# INDIANA RENEWABLE ENERGY

Siting through Technical Engagement and Planning (R-STEP™)

---

# Regulatory Tools and Planning Practices

Jamie Palmer and Tamara Ogle

August 27, 2026

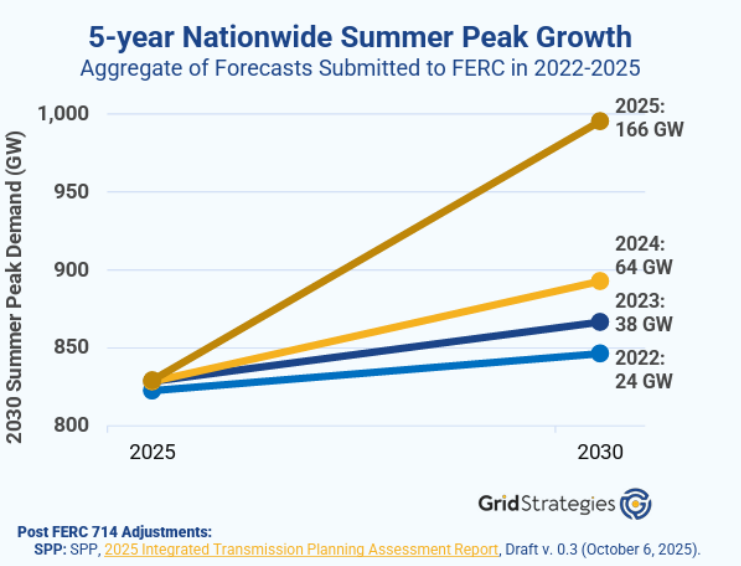
# Today's Presentation

1. Electricity Needs
2. Utility Preemption and Declination
3. Comprehensive Plan
4. Zoning Ordinance Permitting Processes
5. Typical Elements of the Zoning Ordinance
6. Zoning Moratoria
7. Vested Rights

