property owner who seeks**  
17 **to install a wind power device on the property owner's premises for**



1 the purpose of generating electricity to meet or offset all or part of  
 2 the need for electricity on the premises, whether through  
 3 distributed generation, participation in a net metering or feed-in  
 4 tariff program offered by an electricity supplier (as defined in  
 5 IC 8-1-40-4), or otherwise.

6 Sec. 2. As used in this chapter, "dwelling" means any building,  
 7 structure, or part of a building or structure that is occupied as, or  
 8 is designed or intended for occupancy as, a residence by one (1) or  
 9 more families or individuals.

10 Sec. 3. (a) As used in this chapter, "nonparticipating property"  
 11 means a lot or parcel of real property:

12 (1) that is not owned by a project owner; and

13 (2) with respect to which:

14 (A) the project owner does not seek:

15 (i) to install or locate one (1) or more wind power devices  
 16 or other facilities related to a wind power project  
 17 (including power lines, temporary or permanent access  
 18 roads, or other temporary or permanent infrastructure);  
 19 or

20 (ii) to otherwise enter into a lease or any other  
 21 agreement with the owner of the property for use of all  
 22 or part of the property in connection with a wind power  
 23 project; or

24 (B) the owner of the property does not consent:

25 (i) to having one (1) or more wind power devices or other  
 26 facilities related to a wind power project (including  
 27 power lines, temporary or permanent access roads, or  
 28 other temporary or permanent infrastructure) installed  
 29 or located; or

30 (ii) to otherwise enter into a lease or any other  
 31 agreement with the project owner for use of all or part  
 32 of the property in connection with a wind power project.

33 (b) The term does not include a lot or parcel of real property  
 34 otherwise described in subsection (a) if the owner of the lot or  
 35 parcel consents to participate in a wind power project through a  
 36 neighbor agreement, a participation agreement, or another similar  
 37 arrangement or agreement with a project owner.

38 Sec. 4. (a) As used in this chapter, "permit authority" means:

39 (1) a unit; or

40 (2) a board, a commission, or any other governing body of a  
 41 unit;

42 that makes legislative or administrative decisions concerning the



1 construction, installation, siting, modification, operation, or  
2 decommissioning of wind power devices in the unit.

3 (b) The term does not include:

- 4 (1) the state or any of its agencies, departments, boards,  
5 commissions, authorities, or instrumentalities; or  
6 (2) a court or other judicial body that reviews decisions or  
7 rulings made by a permit authority.

8 Sec. 5. (a) As used in this chapter, "project owner" means a  
9 person that:

- 10 (1) will own one (1) or more wind power devices proposed to  
11 be located in a unit; or  
12 (2) owns one (1) or more wind power devices located in a unit.

13 (b) The term includes an agent or a representative of a person  
14 described in subsection (a).

15 Sec. 6. (a) As used in this chapter, "unit" refers to:

16 (1) a county, if a project owner, as part of a single wind power  
17 project or development, seeks to locate one (1) or more wind  
18 power devices:

- 19 (A) entirely within unincorporated areas of the county;  
20 (B) within both unincorporated areas of the county and  
21 one (1) or more municipalities within the county; or  
22 (C) entirely within two (2) or more municipalities within  
23 the county; or

24 (2) a municipality, if:

- 25 (A) a project owner, as part of a single wind power project  
26 or development, seeks to locate one (1) or more wind  
27 power devices entirely within the boundaries of the  
28 municipality; and  
29 (B) subdivision (1)(B) or (1)(C) does not apply.

30 (b) The term refers to:

- 31 (1) each county described in subsection (a)(1) in which a  
32 project owner seeks to locate one (1) or more wind power  
33 devices, if the project owner seeks to locate wind power  
34 devices in more than one (1) county as part of a single wind  
35 power project or development; and  
36 (2) each municipality described in subsection (a)(2) in which  
37 a project owner seeks to locate one (1) or more wind power  
38 devices, if the project owner seeks to locate wind power  
39 devices in two (2) or more municipalities, each of which is  
40 located in a different county.

41 Sec. 7. As used in this chapter, "wind power device" means a  
42 device, including a windmill or a wind turbine, that is designed to



1 use the kinetic energy of moving air to provide mechanical energy  
2 or to produce electricity.

3 **Sec. 8. As used in this chapter, "wind power regulation" refers**  
4 **to any ordinance or regulation, including any:**

5 (1) zoning or land use ordinance or regulation; or

6 (2) general or specific planning ordinance or regulation;

7 that is adopted by a unit and that concerns the construction,  
8 installation, siting, modification, operation, or decommissioning of  
9 wind power devices in the unit.

10 **Sec. 9. (a) The standards set forth in sections 10 through 13 of**  
11 **this chapter apply with respect to any proposal by a project owner**  
12 **to install or locate one (1) or more wind power devices in a unit**  
13 **described in section 1(a) of this chapter. The permit authority for**  
14 **a unit described in section 1(a)(1) of this chapter may not, directly**  
15 **or indirectly, restrict, or impose conditions or limitations on, the**  
16 **construction, installation, siting, modification, operation, or**  
17 **decommissioning of one (1) or more wind power devices in the unit**  
18 **unless the unit first adopts a wind power regulation, as required by**  
19 **IC 36-1-3-8.7(f)(1). However, in no case may any unit impose**  
20 **standards, whether by regulation or otherwise, that:**

21 (1) concern the construction, installation, siting, modification,  
22 operation, or decommissioning of wind power devices in the  
23 unit; and

24 (2) are more restrictive, directly or indirectly, than the  
25 standards set forth in this chapter;

26 as provided in IC 36-1-3-8.7(f)(3).

27 (b) Except as provided in:

28 (1) subsection (a);

29 (2) IC 36-1-3-8.7; and

30 (3) IC 36-7-5.3;

31 this chapter does not otherwise affect a unit's planning and zoning  
32 powers under IC 36-7 with respect to the installation or siting of  
33 one (1) or more wind power devices in the unit.

34 (c) A permit authority for a unit described in section 1(a) of this  
35 chapter is responsible for enforcing compliance with:

36 (1) this chapter;

37 (2) IC 36-7-5.3; and

38 (3) in the case of a unit described in section 1(a)(2) of this  
39 chapter, any part of the unit's wind power regulation, to the  
40 extent such part is not inconsistent with:

41 (A) this chapter; and

42 (B) IC 36-7-5.3.



1           **Sec. 10. (a)** Subject to subsection (d), and except as otherwise  
 2 allowed by IC 36-7-4-1109, a project owner may not install or  
 3 locate a wind power device on property in a unit unless the  
 4 distance, measured as a straight line, from the vertical centerline  
 5 of the base of the wind power device to:

6           **(1)** the centerline of any:

7           **(A)** runway located on a public use airport, private use  
 8 airport, or municipal airport;

9           **(B)** public use highway, street, or road;

10           **(C)** railroad easement or right-of-way; or

11           **(D)** utility transmission or distribution line (as measured  
 12 from the center of the line itself, and not from the center or  
 13 edge of a related easement); or

14           **(2)** the property line of any nonparticipating property;  
 15 is equal to a distance that is at least one and one-tenth (1.1) times  
 16 the wind power device's blade tip height, as measured from the  
 17 ground to the tip of the blade.

18           **(b)** Subject to subsection (d), and except as otherwise allowed by  
 19 IC 36-7-4-1109, a project owner may not install or locate a wind  
 20 power device on property in a unit unless the distance, measured  
 21 as a straight line, from the vertical centerline of the base of the  
 22 wind power device to the nearest point on the outer wall of a  
 23 dwelling located on a nonparticipating property is equal to a  
 24 distance that is at least two (2) times the wind power device's blade  
 25 tip height, as measured from the ground to the tip of the blade.

26           **(c)** Except as otherwise allowed by IC 36-7-4-1109, a permit  
 27 authority, with respect to the siting or construction of any wind  
 28 power device within the unit, may not set a blade tip height  
 29 limitation, through a wind power regulation or otherwise, that is  
 30 more restrictive than the standards of the Federal Aviation  
 31 Administration under 14 CFR Part 77 concerning the safe, efficient  
 32 use and preservation of the navigable airspace.

33           **(d)** The distance requirements set forth in subsections (a) and  
 34 (b) may be waived with respect to the siting of any one (1) wind  
 35 power device, subject to the written consent of the owner of each  
 36 affected nonparticipating property.

37           **Sec. 11. (a)** Subject to subsection (c), and except as otherwise  
 38 allowed by IC 36-7-4-1109, a project owner may not install or  
 39 locate one (1) or more wind power devices in a unit unless the  
 40 project owner demonstrates to the permit authority that with  
 41 respect to each wind power device that the project owner seeks to  
 42 install or locate in the unit:



1 (1) the project owner has used shadow flicker computer  
 2 modeling to estimate the amount of shadow flicker anticipated  
 3 to be caused by the wind power device; and

4 (2) the wind power device has been designed such that  
 5 industry standard computer modeling indicates that any  
 6 nonparticipating property within the unit will not experience  
 7 more than thirty (30) hours per year of shadow flicker under  
 8 planned operating conditions for the wind power device.

9 (b) After a project owner installs or locates a wind power device  
 10 in a unit, as authorized by the permit authority in accordance with  
 11 this chapter and IC 36-7-5.3, the project owner shall work with the  
 12 owner of any affected nonparticipating property to mitigate the  
 13 effects of shadow flicker to the extent reasonably practicable.

14 (c) The requirement set forth in subsection (a)(2) may be waived  
 15 with respect to any one (1) wind power device, subject to the  
 16 written consent of the owner of each affected nonparticipating  
 17 property.

18 Sec. 12. (a) Subject to subsection (b), and except as otherwise  
 19 allowed by IC 36-7-4-1109, a project owner may not install or  
 20 locate a wind power device in a unit unless the project owner  
 21 demonstrates to the permit authority that the wind power device  
 22 will operate in a manner such that the sound attributable to the  
 23 wind power device will not exceed an hourly average sound level  
 24 of fifty (50) A-weighted decibels, as modeled at the outer wall of an  
 25 affected dwelling.

26 (b) The requirement set forth in subsection (a) may be waived  
 27 with respect to any one (1) wind power device, subject to the  
 28 written consent of the owner of each affected property.

29 Sec. 13. (a) Subject to subsection (b), and except as otherwise  
 30 allowed by IC 36-7-4-1109, a project owner may not install or  
 31 locate a wind power device in a unit unless the project owner  
 32 submits to the permit authority the decommissioning and site  
 33 restoration plan required by IC 36-7-5.3-9(a)(9), and posts a surety  
 34 bond, or an equivalent means of security acceptable to the permit  
 35 authority, including a parent company guarantee or an irrevocable  
 36 letter of credit, in an amount equal to the estimated cost of  
 37 decommissioning the wind power device, as calculated by a third  
 38 party licensed or registered engineer, or by another person with  
 39 suitable experience in the decommissioning of wind power devices,  
 40 as agreed upon by the project owner and the permit authority. The  
 41 required bond or other security shall be posted in increments such  
 42 that the total amount of the bond or security posted is as follows:



1 (1) An amount equal to twenty-five percent (25%) of the total  
2 estimated decommissioning costs not later than the start date  
3 of the wind power device's full commercial operation. For  
4 purposes of this subdivision, the total estimated  
5 decommissioning costs shall be reevaluated by a third party  
6 licensed or registered engineer (or by another person with  
7 suitable experience in the decommissioning of wind power  
8 devices, as agreed upon by the project owner and the permit  
9 authority) before the:

10 (A) fifth anniversary; and

11 (B) tenth anniversary;

12 of the start date of the wind power device's full commercial  
13 operation, and the total amount of the bond or security posted  
14 under this subdivision shall be adjusted as necessary after  
15 each reevaluation.

16 (2) An amount equal to fifty percent (50%) of the total  
17 estimated decommissioning costs not later than the fifteenth  
18 anniversary of the start date of the wind power device's full  
19 commercial operation. For purposes of this subdivision, the  
20 total estimated decommissioning costs shall be reevaluated by  
21 a third party licensed or registered engineer (or by another  
22 person with suitable experience in the decommissioning of  
23 wind power devices, as agreed upon by the project owner and  
24 the permit authority) before the fifteenth anniversary of the  
25 start date of the wind power device's full commercial  
26 operation, and the total amount of the bond or security posted  
27 under this subdivision shall be adjusted as necessary after the  
28 reevaluation.

29 (3) An amount equal to one hundred percent (100%) of the  
30 total estimated decommissioning costs not later than the  
31 twentieth anniversary of the start date of the wind power  
32 device's full commercial operation. For purposes of this  
33 subdivision, the total estimated decommissioning costs shall  
34 be reevaluated by a third party licensed or registered  
35 engineer (or by another person with suitable experience in the  
36 decommissioning of wind power devices, as agreed upon by  
37 the project owner and the permit authority):

38 (A) before the twentieth anniversary of the start date of the  
39 wind power device's full commercial operation; and

40 (B) upon every succeeding five (5) year period after the  
41 twentieth anniversary of the start date of the wind power  
42 device's full commercial operation;





- 1           and the total amount of the bond or security posted under this  
2           subdivision shall be adjusted as necessary after each  
3           reevaluation.
- 4           **(b) For purposes of this section, the estimated cost of**  
5           **decommissioning a wind power device, as calculated by a licensed**  
6           **or registered professional engineer (or by another person with**  
7           **suitable experience in the decommissioning of wind power devices,**  
8           **as agreed upon by the project owner and the permit authority),**  
9           **shall be the net of any estimated salvage value attributable to the**  
10          **wind power device at the time of decommissioning, unless the unit**  
11          **and the project owner agree to include any such value in the**  
12          **estimated cost.**
- 13          SECTION 2. IC 8-1-42 IS ADDED TO THE INDIANA CODE AS  
14          A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
15          PASSAGE]:
- 16          **Chapter 42. Default Standards for Commercial Solar Energy**  
17          **Systems**
- 18          **Sec. 1. (a) This chapter applies to a project owner that, after**  
19          **June 30, 2021, seeks to install or locate one (1) or more commercial**  
20          **solar energy systems in a unit that:**
- 21                  **(1) has not adopted a commercial solar regulation; or**  
22                  **(2) has:**
- 23                          **(A) adopted a commercial solar regulation that includes**  
24                          **standards that are more restrictive, directly or indirectly,**  
25                          **than the standards set forth in this chapter; and**  
26                          **(B) failed to amend the commercial solar regulation as**  
27                          **required by IC 36-1-3-8.8(g).**
- 28          **(b) Subject to a unit's planning and zoning powers under**  
29          **IC 36-7, this chapter does not apply to a property owner who seeks**  
30          **to install a solar energy device (as defined in IC 32-23-4-3) on the**  
31          **property owner's premises for the purpose of generating electricity**  
32          **to meet or offset all or part of the need for electricity on the**  
33          **premises, whether through distributed generation, participation in**  
34          **a net metering or feed-in tariff program offered by an electricity**  
35          **supplier (as defined in IC 8-1-40-4), or otherwise.**
- 36          **Sec. 2. (a) As used in this chapter, "commercial solar energy**  
37          **system", or "CSE system", means a system that captures and**  
38          **converts solar energy into electricity that is generated primarily:**
- 39                  **(1) for the purpose of selling the electricity at wholesale; and**  
40                  **(2) for use in locations other than where it is generated.**
- 41          **(b) The term includes collection and feeder lines, substations,**  
42          **ancillary buildings, solar monitoring stations, and accessory**



1 equipment or structures.

2 **Sec. 3. As used in this chapter, "commercial solar regulation"**  
3 **refers to any ordinance or regulation, including any:**

4 (1) zoning or land use ordinance or regulation; or

5 (2) general or specific planning ordinance or regulation;

6 that is adopted by a unit and that concerns the construction,  
7 installation, siting, modification, operation, or decommissioning of  
8 CSE systems in the unit.

9 **Sec. 4. As used in this chapter, "dwelling" means any building,**  
10 **structure, or part of a building or structure that is occupied as, or**  
11 **is designed or intended for occupancy as, a residence by one (1) or**  
12 **more families or individuals.**

13 **Sec. 5. (a) As used in this chapter, "nonparticipating property"**  
14 **means a lot or parcel of real property:**

15 (1) that is not owned by a project owner; and

16 (2) with respect to which:

17 (A) the project owner does not seek:

18 (i) to install or locate one (1) or more CSE systems or  
19 other facilities related to a CSE system project (including  
20 power lines, temporary or permanent access roads, or  
21 other temporary or permanent infrastructure); or

22 (ii) to otherwise enter into a lease or any other  
23 agreement with the owner of the property for use of all  
24 or part of the property in connection with a CSE system  
25 project; or

26 (B) the owner of the property does not consent:

27 (i) to having one (1) or more CSE systems or other  
28 facilities related to a CSE system project (including  
29 power lines, temporary or permanent access roads, or  
30 other temporary or permanent infrastructure) installed  
31 or located; or

32 (ii) to otherwise enter into a lease or any other  
33 agreement with the project owner for use of all or part  
34 of the property in connection with a CSE system project.

35 (b) The term does not include a lot or parcel of real property  
36 otherwise described in subsection (a) if the owner of the lot or  
37 parcel consents to participate in a CSE system project through a  
38 neighbor agreement, a participation agreement, or another similar  
39 arrangement or agreement with a project owner.

40 **Sec. 6. (a) As used in this chapter, "permit authority" means:**

41 (1) a unit; or

42 (2) a board, a commission, or any other governing body of a



- 1           **unit;**  
 2           **that makes legislative or administrative decisions concerning the**  
 3           **construction, installation, siting, modification, operation, or**  
 4           **decommissioning of CSE systems in the unit.**  
 5           **(b) The term does not include:**  
 6               **(1) the state or any of its agencies, departments, boards,**  
 7               **commissions, authorities, or instrumentalities; or**  
 8               **(2) a court or other judicial body that reviews decisions or**  
 9               **rulings made by a permit authority.**  
 10          **Sec. 7. (a) As used in this chapter, "project owner" means a**  
 11          **person that:**  
 12               **(1) will own one (1) or more CSE systems proposed to be**  
 13               **located in a unit; or**  
 14               **(2) owns one (1) or more CSE systems located in a unit.**  
 15          **(b) The term includes an agent or a representative of a person**  
 16          **described in subsection (a).**  
 17          **Sec. 8. (a) As used in this chapter, "unit" refers to:**  
 18               **(1) a county, if a project owner, as part of a single CSE system**  
 19               **project or development, seeks to locate one (1) or more CSE**  
 20               **systems:**  
 21                   **(A) entirely within unincorporated areas of the county;**  
 22                   **(B) within both unincorporated areas of the county and**  
 23                   **one (1) or more municipalities within the county; or**  
 24                   **(C) entirely within two (2) or more municipalities within**  
 25                   **the county; or**  
 26               **(2) a municipality, if:**  
 27                   **(A) a project owner, as part of a single CSE system project**  
 28                   **or development, seeks to locate one (1) or more CSE**  
 29                   **systems entirely within the boundaries of the municipality;**  
 30                   **and**  
 31                   **(B) subdivision (1)(B) or (1)(C) does not apply.**  
 32          **(b) The term refers to:**  
 33               **(1) each county described in subsection (a)(1) in which a**  
 34               **project owner seeks to locate one (1) or more CSE systems, if**  
 35               **the project owner seeks to locate CSE systems in more than**  
 36               **one (1) county as part of a single CSE system project or**  
 37               **development; and**  
 38               **(2) each municipality described in subsection (a)(2) in which**  
 39               **a project owner seeks to locate one (1) or more CSE systems,**  
 40               **if the project owner seeks to locate CSE systems in two (2) or**  
 41               **more municipalities, each of which is located in a different**  
 42               **county.**



1           **Sec. 9. (a) The standards set forth in sections 10 through 19 of**  
 2 **this chapter apply with respect to any proposal by a project owner**  
 3 **to install or locate one (1) or more CSE systems in a unit described**  
 4 **in section 1(a) of this chapter. The permit authority for a unit**  
 5 **described in section 1(a)(1) of this chapter may not, directly or**  
 6 **indirectly, restrict, or impose conditions or limitations on, the**  
 7 **construction, installation, siting, modification, operation, or**  
 8 **decommissioning of one (1) or more CSE systems in the unit unless**  
 9 **the unit first adopts a commercial solar regulation, as required by**  
 10 **IC 36-1-3-8.8(f)(1). However, in no case may any unit impose**  
 11 **standards, whether by regulation or otherwise, that:**

12           **(1) concern the construction, installation, siting, modification,**  
 13 **operation, or decommissioning of CSE systems in the unit;**  
 14 **and**

15           **(2) are more restrictive, directly or indirectly, than the**  
 16 **standards set forth in this chapter;**

17 **as provided in IC 36-1-3-8.8(f)(3).**

18           **(b) Except as provided in:**

19           **(1) subsection (a);**

20           **(2) IC 36-1-3-8.8; and**

21           **(3) IC 36-7-5.4;**

22 **this chapter does not otherwise affect a unit's planning and zoning**  
 23 **powers under IC 36-7 with respect to the installation or siting of**  
 24 **one (1) or more CSE systems in the unit.**

25           **(c) A permit authority for a unit described in section 1(a) of this**  
 26 **chapter is responsible for enforcing compliance with:**

27           **(1) this chapter;**

28           **(2) IC 36-7-5.4; and**

29           **(3) in the case of a unit described in section 1(a)(2) of this**  
 30 **chapter, any part of the unit's commercial solar regulation, to**  
 31 **the extent such part is not inconsistent with:**

32           **(A) this chapter; and**

33           **(B) IC 36-7-5.4.**

34           **Sec. 10. (a) Subject to subsection (d), and except as otherwise**  
 35 **allowed by IC 36-7-4-1109, a project owner may not install or**  
 36 **locate a CSE system on property in a unit unless the distance,**  
 37 **measured as a straight line, from the nearest outer edge of the CSE**  
 38 **system to:**