# Electricity Demand is Growing

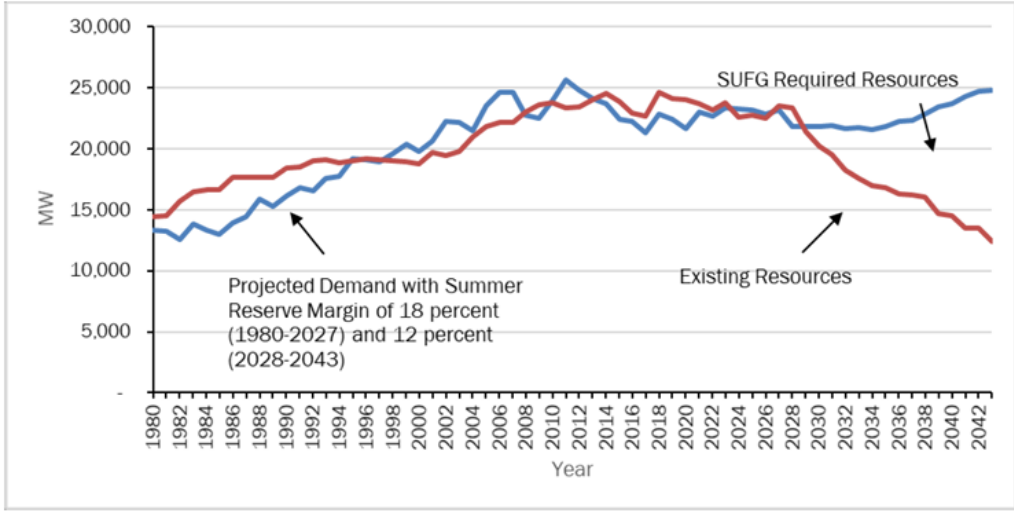
## Demand Drivers

- Data Centers
- Onshoring of manufacturing
- Electrification



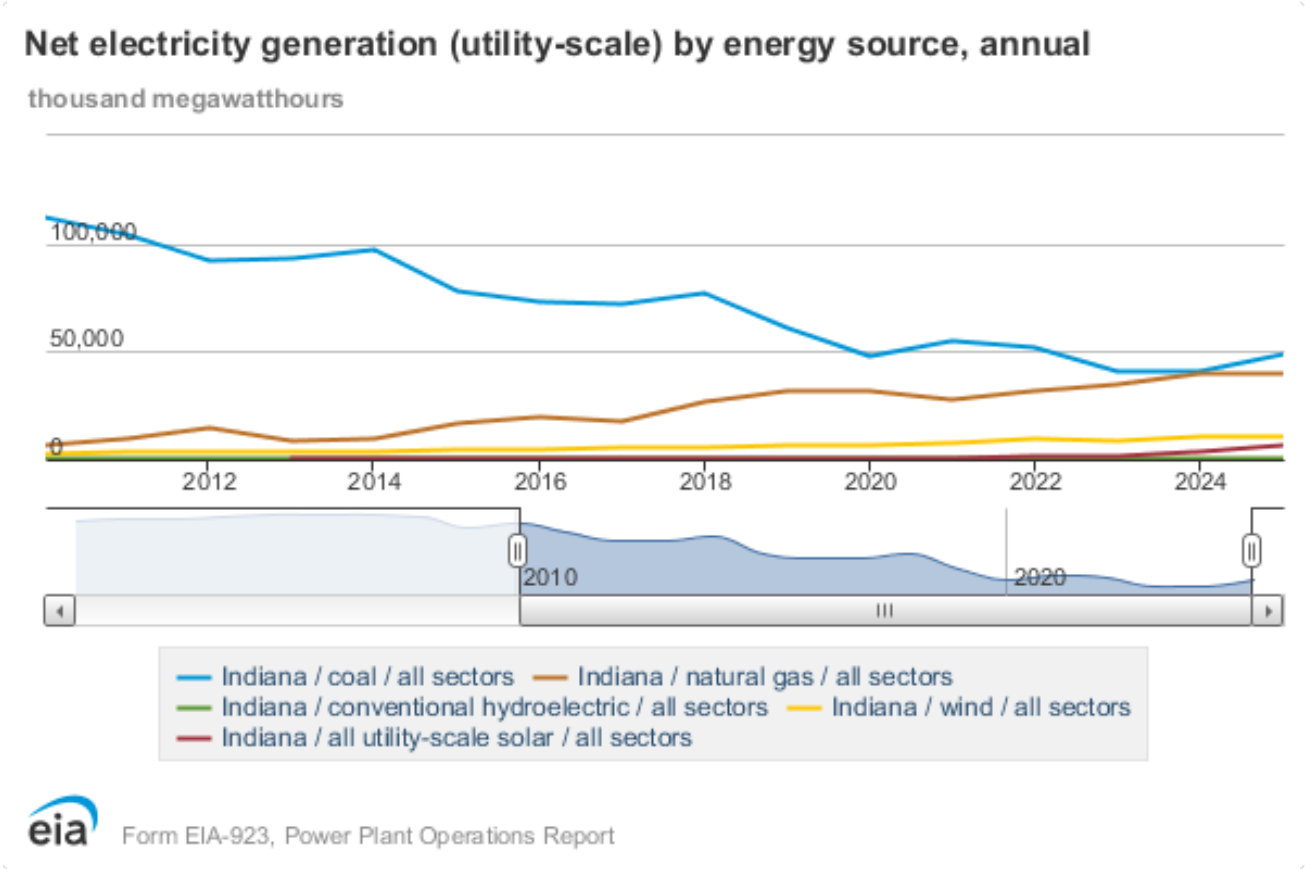

Source: Grid Strategies, 2025

Figure 3-3. Indiana Total Demand and Supply in MW (Summer Season) (SUFG Base)




Source: Indiana State Utility Forecasting Group, 2025

# Electric Generation is Changing




- All but 1 of Indiana's coal plant were built before 1990
- Solar and wind have a comparatively low cost to build and operate
- MISO and EIA both forecast continued growth in renewable energy generation

# Utility Pre-emption and Declination

- Utility Preemption (IC 8-1-2)
  - Created a comprehensive statewide system for regulating public utilities, replacing a patchwork of local rules. Vested authority in what is now the Indiana Utility Regulatory Commission (IURC).
- Declination
  1. Utility petitions IURC
  2. IURC determines whether public interest would be served by declination
  3. If granted, local ordinance governs
  4. Disputes over local decisions go to courts, not IURC

**Wholesaler vs. Rate maker**

*Wholesalers of power, (i.e. developers) are eligible for declination which rate makers (Duke, NIPSCO, AES, Indiana Michigan Power and Centerpoint) are not*

**Public Utility**: "every corporation, company, partnership…that may own, operate, manage, or control any plant or equipment within the state for the: …
(2) production, transmission, delivery, or furnishing of heat, light, water, or **power;**

# IURC's Authority

*Duke Energy v. City of Noblesville (2024)*

## Facts

- Duke planned new facilities in Noblesville — a garage, office, substation, and related improvements — and gave notice it would demolish an abandoned house on site.
- Noblesville insisted Duke obtain demolition and building permits under its Unified Development Ordinance.
- Duke refused, arguing the city had no authority to regulate a public utility's service-related construction through zoning.
- Noblesville issued a stop-work order and sued; the trial court and Court of Appeals both sided with the city.