39           **(1) the centerline of any:**

40           **(A) federal interstate highway, federal highway, state**  
 41 **highway, or county highway is at least forty (40) feet;**

42           **(B) collector road is at least thirty (30) feet; or**



- 1           **(C) local road is at least ten (10) feet; or**  
 2           **(2) the property line of any nonparticipating property is at**  
 3           **least fifty (50) feet.**  
 4           **(b) Subject to subsection (d), and except as otherwise allowed by**  
 5           **IC 36-7-4-1109, a project owner may not install or locate a CSE**  
 6           **system on property in a unit unless the distance, measured as a**  
 7           **straight line, from the nearest outer edge of the CSE system to the**  
 8           **nearest point on the outer wall of a dwelling located on a**  
 9           **nonparticipating property is at least one hundred fifty (150) feet.**  
 10          **(c) Subject to subsection (d), and except as otherwise allowed by**  
 11          **IC 36-7-4-1109, if a project owner installs a CSE system within a**  
 12          **distance of two hundred fifty (250) feet, measured as a straight**  
 13          **line, from the nearest outer edge of the CSE system to the nearest**  
 14          **point on the outer wall of a dwelling located on a nonparticipating**  
 15          **property, the project owner shall install a landscape buffer in the**  
 16          **area between the nearest outer edge of the CSE system and the**  
 17          **outer wall of the dwelling located on the nonparticipating**  
 18          **property:**  
 19               **(1) in a location; and**  
 20               **(2) constructed from such materials;**  
 21          **as set forth in a plan submitted to the unit in the application**  
 22          **required under IC 36-7-5.4-9 during the permitting and approval**  
 23          **process for the CSE system.**  
 24          **(d) Except as otherwise allowed by IC 36-7-4-1109, a project**  
 25          **owner may not install or locate a CSE system on property in a unit**  
 26          **unless the height of the CSE system is not more than twenty (20)**  
 27          **feet above ground level when the CSE system's arrays are at full**  
 28          **tilt. However, a permit authority or a unit may not impose a**  
 29          **clearance requirement between the ground and the bottom edge of**  
 30          **a CSE system's solar panels.**  
 31          **(e) The:**  
 32               **(1) distance requirements set forth in subsection (a)(2) and**  
 33               **subsection (b); and**  
 34               **(2) requirement for the installation of a landscape buffer set**  
 35               **forth in subsection (c);**  
 36          **may be waived with respect to the siting of any one (1) CSE system,**  
 37          **subject to the written consent of the owner of each affected**  
 38          **nonparticipating property.**  
 39          **Sec. 11. Except as otherwise allowed by IC 36-7-4-1109, if a**  
 40          **project owner installs a CSE system in a unit, the project owner**  
 41          **shall:**  
 42               **(1) plant;**



1           (2) establish; and  
 2           (3) maintain for the life of the CSE system;  
 3 perennial vegetated ground cover on the ground around and under  
 4 solar panels, and in project site buffer areas. The use of pollinator  
 5 seed mixes in the planting of ground cover required by this section  
 6 is encouraged but is not required. Maintenance shall be performed  
 7 in a manner designed to eradicate noxious weeds.

8           Sec. 12. Except as otherwise allowed by IC 36-7-4-1109, if a  
 9 project owner installs a CSE system in a unit, the project owner  
 10 shall completely enclose the CSE system with fencing that is at  
 11 least six (6) feet high.

12           Sec. 13. Except as otherwise allowed by IC 36-7-4-1109, if a  
 13 project owner installs a CSE system in a unit, cables between banks  
 14 of solar panels and the CSE system's:

15           (1) solar collection electric substation; and  
 16           (2) operation and maintenance buildings;  
 17 shall be buried underground at a depth of at least thirty-six (36)  
 18 inches below grade or, if necessitated by onsite conditions, at a  
 19 greater depth. Cables and lines located outside of the CSE system  
 20 project site may be located above ground or may be buried  
 21 underground at a depth of at least thirty-six (36) inches below  
 22 grade.

23           Sec. 14. Except as otherwise allowed by IC 36-7-4-1109, a CSE  
 24 system installed by a project owner must be designed and  
 25 constructed to:

26           (1) minimize glare on adjacent properties and roadways; and  
 27           (2) not interfere with vehicular traffic, including air traffic.

28           Sec. 15. Except as otherwise allowed by IC 36-7-4-1109, a CSE  
 29 system installed in a unit must not interfere with:

30           (1) television signals;  
 31           (2) microwave signals;  
 32           (3) agricultural global positioning systems;  
 33           (4) military defense radar; or  
 34           (5) radio reception.

35           Sec. 16. (a) Subject to subsection (b), and except as otherwise  
 36 allowed by IC 36-7-4-1109, a project owner may not install or  
 37 locate a CSE system in a unit unless the project owner  
 38 demonstrates to the permit authority that the CSE system will  
 39 operate in a manner such that the sound attributable to the CSE  
 40 system will not exceed an hourly average sound level of sixty (60)  
 41 A-weighted decibels, as modeled at the outer wall of a dwelling  
 42 located on an adjacent nonparticipating property.



1           **(b) The requirement set forth in subsection (a) may be waived**  
2 **with respect to any one (1) CSE system, subject to the written**  
3 **consent of the owner of each adjacent nonparticipating property.**  
4           **Sec. 17. (a) Subject to subsection (b), and except as otherwise**  
5 **allowed by IC 36-7-4-1109, a project owner may not install or**  
6 **locate a CSE system in a unit unless the project owner submits to**  
7 **the permit authority the decommissioning and site restoration plan**  
8 **required by IC 36-7-5.4-9(a)(9), and posts a surety bond, or an**  
9 **equivalent means of security acceptable to the permit authority,**  
10 **including a parent company guarantee or an irrevocable letter of**  
11 **credit, in an amount equal to the estimated cost of**  
12 **decommissioning the CSE system, as calculated by a third party**  
13 **licensed or registered engineer or by another person with suitable**  
14 **experience in the decommissioning of CSE systems, as agreed upon**  
15 **by the project owner and the permit authority. The required bond**  
16 **or other security shall be posted in increments such that the total**  
17 **amount of the bond or security posted is as follows:**  
18           **(1) An amount equal to twenty-five percent (25%) of the total**  
19 **estimated decommissioning costs not later than the start date**  
20 **of the CSE system's full commercial operation.**  
21           **(2) An amount equal to fifty percent (50%) of the total**  
22 **estimated decommissioning costs not later than the fifth**  
23 **anniversary of the start date of the CSE system's full**  
24 **commercial operation.**  
25           **(3) An amount equal to one hundred percent (100%) of the**  
26 **total estimated decommissioning costs not later than the tenth**  
27 **anniversary of the start date of the CSE system's full**  
28 **commercial operation. For purposes of this subdivision, the**  
29 **total estimated decommissioning costs shall be reevaluated by**  
30 **a third party licensed or registered engineer (or by another**  
31 **person with suitable experience in the decommissioning of**  
32 **CSE systems, as agreed upon by the project owner and the**  
33 **permit authority):**  
34           **(A) before the tenth anniversary of the start date of the**  
35 **CSE system's full commercial operation; and**  
36           **(B) upon every succeeding five (5) year period after the**  
37 **tenth anniversary of the start date of the CSE system's full**  
38 **commercial operation;**  
39 **and the total amount of the bond or security posted under this**  
40 **subdivision shall be adjusted as necessary after each**  
41 **reevaluation.**  
42           **(b) For purposes of this section, the estimated cost of**



1 decommissioning a CSE system, as calculated by a licensed or  
 2 registered professional engineer (or by another person with  
 3 suitable experience in the decommissioning of CSE systems, as  
 4 agreed upon by the project owner and the permit authority), shall  
 5 be the net of any estimated salvage value attributable to the CSE  
 6 system at the time of decommissioning, unless the unit and the  
 7 project owner agree to include any such value in the estimated cost.

8 (c) A project owner shall provide to the permit authority  
 9 written notice of the project owner's intent to decommission a CSE  
 10 system not later than sixty (60) days before the discontinuation of  
 11 commercial operation by the CSE system. Except as provided in  
 12 subsection (e), after the discontinuation of commercial operation  
 13 by the CSE system, and as part of the decommissioning process:

14 (1) all structures, foundations, roads, gravel areas, and cables  
 15 associated with the project shall be removed to a depth of at  
 16 least thirty-six (36) inches below grade; and

17 (2) the ground shall be restored to a condition reasonably  
 18 similar to its condition before the start of construction  
 19 activities in connection with the CSE system project.

20 (d) Except as provided in subsection (e), if the project owner  
 21 fails to remove all CSE system project assets not later than one (1)  
 22 year after the proposed date of final decommissioning, as set forth  
 23 in the notice to the permit authority under subsection (c), the  
 24 permit authority may engage qualified contractors to:

25 (1) enter the project site;

26 (2) remove the CSE system project assets;

27 (3) sell any assets removed; and

28 (4) remediate the site;

29 and may initiate proceedings to recover any costs incurred.

30 (e) Project assets may remain in place after decommissioning is  
 31 complete if:

32 (1) the location and condition of the assets are in conformance  
 33 with local regulations at the time of decommissioning; and

34 (2) the written consent of the landowner is obtained.

35 Sec. 18. (a) If a CSE system installed in a unit does not generate  
 36 electricity for eighteen (18) consecutive months:

37 (1) the CSE system is considered abandoned as of the date  
 38 that is five hundred forty (540) days after the date on which  
 39 the CSE system last generated electricity; and

40 (2) all CSE system project assets shall be removed in  
 41 accordance with section 17(c) of this chapter not later than  
 42 one (1) year after the date of abandonment specified in





- 1           subdivision (1).
- 2           (b) In the case of abandonment, as described in subsection (a),
- 3 if the project owner fails to remove the CSE system project assets
- 4 not later than one (1) year after the date of abandonment, as
- 5 required by subsection (a)(2), the permit authority may engage
- 6 qualified contractors to:
- 7           (1) enter the project site;
- 8           (2) remove the CSE system project assets;
- 9           (3) sell any assets removed; and
- 10          (4) remediate the site;
- 11 and may initiate proceedings to recover any costs incurred.
- 12          Sec. 19. (a) As used in this section, "force majeure event"
- 13 includes the following:
- 14          (1) Fire, flood, tornado, or other natural disasters or acts of
- 15 God.
- 16          (2) War, civil strife, a terrorist attack, or other similar acts of
- 17 violence.
- 18          (3) Other unforeseen events or events over which a project
- 19 owner has no control.
- 20          (b) If a force majeure event results in a CSE system not
- 21 generating electricity, the project owner shall:
- 22          (1) as soon as practicable after the occurrence of the force
- 23 majeure event, provide notice to the permit authority of the
- 24 event and of the resulting cessation of generating operations;
- 25 and
- 26          (2) demonstrate to the permit authority that the CSE system
- 27 will be substantially operational and generating electricity not
- 28 later than twelve (12) months after the occurrence of the force
- 29 majeure event.
- 30          (c) If the CSE system does not become substantially operational
- 31 and resume generating electricity within the time set forth in
- 32 subdivision (2):
- 33          (1) the CSE system is considered abandoned as of the date
- 34 that is three hundred sixty-five (365) days after the date on
- 35 which the CSE system last generated electricity; and
- 36          (2) all CSE system project assets shall be removed in
- 37 accordance with section 17(c) of this chapter not later than
- 38 one (1) year after the date of abandonment specified in
- 39 subdivision (1).
- 40          (d) In the case of presumed abandonment, as described in
- 41 subsection (c), if the project owner fails to remove the CSE system
- 42 project assets not later than one (1) year after the date of



1 **abandonment, as required by subsection (c)(2), the permit**  
 2 **authority may engage qualified contractors to:**

- 3 **(1) enter the project site;**  
 4 **(2) remove the CSE system project assets;**  
 5 **(3) sell any assets removed; and**  
 6 **(4) remediate the site;**

7 **and may initiate proceedings to recover any costs incurred.**

8 SECTION 3. IC 36-1-3-8, AS AMENDED BY P.L.19-2019,  
 9 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 UPON PASSAGE]: Sec. 8. (a) Subject to subsection (b), a unit does  
 11 not have the following:

- 12 (1) The power to condition or limit its civil liability, except as  
 13 expressly granted by statute.  
 14 (2) The power to prescribe the law governing civil actions  
 15 between private persons.  
 16 (3) The power to impose duties on another political subdivision,  
 17 except as expressly granted by statute.  
 18 (4) The power to impose a tax, except as expressly granted by  
 19 statute.  
 20 (5) The power to impose a license fee greater than that reasonably  
 21 related to the administrative cost of exercising a regulatory power.  
 22 (6) The power to impose a service charge or user fee greater than  
 23 that reasonably related to reasonable and just rates and charges  
 24 for services.  
 25 (7) The power to regulate conduct that is regulated by a state  
 26 agency, except as expressly granted by statute.  
 27 (8) The power to prescribe a penalty for conduct constituting a  
 28 crime or infraction under statute.  
 29 (9) The power to prescribe a penalty of imprisonment for an  
 30 ordinance violation.  
 31 (10) The power to prescribe a penalty of a fine as follows:  
 32 (A) More than ten thousand dollars (\$10,000) for the violation  
 33 of an ordinance or a regulation concerning air emissions  
 34 adopted by a county that has received approval to establish an  
 35 air permit program under IC 13-17-12-6.  
 36 (B) For a violation of any other ordinance:  
 37 (i) more than two thousand five hundred dollars (\$2,500) for  
 38 a first violation of the ordinance; and  
 39 (ii) except as provided in subsection (c), more than seven  
 40 thousand five hundred dollars (\$7,500) for a second or  
 41 subsequent violation of the ordinance.  
 42 (11) The power to invest money, except as expressly granted by



- 1 statute.
- 2 (12) The power to order or conduct an election, except as
- 3 expressly granted by statute.
- 4 (13) The power to adopt or enforce an ordinance described in
- 5 section 8.5 of this chapter.
- 6 (14) The power to take any action prohibited by section 8.6 of this
- 7 chapter.
- 8 **(15) The power to directly or indirectly restrict, or impose**
- 9 **conditions or limitations on, the construction, installation,**
- 10 **siting, modification, operation, or decommissioning of one (1)**
- 11 **or more wind power devices in the unit, except as allowed**
- 12 **under section 8.7 of this chapter.**
- 13 **(16) The power to directly or indirectly restrict, or impose**
- 14 **conditions or limitations on, the construction, installation,**
- 15 **siting, modification, operation, or decommissioning of one (1)**
- 16 **or more commercial solar energy systems in the unit, except**
- 17 **as allowed under section 8.8 of this chapter.**
- 18 ~~(15)~~ (17) The power to dissolve a political subdivision, except:
- 19 (A) as expressly granted by statute; or
- 20 (B) if IC 36-1-8-17.7 applies to the political subdivision, in
- 21 accordance with the procedure set forth in IC 36-1-8-17.7.
- 22 ~~(16)~~ (18) After June 30, 2019, the power to enact an ordinance
- 23 requiring a solid waste hauler or a person who operates a vehicle
- 24 in which recyclable material is transported for recycling to collect
- 25 fees authorized by IC 13-21 and remit the fees to:
- 26 (A) a unit; or
- 27 (B) the board of a solid waste management district established
- 28 under IC 13-21.
- 29 (b) A township does not have the following, except as expressly
- 30 granted by statute:
- 31 (1) The power to require a license or impose a license fee.
- 32 (2) The power to impose a service charge or user fee.
- 33 (3) The power to prescribe a penalty.
- 34 (c) Subsection (a)(10)(B)(ii) does not apply to the violation of an
- 35 ordinance that regulates traffic or parking.
- 36 SECTION 4. IC 36-1-3-8.7 IS ADDED TO THE INDIANA CODE
- 37 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
- 38 **UPON PASSAGE]: Sec. 8.7. (a) Subject to a unit's planning and**
- 39 **zoning powers under IC 36-7, this section does not apply to a**
- 40 **property owner who seeks to install a wind power device on the**
- 41 **property owner's premises for the purpose of generating electricity**
- 42 **to meet or offset all or part of the need for electricity on the**



1 premises, whether through distributed generation, participation in  
 2 a net metering or feed-in tariff program offered by an electricity  
 3 supplier (as defined in IC 8-1-40-4), or otherwise.

4 (b) As used in this section, "permit authority", with respect to  
 5 a unit, has the meaning set forth in IC 8-1-41-4.

6 (c) As used in this section, "unit" has the meaning set forth in  
 7 IC 8-1-41-6.

8 (d) As used in this section, "wind power device" means a device,  
 9 including a windmill or a wind turbine, that is designed to use the  
 10 kinetic energy of moving air to provide mechanical energy or to  
 11 produce electricity.

12 (e) As used in this section, "wind power regulation" refers to  
 13 any ordinance or regulation, including any:

14 (1) zoning or land use ordinance or regulation; or

15 (2) general or specific planning ordinance or regulation;

16 that is adopted by a unit and that concerns the construction,  
 17 installation, siting, modification, operation, or decommissioning of  
 18 wind power devices in the unit.

19 (f) After June 30, 2021, a permit authority may not, directly or  
 20 indirectly, restrict, or impose conditions or limitations on, the  
 21 construction, installation, siting, modification, operation, or  
 22 decommissioning of one (1) or more wind power devices in the unit  
 23 unless:

24 (1) the unit has first adopted a wind power regulation;

25 (2) any procedures set forth in the wind power regulation with  
 26 respect to the permitting or approval process for the siting or  
 27 installation of wind power devices in the unit comply with  
 28 IC 36-7-5.3; and

29 (3) any standards included in the wind power regulation are  
 30 not more restrictive, directly or indirectly, than the default  
 31 standards set forth in IC 8-1-41.

32 (g) Subject to IC 36-7-4-1109, a wind power regulation that:

33 (1) is in effect in a unit on or after July 1, 2021; and

34 (2) sets forth or includes:

35 (A) procedures with respect to the permitting or approval  
 36 process for the siting or installation of wind power devices  
 37 in the unit that do not comply with IC 36-7-5.3;

38 (B) standards that are more restrictive, directly or  
 39 indirectly, than the default standards set forth in  
 40 IC 8-1-41; or

41 (C) procedures and standards described in both clauses (A)  
 42 and (B);



1 shall be amended by the legislative body of the unit so that the  
 2 wind power regulation complies with the requirements set forth in  
 3 subsection (f)(2) and (f)(3). Until such time as the legislative body  
 4 of the unit amends the wind power regulation as required by this  
 5 subsection, the procedures set forth in IC 36-7-5.3 or the default  
 6 standards set forth in IC 8-1-41, as applicable, apply to the  
 7 construction, installation, siting, modification, operation, or  
 8 decommissioning of any wind power device in the unit after June  
 9 30, 2021. However, until such time as the legislative body of the  
 10 unit amends the wind power regulation as required by this  
 11 subsection, the unit may continue to enforce compliance with any  
 12 part of the unit's wind power regulation that complies with, or is  
 13 otherwise consistent with, the requirements set forth in subsection  
 14 (f)(2) and (f)(3).

15 (h) After June 30, 2021, a unit may not amend:

16 (1) a wind power regulation; or

17 (2) any other regulation of the unit, regardless of the subject  
 18 matter of the regulation;

19 to address any matter concerning the construction, installation,  
 20 siting, modification, operation, or decommissioning of wind power  
 21 devices in the unit unless the wind power regulation or other  
 22 regulation, as amended, meets the requirements set forth in  
 23 subsection (f), regardless of when the wind power regulation or  
 24 other regulation was originally adopted.

25 SECTION 5. IC 36-1-3-8.8 IS ADDED TO THE INDIANA CODE  
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 27 UPON PASSAGE]: Sec. 8.8. (a) Subject to a unit's planning and  
 28 zoning powers under IC 36-7, this section does not apply to a  
 29 property owner who seeks to install a solar energy device (as  
 30 defined in IC 32-23-4-3) on the property owner's premises for the  
 31 purpose of generating electricity to meet or offset all or part of the  
 32 need for electricity on the premises, whether through distributed  
 33 generation, participation in a net metering or feed-in tariff  
 34 program offered by an electricity supplier (as defined in  
 35 IC 8-1-40-4), or otherwise.

36 (b) As used in this section, "commercial solar energy system",  
 37 or "CSE system", means a system that captures and converts solar  
 38 energy into electricity that is generated primarily:

39 (1) for the purpose of selling the electricity at wholesale; and

40 (2) for use in locations other than where it is generated.

41 The term includes collection and feeder lines, substations, ancillary  
 42 buildings, solar monitoring stations, and accessory equipment or



1 structures.

2 (c) As used in this section, "commercial solar regulation" refers  
3 to any ordinance or regulation, including any:

4 (1) zoning or land use ordinance or regulation; or

5 (2) general or specific planning ordinance or regulation;

6 that is adopted by a unit and that concerns the construction,  
7 installation, siting, modification, operation, or decommissioning of  
8 CSE systems in the unit.

9 (d) As used in this section, "permit authority", with respect to  
10 a unit, has the meaning set forth in IC 8-1-42-6.

11 (e) As used in this section, "unit" has the meaning set forth in  
12 IC 8-1-42-8.

13 (f) After June 30, 2021, a permit authority may not, directly or  
14 indirectly, restrict, or impose conditions or limitations on, the  
15 construction, installation, siting, modification, operation, or  
16 decommissioning of one (1) or more CSE systems in the unit  
17 unless:

18 (1) the unit has first adopted a commercial solar regulation;

19 (2) any procedures set forth in the commercial solar  
20 regulation with respect to the permitting or approval process  
21 for the siting or installation of CSE systems in the unit comply  
22 with IC 36-7-5.4; and

23 (3) any standards included in the CSE system regulation are  
24 not more restrictive, directly or indirectly, than the default  
25 standards set forth in IC 8-1-42.