## Holding

The Indiana Supreme Court unanimously reversed and remanded, holding that the IURC — not a city or county — is the sole entity with authority to decide whether a zoning ordinance implicating a public-utility function is unreasonable.

---

*A local ordinance is not automatically void — but a utility may challenge it before the IURC rather than comply or litigate in local court.*

# Comprehensive Plan

- Long-term plan drafted and adopted by a community to guide growth, development and land use.
  - Guide investment
  - Protect property values
  - Make communities healthier
- Required before adopting zoning
- IC 36-7-4-502 & 503 layout required and optional additions to the plan
- Should guide zoning ordinances and zoning decisions

# Permitting Approaches

- Who should approve the project?
  - Elected officials?
  - Appointed BZA members?
  - Staff?
- How important is it for the public to be able to provide input on each project (at a public hearing)?
- What is the appropriate balance between the desire for economic development and other public interests and the cost of the decision-making process to the project?

# Permitting Approaches, Cont.

| Approach | How it works | Decision-making body | Hearing | Pros | Cons |
|---|---|---|---|---|---|
| Use by right | Use is allowed in one or more zoning districts without additional review if development meets all standards. | Staff | No | Requires clear, enforceable standards Reduces unc ertainly for applicants. May reduce the burden on staff. | No opportunity for public input.<br>Staff decisions can be appealed to the BZA by a petitioner or an interested party. |
| Special exception/ conditional use | Development is reviewed against any standards established for review of the use. | Board of zoning appeals | Yes | Provides the opportunity for public comment. | Creates uncertainty for the applicant, particularly with few standards. |
| Zoning map amendment-specialized base or overlay district | Applies a particular district to the zoning map | Reviewed by plan commission and adopted by legislative body | Yes | Provides multiple opportunities for public comment.<br>Legislative body has substantial discretion. | Creates uncertainty for the applicant. |

# Permitting Process in Agricultural District

Permitting processes for utility-scale renewable energy projects in general agricultural districts in Indiana counties

| Approach | BESS | Solar | Wind |
|---|---|---|---|
| Use by right | 0 | 7 | 5 |
| Special exception/ conditional use | 5 | 32 | 21 |
| Zoning map amendment—specialized base or overlay district | 9 | 16 | 10 |
| Explicitly not permitted in any district | 1 | 3 | 11 |

*Does not include counties that limit solar development to under 500 acres or wind turbines to under 377 feet.

# Additional Treatments

| Approach | How it Works | Decision-making body | Hearing | Pros | Cons |
|---|---|---|---|---|---|
| Development plan | Review and approval of site plan for certain districts or uses | Plan commission, a committee, or staff | Public meeting if review by the plan commission. Not for staff or committee review. | Allows extra review for specialized/ complex uses and projects | Requires the adoption of specific standards. Review authority is ministerial, limited to standards written in the ordinance. |
| Conditions & commitments | Can be added to zoning map changes, development plans, special exceptions & variances | Plan commission, BZA, or legislative body | Yes | Provides flexibility to address specific challenges created by a project or a site. | Creates additional requirements for developers. |
| Variances—Use or Development standards | Approval needed when a project does not meet the definition for an existing use or design standards. | Board of zoning appeals | Yes | Allows flexibility in use or standards for special circumstances that apply to a project or site. | Use variances are not available to area plan commissions. |

# Typical Zoning Ordinance Elements

## Typical Standards across Renewable Energy Technologies

- Definitions
- Setbacks
- Maximum height
- Noise limit
- Electromagnetic interference

### Utility-scale Wind

- Shadow flicker
- Blade Clearance
- Visual appearance (color, lighting)