26 (g) Subject to IC 36-7-4-1109, a commercial solar regulation  
27 that:

28 (1) is in effect in a unit on or after July 1, 2021; and

29 (2) sets forth or includes:

30 (A) procedures with respect to the permitting or approval  
31 process for the siting or installation of CSE systems in the  
32 unit that do not comply with IC 36-7-5.4;

33 (B) standards that are more restrictive, directly or  
34 indirectly, than the default standards set forth in  
35 IC 8-1-42; or

36 (C) procedures and standards described in both clauses (A)  
37 and (B);

38 shall be amended by the legislative body of the unit so that the  
39 commercial solar regulation complies with the requirements set  
40 forth in subsection (f)(2) and (f)(3). Until such time as the  
41 legislative body of the unit amends the commercial solar regulation  
42 as required by this subsection, the procedures set forth in



1 IC 36-7-5.4 or the default standards set forth in IC 8-1-42, as  
 2 applicable, apply to the construction, installation, siting,  
 3 modification, operation, or decommissioning of any CSE system in  
 4 the unit after June 30, 2021. However, until such time as the  
 5 legislative body of the unit amends the commercial solar regulation  
 6 as required by this subsection, the unit may continue to enforce  
 7 compliance with any part of the unit's commercial solar regulation  
 8 that complies with, or is otherwise consistent with, the  
 9 requirements set forth in subsection (f)(2) and (f)(3).

10 (h) After June 30, 2021, a unit may not amend:

11 (1) a commercial solar regulation; or

12 (2) any other regulation of the unit, regardless of the subject  
 13 matter of the regulation;

14 to address any matter concerning the construction, installation,  
 15 siting, modification, operation, or decommissioning of CSE systems  
 16 in the unit unless the commercial solar regulation or other  
 17 regulation, as amended, meets the requirements set forth in  
 18 subsection (f), regardless of when the commercial solar regulation  
 19 or other regulation was originally adopted.

20 SECTION 6. IC 36-7-5.3 IS ADDED TO THE INDIANA CODE  
 21 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2021]:

23 **Chapter 5.3. Siting of Wind Power Devices in a Unit**

24 **Sec. 1. (a) This chapter applies to the following:**

25 (1) The exercising by any unit of zoning, land use, planning, or  
 26 permitting authority as authorized by this article, or by any  
 27 other law, with respect to the construction, installation, siting,  
 28 modification, operation, or decommissioning of one (1) or  
 29 more wind power devices within the unit after June 30, 2021.

30 (2) The consideration by any unit, whether under a regulation  
 31 of the unit or otherwise, of a proposal for the construction,  
 32 installation, siting, modification, operation, or  
 33 decommissioning of one (1) or more wind power devices in the  
 34 unit after June 30, 2021.

35 (b) This chapter applies to a situation described in subsection (a)  
 36 in a unit that:

37 (1) has not adopted a wind power regulation; or

38 (2) has:

39 (A) adopted a wind power regulation that sets forth  
 40 procedures with respect to the permitting or approval  
 41 process for the siting or installation of wind power devices  
 42 in the unit that does not comply with this chapter; and



- 1           **(B) failed to amend the wind power regulation as required**  
 2           **by IC 36-1-3-8.7(g).**
- 3           **(c) Subject to a unit's planning and zoning powers under this**  
 4           **article, this chapter does not apply to a property owner who seeks**  
 5           **to install a wind power device on the property owner's premises for**  
 6           **the purpose of generating electricity to meet or offset all or part of**  
 7           **the need for electricity on the premises, whether through**  
 8           **distributed generation, participation in a net metering or feed-in**  
 9           **tariff program offered by an electricity supplier (as defined in**  
 10           **IC 8-1-40-4), or otherwise.**
- 11           **Sec. 2. As used in this chapter, "commission" refers to the**  
 12           **Indiana utility regulatory commission created by IC 8-1-1-2.**
- 13           **Sec. 3. (a) As used in this chapter, "permit authority" means:**  
 14           **(1) a unit; or**  
 15           **(2) a board, a commission, or any other governing body of a**  
 16           **unit;**  
 17           **that makes legislative or administrative decisions concerning the**  
 18           **construction, installation, siting, modification, operation, or**  
 19           **decommissioning of wind power devices in the unit.**
- 20           **(b) The term does not include:**  
 21           **(1) the state or any of its agencies, departments, boards,**  
 22           **commissions, authorities, or instrumentalities; or**  
 23           **(2) a court or other judicial body that reviews decisions or**  
 24           **rulings made by a permit authority.**
- 25           **Sec. 4. (a) As used in this chapter, "project owner" means a**  
 26           **person that:**  
 27           **(1) will own one (1) or more wind power devices proposed to**  
 28           **be located in a unit; or**  
 29           **(2) owns one (1) or more wind power devices located in a unit.**
- 30           **(b) The term includes an agent or a representative of a person**  
 31           **described in subsection (a).**
- 32           **Sec. 5. (a) As used in this chapter, "unit" refers to:**  
 33           **(1) a county, if a project owner, as part of a single wind power**  
 34           **project or development, seeks to locate one (1) or more wind**  
 35           **power devices:**  
 36           **(A) entirely within unincorporated areas of the county;**  
 37           **(B) within both unincorporated areas of the county and**  
 38           **one (1) or more municipalities within the county; or**  
 39           **(C) entirely within two (2) or more municipalities within**  
 40           **the county; or**  
 41           **(2) a municipality, if:**  
 42           **(A) a project owner, as part of a single wind power project**





- 1           or development, seeks to locate one (1) or more wind  
2           power devices entirely within the boundaries of the  
3           municipality; and  
4           (B) subdivision (1)(B) or (1)(C) does not apply.
- 5       **(b) The term refers to:**
- 6           (1) each county described in subsection (a)(1) in which a  
7           project owner seeks to locate one (1) or more wind power  
8           devices, if the project owner seeks to locate wind power  
9           devices in more than one (1) county as part of a single wind  
10          power project or development; and  
11          (2) each municipality described in subsection (a)(2) in which  
12          a project owner seeks to locate one (1) or more wind power  
13          devices, if the project owner seeks to locate wind power  
14          devices in two (2) more municipalities, each of which is  
15          located in a different county.
- 16       **Sec. 6.** As used in this chapter, "wind power device" means a  
17       device, including a windmill or a wind turbine, that is designed to  
18       use the kinetic energy of moving air to provide mechanical energy  
19       or to produce electricity.
- 20       **Sec. 7.** As used in this chapter, "wind power regulation" refers  
21       to any ordinance or regulation, including any:
- 22           (1) zoning or land use ordinance or regulation; or  
23           (2) general or specific planning ordinance or regulation;  
24       that is adopted by a unit and that concerns the construction,  
25       installation, siting, modification, operation, or decommissioning of  
26       wind power devices in the unit.
- 27       **Sec. 8. (a)** A wind power device may not be installed or located  
28       in a unit without the approval of the permit authority for the unit.
- 29       **(b)** The procedures set forth in this chapter apply with respect  
30       to any proposal by a project owner to install or locate one (1) or  
31       more wind power devices in a unit described in section 1(b) of this  
32       chapter. The permit authority for a unit described in section  
33       1(b)(1) of this chapter may not, directly or indirectly, restrict, or  
34       impose conditions or limitations on, the construction, installation,  
35       siting, modification, operation, or decommissioning of one (1) or  
36       more wind power devices in the unit unless the unit first adopts a  
37       wind power regulation, as required by IC 36-1-3-8.7(f)(1).  
38       However, in no case may any unit use procedures, whether by  
39       regulation or otherwise, that:
- 40           (1) govern the permitting or approval process for the siting or  
41           installation of wind power devices in the unit; and  
42           (2) do not comply with this chapter;



1 as provided in IC 36-1-3-8.7(f)(2).

2 (c) Except as provided in:

- 3 (1) subsection (b);  
 4 (2) IC 36-1-3-8.7; and  
 5 (3) IC 8-1-41;

6 this chapter does not otherwise affect a unit's planning and zoning  
 7 powers under this article with respect to the installation or siting  
 8 of one (1) or more wind power devices in the unit.

9 (d) A permit authority for a unit described in section 1(b) of this  
 10 chapter is responsible for enforcing compliance with:

- 11 (1) this chapter;  
 12 (2) the default standards set forth in IC 8-1-41, if applicable  
 13 under IC 8-1-41-1(a); and  
 14 (3) in the case of a unit described in section 1(b)(2) of this  
 15 chapter, any part of the unit's wind power regulation, to the  
 16 extent such part:  
 17 (A) is not inconsistent with this chapter; and  
 18 (B) does not include standards that are more restrictive,  
 19 directly or indirectly, than the default standards set forth  
 20 in IC 8-1-41.

21 **Sec. 9. (a)** A project owner that seeks to install or locate one (1)  
 22 or more wind power devices in a unit after June 30, 2021, shall file  
 23 with the permit authority for the unit an application in the form  
 24 and manner prescribed by the permit authority. An application  
 25 filed under this section must include the following, provided with  
 26 as much detail or specificity as the permit authority may  
 27 reasonably require, and so far as ascertainable at the time of the  
 28 application:

- 29 (1) A physical and technical description of all wind power  
 30 devices proposed to be installed or located in the unit.  
 31 (2) A physical and technical description of all sites in the unit  
 32 on which one (1) or more wind power devices are sought to be  
 33 installed or located, including maps showing the location of  
 34 the sites.  
 35 (3) The project owner's anticipated timeline and process for  
 36 constructing and installing all wind power devices proposed  
 37 in the application.  
 38 (4) Information regarding the sound:  
 39 (A) expressed as an hourly average sound level or by any  
 40 other measure reasonably required by the permit  
 41 authority; and  
 42 (B) as modeled at the outer wall of an affected dwelling;



- 1 anticipated to be attributable to the operation of each wind  
 2 power device included in the application.
- 3 **(5) Information regarding the amount of anticipated shadow  
 4 flicker, expressed as hours per year under planned operating  
 5 conditions or by any other measure reasonably required by  
 6 the permit authority, expected to be attributable to the  
 7 operation of each wind power device included in the  
 8 application.**
- 9 **(6) Information regarding the status of all permits required  
 10 by the Federal Aviation Administration with respect to each  
 11 wind power device included in the application.**
- 12 **(7) Information regarding the planned use and modification  
 13 of any highways, streets, and roads in the unit during the  
 14 construction and installation of all wind power devices  
 15 included in the application, including a process for:**
- 16 (A) assessing road damage caused by activities involved in  
 17 such construction and installation; and
- 18 (B) conducting road repairs at the project owner's expense.
- 19 **(8) A copy of all emergency response plans applicable to the  
 20 construction, installation, siting, modification, operation, and  
 21 decommissioning of all wind power devices included in the  
 22 application, including a process for sharing the plans with,  
 23 and providing safety training to, all potential first responders.**
- 24 **(9) A decommissioning and site restoration plan for each wind  
 25 power device included in the application, including both a  
 26 timeline for decommissioning and a timeline for posting any  
 27 required:**
- 28 (A) surety bond;
- 29 (B) parent company guarantee;
- 30 (C) irrevocable letter of credit; or
- 31 (D) other equivalent means of security or financial  
 32 assurance acceptable to the permit authority;
- 33 in an amount reflecting the estimated cost of decommissioning  
 34 the wind power device.
- 35 **(10) A copy of all representative notices to:**
- 36 (A) the permit authority;
- 37 (B) residents of the unit;
- 38 (C) affected property owners and political subdivisions;  
 39 and
- 40 (D) other interested parties;
- 41 to be issued by the project owner with respect to the  
 42 construction, installation, siting, modification, operation, and



1           decommissioning of all wind power devices included in the  
2           application, including any preconstruction and  
3           postconstruction activities.

4           (11) A description of a dispute resolution process that:

5                (A) will be used by the project owner in resolving  
6                complaints under section 12 of this chapter; and

7                (B) complies with the requirements set forth in section  
8                12(b) of this chapter.

9           (12) Any other information reasonably necessary to  
10           understand the construction, installation, siting, modification,  
11           operation, and decommissioning of all wind power devices  
12           included in the application.

13           (13) A statement, signed by an officer or another person  
14           authorized to bind the project owner, that affirms the  
15           accuracy of the information provided in the application.

16           (b) A project owner that submits an application under this  
17           section shall notify the permit authority in writing when all  
18           required documents and information described in subsection (a)  
19           have been submitted. An application under this section is  
20           considered filed as of the date of the project owner's notice under  
21           this subsection.

22           (c) Not later than thirty (30) days after the date of a project  
23           owner's notice under subsection (b), the permit authority shall  
24           determine whether the project owner's application is complete and  
25           shall notify the project owner in writing of the determination.  
26           Subject to subsection (f), if the permit authority determines that  
27           the application is complete, the permit authority shall proceed to  
28           make a determination as to whether to grant or deny the  
29           application under section 10 of this chapter. Subject to subsections  
30           (d) and (e), if the permit authority determines that the application  
31           is incomplete, the permit authority shall state the reasons for the  
32           determination in the permit authority's notice to the project owner  
33           under this subsection. A permit authority shall not make a  
34           determination of incompleteness based on grounds that are  
35           arbitrary, capricious, an abuse of discretion, or not in accordance  
36           with law. If the permit authority does not make a determination as  
37           to the completeness of the application within the time prescribed  
38           by this subsection, the application is considered complete.

39           (d) A project owner may file supplemental information to an  
40           application that a permit authority has determined to be  
41           incomplete under subsection (c). A project owner that intends to  
42           file supplemental information under this subsection shall notify the



1 permit authority of the project owner's intention not later than  
 2 fourteen (14) days after the date of the permit authority's notice of  
 3 incompleteness under subsection (c). The project owner's notice of  
 4 intention to file supplemental information under this subsection  
 5 stays the start of the period set forth in section 10 of this chapter  
 6 in which the permit authority must approve or deny the  
 7 application until such time as the application is finally determined  
 8 to be or is considered complete under this section. The project  
 9 owner shall provide any reasonably requested additional  
 10 information identified in the permit authority's notice under  
 11 subsection (c), to the extent ascertainable. A permit authority may  
 12 not impose a limit on the number of times a project owner may  
 13 supplement an application under this subsection.

14 (e) A project owner that submits a supplemented application  
 15 under subsection (d) shall notify the permit authority in writing  
 16 when all information and documents provided in connection with  
 17 the supplemented application have been submitted. A thirty (30)  
 18 day period for a completeness determination by the permit  
 19 authority with respect to the supplemented application begins as of  
 20 the date of the project owner's notice under this subsection, in  
 21 accordance with the procedures set forth in subsection (c) for an  
 22 initial application. If the permit authority does not make a  
 23 determination as to the completeness of the supplemented  
 24 application within the time prescribed by this subsection, the  
 25 supplemented application is considered complete.

26 (f) After:

27 (1) an initial application is determined to be or is considered  
 28 complete under subsection (c); or

29 (2) a supplemented application is determined to be or is  
 30 considered complete under subsection (e);

31 a permit authority may nevertheless request additional  
 32 information reasonably necessary to understand the construction,  
 33 installation, siting, modification, operation, and decommissioning  
 34 of any of the wind power devices included in a project owner's  
 35 initial or supplemented application. A project owner shall provide  
 36 additional information in response to all reasonable inquiries made  
 37 by the permit authority, and shall respond in a timely, complete,  
 38 and accurate manner.

39 Sec. 10. (a) Subject to subsection (b) and section 11 of this  
 40 chapter, a permit authority shall issue a written decision to grant  
 41 or deny an application or a supplemented application under this  
 42 chapter not later than ninety (90) days after the application or



1 supplemented application is finally determined to be or is  
 2 considered complete. The permit authority's written decision must  
 3 include all findings of fact upon which the decision is based. The  
 4 permit authority shall provide a copy of the permit authority's  
 5 decision to:

6 (1) the project owner; and

7 (2) the commission.

8 (b) A permit authority may not:

9 (1) unreasonably deny an application or a supplemented  
 10 application under this chapter;

11 (2) condition approval of an application or a supplemented  
 12 application upon a project owner's agreement to fulfill  
 13 unreasonable requirements, including:

14 (A) property value guarantees;

15 (B) onerous road upgrades; or

16 (C) other requirements that are intended to prevent or  
 17 impede (or would have the effect of preventing or  
 18 impeding) the construction, installation, siting,  
 19 modification, operation, or decommissioning of wind  
 20 power devices in the unit; or

21 (3) after approving an application or a supplemented  
 22 application, impose unreasonable requirements upon a  
 23 project owner, including any of the requirements set forth in  
 24 subdivision (2), at any point during the project owner's  
 25 construction, installation, siting, modification, operation, or  
 26 decommissioning of wind power devices in the unit.

27 Sec. 11. (a) Not later than thirty (30) days after the date of a  
 28 permit authority's decision under section 10 of this chapter to  
 29 approve or deny an application or a supplemented application:

30 (1) the project owner; or

31 (2) any interested party described in section 9(a)(10)(B)  
 32 through 9(a)(10)(D) of this chapter;

33 may file with the commission a petition requesting a review of the  
 34 permit authority's decision.

35 (b) Upon receiving a petition under subsection (a), the  
 36 commission shall, in writing:

37 (1) notify the permit authority of the filing of a petition; and

38 (2) request from:

39 (A) the permit authority;

40 (B) the petitioner;

41 (C) the project owner, if the project owner is not the  
 42 petitioner; and



- 1           (D) any other interested party described in section  
 2           9(a)(10)(B) through 9(a)(10)(D) of this chapter that is a  
 3           party to the petition;  
 4           any information required by the commission to make a  
 5           determination on the petition.  
 6           Any information requested by the commission under subdivision  
 7           (2) shall be submitted to the commission not later than thirty (30)  
 8           days after the date of the commission's written request.  
 9           (c) Not later than ninety (90) days after receiving all  
 10          information requested under subsection (b)(2), the commission  
 11          shall:  
 12               (1) after notice and an opportunity for hearing; and  
 13               (2) consistent with the policy set forth in IC 8-1-2-0.5;  
 14          issue an order with respect to the permit authority's decision under  
 15          section 10 of this chapter.  
 16          (d) The commission's order under subsection (c) must include  
 17          the commission's findings as to:  
 18               (1) the reasonableness of the permit authority's decision  
 19               under section 10 of this chapter; and  
 20               (2) the parties' compliance with:  
 21                    (A) this chapter;  
 22                    (B) the default standards set forth in IC 8-1-41, if  
 23                    applicable under IC 8-1-41-1(a); and  
 24                    (C) in the case of a unit described in section 1(b)(2) of this  
 25                    chapter, any part of the unit's wind power regulation, to  
 26                    the extent such part:  
 27                       (i) is not inconsistent with this chapter; and  
 28                       (ii) does not include standards that are more restrictive,  
 29                       directly or indirectly, than the default standards set  
 30                       forth in IC 8-1-41.  
 31          (e) In the commission's order under subsection (c), the  
 32          commission may:  
 33               (1) affirm, overturn, or modify the permit authority's  
 34               decision; or  
 35               (2) order such other relief;  
 36          as the public convenience and necessity may require.  
 37          (f) The order of the commission under subsection (c) is  
 38          considered a final order, subject to appeal under IC 8-1-3.  
 39          Sec. 12. (a) At any time before or after a permit authority issues  
 40          a decision under section 10 of this chapter with respect to the  
 41          construction, installation, siting, modification, operation, or  
 42          decommissioning of one (1) or more wind power devices in the unit,



1 an interested party described in section 9(a)(10)(B) through  
 2 9(a)(10)(D) of this chapter may file a complaint with the project  
 3 owner alleging that the project owner has failed to comply with:

- 4 (1) this chapter;  
 5 (2) the default standards set forth in IC 8-1-41, if applicable  
 6 under IC 8-1-41-1(a); or  
 7 (3) in a unit described in section 1(b)(2) of this chapter, any  
 8 part of the unit's wind power regulation, to the extent such  
 9 part:  
 10 (A) is not inconsistent with this chapter; and  
 11 (B) does not include standards that are more restrictive,  
 12 directly or indirectly, than the default standards set forth  
 13 in IC 8-1-41.

14 (b) An interested party that files a complaint under this section  
 15 shall do so in accordance with the project owner's dispute  
 16 resolution process, as set forth in the project owner's application  
 17 under section 9(a)(11) of this chapter. The following apply with  
 18 respect to a complaint filed under this section:

- 19 (1) The project owner shall:  
 20 (A) make a good faith effort to resolve the complaint; and  
 21 (B) conduct any investigation required to resolve the  
 22 complaint at the project owner's expense.  
 23 (2) Not later than thirty (30) days after receiving the  
 24 complaint, the project owner shall provide an initial response  
 25 to the complainant.  
 26 (3) The project owner shall:  
 27 (A) make a good faith effort to resolve the complaint not  
 28 later than forty-five (45) days after receiving the  
 29 complaint; and  
 30 (B) notify the permit authority if the complaint is not  
 31 resolved within the forty-five (45) day period set forth in  
 32 clause (A).

33 (c) If a complaint under this section is not resolved within the  
 34 forty-five (45) day period set forth in subsection (b)(3)(A), the  
 35 complainant may file with the commission a petition requesting a  
 36 review of the complaint.