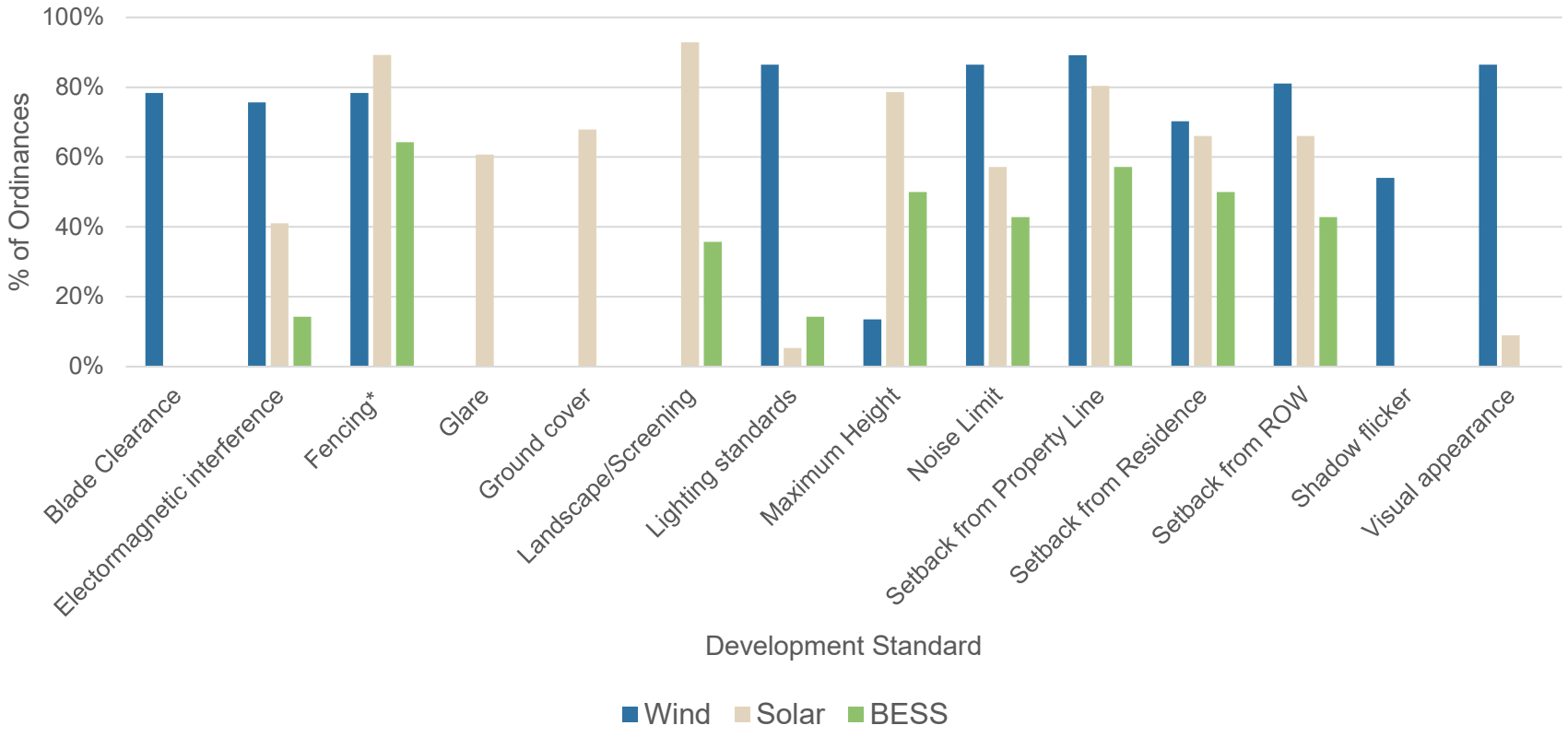
### Utility-scale Solar

- Ground Cover
- Fencing
- Glare
- Landscape/Screening

### Utility-scale BESS

- Fencing
- Landscape/screening

# INR-STEP Standards in Renewable Energy Ordinances



# Typical Zoning Ordinance Elements

**Typical Plans, Studies or Agreements required across Renewable Energy Technologies**

- Decommissioning plans
- Road use agreements
- Drainage/erosion control plans
- Emergency response plans
- Sound studies
- Liability insurance
- Maintenance plans or reports
- Economic development agreements

Many of these are requirements for the permit application process, but another government department specifies the details and signs the agreements.

# Zoning Moratoria

- Adopting a moratorium is a **ZONING ACTION**
  - Must have a plan commission
  - Must have adopted a comprehensive plan
  - Must go through the statutory process for amending the zoning ordinance

- Moratoria are meant to be temporary
  - Moratoria generally are intended to provide an opportunity to get policies or infrastructure in place
  - Electricity generation projects specifically are now limited to 1-year with no renewal under IC 36-7-4-1109.5

# Vested Rights

- **Common Law Vested Rights**: the right to rely on local regulations for development are established generally by action toward and investments in a project.
- **Statutory Vested Rights:**
  - Established by the Indiana General Assembly in IC 36-7-4-1109 *et seq*.
  - Requires that petitioners who submit a complete development application be allowed to proceed under the ordinance language that existed at the time of application.
  - The minimum period of protection is 3 years from permit/approval.
  - Period of protection expands to 10 years after construction has begun.
  - Many caveats…consult the statutory language.

# Planning with Purpose

Good practice=

Clarity +

Consistency +

Compatibility

# Thank You

**Jamie Palmer, AICP,** Senior Policy Analyst, IU Public Policy Institute
jlpalmer@iu.edu

**Tamara Ogle**, Community Development Specialist, Purdue Extension
togle@purdue.edu

PURDUE UNIVERSITY | Extension - Community Development