37 (d) Upon receiving a petition under subsection (c), the  
 38 commission shall, in writing:

- 39 (1) notify the project owner of the filing of petition; and  
 40 (2) request from:  
 41 (A) the project owner;  
 42 (B) the petitioner; and





- 1           (C) the permit authority;  
 2           any information required by the commission to make a  
 3           determination on the petition.  
 4    Any information requested by the commission under subdivision  
 5    (2) shall be submitted to the commission not later than thirty (30)  
 6    days after the date of the commission's written request.  
 7    (e) Not later than ninety (90) days after receiving all  
 8    information requested under subsection (d)(2), the commission  
 9    shall issue an order with respect to the complaint. The  
 10   commission's order must include the commission's findings as to  
 11   the project owner's compliance with:  
 12       (1) this chapter;  
 13       (2) the default standards set forth in IC 8-1-41, if applicable  
 14       under IC 8-1-41-1(a); or  
 15       (3) in the case of a unit described in section 1(b)(2) of this  
 16       chapter, any part of the unit's wind power regulation, to the  
 17       extent such part:  
 18           (A) is not inconsistent with this chapter; and  
 19           (B) does not include standards that are more restrictive,  
 20           directly or indirectly, than the default standards set forth  
 21           in IC 8-1-41;  
 22       as applicable.  
 23   (f) In the commission's order under subsection (e), the  
 24   commission may order such relief as the public convenience and  
 25   necessity may require.  
 26   (g) The commission's order under subsection (e) is considered  
 27   a final order, subject to appeal under IC 8-1-3.  
 28   SECTION 7. IC 36-7-5.4 IS ADDED TO THE INDIANA CODE  
 29   AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 30   JULY 1, 2021]:  
 31   **Chapter 5.4. Siting of Commercial Solar Energy Systems in a**  
 32   **Unit**  
 33   **Sec. 1. (a) This chapter applies to the following:**  
 34       (1) The exercising by any unit of zoning, land use, planning, or  
 35       permitting authority as authorized by this article, or by any  
 36       other law, with respect to the construction, installation, siting,  
 37       modification, operation, or decommissioning of one (1) or  
 38       more CSE systems within the unit after June 30, 2021.  
 39       (2) The consideration by any unit, whether under a regulation  
 40       of the unit or otherwise, of a proposal for the construction,  
 41       installation, siting, modification, operation, or  
 42       decommissioning of one (1) or more CSE systems in the unit



- 1 after June 30, 2021.
- 2 (b) This chapter applies to a situation described in subsection (a)
- 3 in a unit that:
- 4 (1) has not adopted a commercial solar regulation; or
- 5 (2) has:
- 6 (A) adopted a commercial solar regulation that sets forth
- 7 procedures with respect to the permitting or approval
- 8 process for the siting or installation of CSE systems in the
- 9 unit that does not comply with this chapter; and
- 10 (B) failed to amend the commercial solar regulation as
- 11 required by IC 36-1-3-8.8(g).
- 12 (c) Subject to a unit's planning and zoning powers under this
- 13 article, this chapter does not apply to a property owner who seeks
- 14 to install a solar energy device (as defined in IC 32-23-4-3) on the
- 15 property owner's premises for the purpose of generating electricity
- 16 to meet or offset all or part of the need for electricity on the
- 17 premises, whether through distributed generation, participation in
- 18 a net metering or feed-in tariff program offered by an electricity
- 19 supplier (as defined in IC 8-1-40-4), or otherwise.
- 20 Sec. 2. (a) As used in this chapter, "commercial solar energy
- 21 system", or "CSE system", means a system that captures and
- 22 converts solar energy into electricity that is generated primarily:
- 23 (1) for the purpose of selling the electricity at wholesale; and
- 24 (2) for use in locations other than where it is generated.
- 25 (b) The term includes collection and feeder lines, substations,
- 26 ancillary buildings, solar monitoring stations, and accessory
- 27 equipment or structures.
- 28 Sec. 3. As used in this chapter, "commercial solar regulation"
- 29 refers to any ordinance or regulation, including any:
- 30 (1) zoning or land use ordinance or regulation; or
- 31 (2) general or specific planning ordinance or regulation;
- 32 that is adopted by a unit and that concerns the construction,
- 33 installation, siting, modification, operation, or decommissioning of
- 34 CSE systems in the unit.
- 35 Sec. 4. As used in this chapter, "commission" refers to the
- 36 Indiana utility regulatory commission created by IC 8-1-1-2.
- 37 Sec. 5. (a) As used in this chapter, "permit authority" means:
- 38 (1) a unit; or
- 39 (2) a board, a commission, or any other governing body of a
- 40 unit;
- 41 that makes legislative or administrative decisions concerning the
- 42 construction, installation, siting, modification, operation, or



1 decommissioning of CSE systems in the unit.

2 (b) The term does not include:

3 (1) the state or any of its agencies, departments, boards,  
4 commissions, authorities, or instrumentalities; or

5 (2) a court or other judicial body that reviews decisions or  
6 rulings made by a permit authority.

7 Sec. 6. (a) As used in this chapter, "project owner" means a  
8 person that:

9 (1) will own one (1) or more CSE systems proposed to be  
10 located in a unit; or

11 (2) owns one (1) or more CSE systems located in a unit.

12 (b) The term includes an agent or a representative of a person  
13 described in subsection (a).

14 Sec. 7. (a) As used in this chapter, "unit" refers to:

15 (1) a county, if a project owner, as part of a single CSE system  
16 project or development, seeks to locate one (1) or more CSE  
17 systems:

18 (A) entirely within unincorporated areas of the county;

19 (B) within both unincorporated areas of the county and  
20 one (1) or more municipalities within the county; or

21 (C) entirely within two (2) or more municipalities within  
22 the county; or

23 (2) a municipality, if:

24 (A) a project owner, as part of a single CSE system project  
25 or development, seeks to locate one (1) or more CSE  
26 systems entirely within the boundaries of the municipality;  
27 and

28 (B) subdivision (1)(B) or (1)(C) does not apply.

29 (b) The term refers to:

30 (1) each county described in subsection (a)(1) in which a  
31 project owner seeks to locate one (1) or more CSE systems, if  
32 the project owner seeks to locate CSE systems in more than  
33 one (1) county as part of a single CSE system project or  
34 development; and

35 (2) each municipality described in subsection (a)(2) in which  
36 a project owner seeks to locate one (1) or more CSE systems,  
37 if the project owner seeks to locate CSE systems in two (2)  
38 more municipalities, each of which is located in a different  
39 county.

40 Sec. 8. (a) A CSE system may not be installed or located in a unit  
41 without the approval of the permit authority for the unit.

42 (b) The procedures set forth in this chapter apply with respect



1 to any proposal by a project owner to install or locate one (1) or  
 2 more CSE systems in a unit described in section 1(b) of this  
 3 chapter. The permit authority for a unit described in section  
 4 1(b)(1) of this chapter may not, directly or indirectly, restrict, or  
 5 impose conditions or limitations on, the construction, installation,  
 6 siting, modification, operation, or decommissioning of one (1) or  
 7 more CSE systems in the unit unless the unit first adopts a  
 8 commercial solar regulation, as required by IC 36-1-3-8.8(f)(1).  
 9 However, in no case may any unit use procedures, whether by  
 10 regulation or otherwise, that:

11 (1) govern the permitting or approval process for the siting or  
 12 installation CSE systems in the unit; and

13 (2) do not comply with this chapter;

14 as provided in IC 36-1-3-8.8(f)(2).

15 (c) Except as provided in:

16 (1) subsection (b);

17 (2) IC 36-1-3-8.8; and

18 (3) IC 8-1-42;

19 this chapter does not otherwise affect a unit's planning and zoning  
 20 powers under this article with respect to the installation or siting  
 21 of one (1) or more CSE systems in the unit.

22 (d) A permit authority for a unit described in section 1(b) of this  
 23 chapter is responsible for enforcing compliance with:

24 (1) this chapter;

25 (2) the default standards set forth in IC 8-1-42, if applicable  
 26 under IC 8-1-42-1(a); and

27 (3) in the case of a unit described in section 1(b)(2) of this  
 28 chapter, any part of the unit's commercial solar regulation, to  
 29 the extent such part:

30 (A) is not inconsistent with this chapter; and

31 (B) does not include standards that are more restrictive,  
 32 directly or indirectly, than the default standards set forth  
 33 in IC 8-1-42.

34 **Sec. 9. (a)** A project owner that seeks to install or locate one (1)  
 35 or more CSE systems in a unit after June 30, 2021, shall file with  
 36 the permit authority for the unit an application in the form and  
 37 manner prescribed by the permit authority. An application filed  
 38 under this section must include the following, provided with as  
 39 much detail or specificity as the permit authority may reasonably  
 40 require, and so far as ascertainable at the time of the application:

41 (1) A physical and technical description of all CSE systems  
 42 proposed to be installed or located in the unit.



- 1           **(2) A physical and technical description of all sites in the unit**  
 2           **on which one (1) or more CSE systems are sought to be**  
 3           **installed or located, including maps showing the location of**  
 4           **the sites.**
- 5           **(3) The project owner's anticipated timeline and process for**  
 6           **constructing and installing all CSE systems proposed in the**  
 7           **application.**
- 8           **(4) Information regarding the sound:**
- 9               **(A) expressed as an hourly average sound level or by any**  
 10              **other measure reasonably required by the permit**  
 11              **authority; and**
- 12              **(B) as modeled at the outer wall of a dwelling located on an**  
 13              **adjacent nonparticipating property (as defined in**  
 14              **IC 8-1-42-5);**
- 15           **anticipated to be attributable to the operation of each CSE**  
 16           **system included in the application.**
- 17           **(5) To the extent applicable, information regarding the**  
 18           **planned use and modification of any highways, streets, and**  
 19           **roads in the unit during the construction and installation of all**  
 20           **CSE systems included in the application, including a process**  
 21           **for:**
- 22               **(A) assessing road damage caused by activities involved in**  
 23               **such construction and installation; and**
- 24               **(B) conducting road repairs at the project owner's expense.**
- 25           **(6) A copy of all emergency response plans applicable to the**  
 26           **construction, installation, siting, modification, operation, and**  
 27           **decommissioning of all CSE systems included in the**  
 28           **application, including a process for sharing the plans with,**  
 29           **and providing safety training to, all potential first responders.**
- 30           **(7) A decommissioning and site restoration plan for each CSE**  
 31           **system included in the application, including both a timeline**  
 32           **for decommissioning and a timeline for posting any required:**
- 33               **(A) surety bond;**  
 34               **(B) parent company guarantee;**  
 35               **(C) irrevocable letter of credit; or**  
 36               **(D) other equivalent means of security or financial**  
 37               **assurance acceptable to the permit authority;**
- 38           **in an amount reflecting the estimated cost of decommissioning**  
 39           **the CSE system.**
- 40           **(8) A copy of all representative notices to:**
- 41               **(A) the permit authority;**  
 42               **(B) residents of the unit;**



- 1           (C) affected property owners and political subdivisions;  
2           and  
3           (D) other interested parties;  
4           to be issued by the project owner with respect to the  
5           construction, installation, siting, modification, operation, and  
6           decommissioning of all CSE systems included in the  
7           application, including any preconstruction and  
8           postconstruction activities.
- 9           (9) A description of a dispute resolution process that:  
10           (A) will be used by the project owner in resolving  
11           complaints under section 12 of this chapter; and  
12           (B) complies with the requirements set forth in section  
13           12(b) of this chapter.
- 14           (10) Any other information reasonably necessary to  
15           understand the construction, installation, siting, modification,  
16           operation, and decommissioning of all CSE systems included  
17           in the application.
- 18           (11) A statement, signed by an officer or another person  
19           authorized to bind the project owner, that affirms the  
20           accuracy of the information provided in the application.
- 21           (b) A project owner that submits an application under this  
22           section shall notify the permit authority in writing when all  
23           required documents and information described in subsection (a)  
24           have been submitted. An application under this section is  
25           considered filed as of the date of the project owner's notice under  
26           this subsection.
- 27           (c) Not later than thirty (30) days after the date of a project  
28           owner's notice under subsection (b), the permit authority shall  
29           determine whether the project owner's application is complete and  
30           shall notify the project owner in writing of the determination.  
31           Subject to subsection (f), if the permit authority determines that  
32           the application is complete, the permit authority shall proceed to  
33           make a determination as to whether to grant or deny the  
34           application under section 10 of this chapter. Subject to subsections  
35           (d) and (e), if the permit authority determines that the application  
36           is incomplete, the permit authority shall state the reasons for the  
37           determination in the permit authority's notice to the project owner  
38           under this subsection. A permit authority shall not make a  
39           determination of incompleteness based on grounds that are  
40           arbitrary, capricious, an abuse of discretion, or not in accordance  
41           with law. If the permit authority does not make a determination as  
42           to the completeness of the application within the time prescribed



1 by this subsection, the application is considered complete.

2 (d) A project owner may file supplemental information to an  
 3 application that a permit authority has determined to be  
 4 incomplete under subsection (c). A project owner that intends to  
 5 file supplemental information under this subsection shall notify the  
 6 permit authority of the project owner's intention not later than  
 7 fourteen (14) days after the date of the permit authority's notice of  
 8 incompleteness under subsection (c). The project owner's notice of  
 9 intention to file supplemental information under this subsection  
 10 stays the start of the period set forth in section 10 of this chapter  
 11 in which the permit authority must approve or deny the  
 12 application until such time as the application is finally determined  
 13 to be or is considered complete under this section. The project  
 14 owner shall provide any reasonably requested additional  
 15 information identified in the permit authority's notice under  
 16 subsection (c), to the extent ascertainable. A permit authority may  
 17 not impose a limit on the number of times a project owner may  
 18 supplement an application under this subsection.

19 (e) A project owner that submits a supplemented application  
 20 under subsection (d) shall notify the permit authority in writing  
 21 when all information and documents provided in connection with  
 22 the supplemented application have been submitted. A thirty (30)  
 23 day period for a completeness determination by the permit  
 24 authority with respect to the supplemented application begins as of  
 25 the date of the project owner's notice under this subsection, in  
 26 accordance with the procedures set forth in subsection (c) for an  
 27 initial application. If the permit authority does not make a  
 28 determination as to the completeness of the supplemented  
 29 application within the time prescribed by this subsection, the  
 30 supplemented application is considered complete.

31 (f) After:

32 (1) an initial application is determined to be or is considered  
 33 complete under subsection (c); or  
 34 (2) a supplemented application is determined to be or is  
 35 considered complete under subsection (e);  
 36 a permit authority may nevertheless request additional  
 37 information reasonably necessary to understand the construction,  
 38 installation, siting, modification, operation, and decommissioning  
 39 of any of the CSE systems included in a project owner's initial or  
 40 supplemented application. A project owner shall provide additional  
 41 information in response to all reasonable inquiries made by the  
 42 permit authority, and shall respond in a timely, complete, and



1 accurate manner.

2       **Sec. 10. (a)** Subject to subsection (b) and section 11 of this  
 3 chapter, a permit authority shall issue a written decision to grant  
 4 or deny an application or a supplemented application under this  
 5 chapter not later than ninety (90) days after the application or  
 6 supplemented application is finally determined to be or is  
 7 considered complete. The permit authority's written decision must  
 8 include all findings of fact upon which the decision is based. The  
 9 permit authority shall provide a copy of the permit authority's  
 10 decision to:

11           (1) the project owner; and

12           (2) the commission.

13       **(b)** A permit authority may not:

14           (1) unreasonably deny an application or a supplemented  
 15 application under this chapter;

16           (2) condition approval of an application or a supplemented  
 17 application upon a project owner's agreement to fulfill  
 18 unreasonable requirements, including:

19                   (A) property value guarantees;

20                   (B) onerous road upgrades; or

21                   (C) other requirements that are intended to prevent or  
 22 impede (or would have the effect of preventing or  
 23 impeding) the construction, installation, siting,  
 24 modification, operation, or decommissioning of CSE  
 25 systems in the unit; or

26           (3) after approving an application or a supplemented  
 27 application, impose unreasonable requirements upon a  
 28 project owner, including any of the requirements set forth in  
 29 subdivision (2), at any point during the project owner's  
 30 construction, installation, siting, modification, operation, or  
 31 decommissioning of CSE systems in the unit.

32       **Sec. 11. (a)** Not later than thirty (30) days after the date of a  
 33 permit authority's decision under section 10 of this chapter to  
 34 approve or deny an application or a supplemented application:

35           (1) the project owner; or

36           (2) any interested party described in section 9(a)(8)(B)  
 37 through 9(a)(8)(D) of this chapter;

38 may file with the commission a petition requesting a review of the  
 39 permit authority's decision.

40       **(b)** Upon receiving a petition under subsection (a), the  
 41 commission shall, in writing:

42           (1) notify the permit authority of the filing of a petition; and





1           **(2) request from:**

2           **(A) the permit authority;**

3           **(B) the petitioner;**

4           **(C) the project owner, if the project owner is not the**  
 5           **petitioner; and**

6           **(D) any other interested party described in section**  
 7           **9(a)(8)(B) through 9(a)(8)(D) of this chapter that is a party**  
 8           **to the petition;**

9           **any information required by the commission to make a**  
 10           **determination on the petition.**

11           **Any information requested by the commission under subdivision**  
 12           **(2) shall be submitted to the commission not later than thirty (30)**  
 13           **days after the date of the commission's written request.**

14           **(c) Not later than ninety (90) days after receiving all**  
 15           **information requested under subsection (b)(2), the commission**  
 16           **shall:**

17           **(1) after notice and an opportunity for hearing; and**

18           **(2) consistent with the policy set forth in IC 8-1-2-0.5;**

19           **issue an order with respect to the permit authority's decision under**  
 20           **section 10 of this chapter.**

21           **(d) The commission's order under subsection (c) must include**  
 22           **the commission's findings as to:**

23           **(1) the reasonableness of the permit authority's decision**  
 24           **under section 10 of this chapter; and**

25           **(2) the parties' compliance with:**

26           **(A) this chapter;**

27           **(B) the default standards set forth in IC 8-1-42, if**  
 28           **applicable under IC 8-1-42-1(a); and**

29           **(C) in the case of a unit described in section 1(b)(2) of this**  
 30           **chapter, any part of the unit's commercial solar regulation,**  
 31           **to the extent such part:**

32           **(i) is not inconsistent with this chapter; and**

33           **(ii) does not include standards that are more restrictive,**  
 34           **directly or indirectly, than the default standards set**  
 35           **forth in IC 8-1-42.**

36           **(e) In the commission's order under subsection (c), the**  
 37           **commission may:**

38           **(1) affirm, overturn, or modify the permit authority's**  
 39           **decision; or**

40           **(2) order such other relief;**

41           **as the public convenience and necessity may require.**

42           **(f) The order of the commission under subsection (c) is**



1 considered a final order, subject to appeal under IC 8-1-3.

2 **Sec. 12. (a)** At any time before or after a permit authority issues  
 3 a decision under section 10 of this chapter with respect to the  
 4 construction, installation, siting, modification, operation, or  
 5 decommissioning of one (1) or more CSE systems in the unit, an  
 6 interested party described in section 9(a)(8)(B) through 9(a)(8)(D)  
 7 of this chapter may file a complaint with the project owner alleging  
 8 that the project owner has failed to comply with:

9 (1) this chapter;

10 (2) the default standards set forth in IC 8-1-42, if applicable  
 11 under IC 8-1-42-1(a); or

12 (3) in a unit described in section 1(b)(2) of this chapter, any  
 13 part of the unit's commercial solar regulation, to the extent  
 14 such part:

15 (A) is not inconsistent with this chapter; and

16 (B) does not include standards that are more restrictive,  
 17 directly or indirectly, than the default standards set forth  
 18 in IC 8-1-42.

19 (b) An interested party that files a complaint under this section  
 20 shall do so in accordance with the project owner's dispute  
 21 resolution process, as set forth in the project owner's application  
 22 under section 9(a)(9) of this chapter. The following apply with  
 23 respect to a complaint filed under this section:

24 (1) The project owner shall:

25 (A) make a good faith effort to resolve the complaint; and

26 (B) conduct any investigation required to resolve the  
 27 complaint at the project owner's expense.

28 (2) Not later than thirty (30) days after receiving the  
 29 complaint, the project owner shall provide an initial response  
 30 to the complainant.

31 (3) The project owner shall:

32 (A) make a good faith effort to resolve the complaint not  
 33 later than forty-five (45) days after receiving the  
 34 complaint; and

35 (B) notify the permit authority if the complaint is not  
 36 resolved within the forty-five (45) day period set forth in  
 37 clause (A).

38 (c) If a complaint under this section is not resolved within the  
 39 forty-five (45) day period set forth in subsection (b)(3)(A), the  
 40 complainant may file with the commission a petition requesting a  
 41 review of the complaint.

42 (d) Upon receiving a petition under subsection (c), the



- 1 **commission shall, in writing:**  
 2 **(1) notify the project owner of the filing of petition; and**  
 3 **(2) request from:**  
 4 **(A) the project owner;**  
 5 **(B) the petitioner; and**  
 6 **(C) the permit authority;**  
 7 **any information required by the commission to make a**  
 8 **determination on the petition.**  
 9 **Any information requested by the commission under subdivision**  
 10 **(2) shall be submitted to the commission not later than thirty (30)**  
 11 **days after the date of the commission's written request.**  
 12 **(e) Not later than ninety (90) days after receiving all**  
 13 **information requested under subsection (d)(2), the commission**  
 14 **shall issue an order with respect to the complaint. The**  
 15 **commission's order must include the commission's findings as to**  
 16 **the project owner's compliance with:**  
 17 **(1) this chapter;**  
 18 **(2) the default standards set forth in IC 8-1-42, if applicable**  
 19 **under IC 8-1-42-1(a); or**  
 20 **(3) in the case of a unit described in section 1(b)(2) of this**  
 21 **chapter, any part of the unit's commercial solar regulation, to**  
 22 **the extent such part:**  
 23 **(A) is not inconsistent with this chapter; and**  
 24 **(B) does not include standards that are more restrictive,**  
 25 **directly or indirectly, than the default standards set forth**  
 26 **in IC 8-1-42;**  
 27 **as applicable.**  
 28 **(f) In the commission's order under subsection (e), the**  
 29 **commission may order such relief as the public convenience and**  
 30 **necessity may require.**  
 31 **(g) The commission's order under subsection (e) is considered**  
 32 **a final order, subject to appeal under IC 8-1-3.**  
 33 **SECTION 8. An emergency is declared for this act.**

