UNIFIED DEVELOPMENT ORDINANCE

WHEREAS: The Porter County Board of Commissioners adopted the Porter County Unified Development Ordinance; Ordinance No. 07-05 on May 1, 2007; and

WHEREAS: The Porter County Board of Commissioners has deemed it necessary to amend the Porter County Unified Development Ordinance with the addition of Sections for Solar Energy Systems.

WHEREAS: Porter County seeks to promote the general health, safety and welfare of the county by adopting and implementing an amendment to the Porter County Unified Development Ordinance providing for the requirements for solar energy systems.

INTENT: The purpose of this amendment to the Porter County Unified Development Ordinance is to establish the minimum requirements for the development, construction, maintenance and decommissioning of solar energy systems within the unincorporated areas of Porter County.

NOW THEREFORE BE IT AND IT IS HEREBY ORDAINED THAT:

Chapters 2, 5, 10 and 12 are amended within the Porter County Unified Development Ordinance as follows:

SECTION 1 – DEFINITIONS – Amending Chapter 12 Definitions

12.02 Defined Words
The following definitions shall be added to Chapter 12; 12.02 Defined Words.

Accessory Solar Energy System (ASES): an area of land or other area used for a solar collection system used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. An accessory solar energy system consists of one (1) or more free standing ground or roof mounted solar arrays or modules, or solar related equipment and is intended to primarily reduce on-site consumption of utility power or fuels.

Glare: The effect produced by light with an intensity sufficient to cause annoyance, discomfort, or loss of visual performance and visibility.

Principal Solar Energy System (PSES): An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Principal solar energy systems consist of one (1) or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and building including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.
**Solar Easement:** A solar easement means a right, expressed as an easement, restriction, covenant or condition contained in any deed, contract, or other written Instrument executed on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy.

**Solar Energy:** Radiant energy (direct, diffuse and/or reflective) received from the sun.

**Solar Panel:** That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

**Solar Related Equipment:** Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

1. **SOLAR ARRAY:** A grouping of multiple solar modules with purpose of harvesting solar energy.
2. **SOLAR CELL:** The smallest basic solar electric device which generates electricity when exposed to light.
3. **SOLAR MODULE:** A grouping or solar cells with the purpose of harvesting solar energy.

![Illustration from U.S. Department of Energy](image)

4. **METHOD OF MEASUREMENT:** ASES and PSES are measured in the following manner:
   a. **AREA:** The area shall be determined by the total surface area of all the panels located within the project area.
   b. **HEIGHT:** The height shall be determined as the distance from grade or roof to the top of the solar panel at its greatest incline.
   c. **PROJECTION:** The projection of a façade mounted system is measured from the façade to the outside edge of the panel that is perpendicular to the ground.
   d. **SETBACK:** Setbacks for ground mounted ASES and PSES shall be measured from the property line or the road right-of-way line to the outside edge for the panels.
SECTION 2 – ACCESSORY SOLAR ENERGY SYSTEMS (ASES) – Amending Chapter 2, Zoning Districts and Chapter 5, Zoning District Development Standards.

Chapter 2; Zoning Districts
Chapter 2; Zoning Districts shall be amended as follows:

Accessory Solar Energy Systems (ASES) shall be permitted within all zoning districts within the Porter County Unified Development Ordinance.

Chapter 5; Zoning District Development Standards
Chapter 5; Zoning District Development Standards shall be amended as follows.

A. Regulations applicable to all Accessory Solar Energy Systems:

1. ASES shall be permitted as a use by right in all zoning districts.

2. ASES total maximum panel square footage.
   a. Single Family Residential and Two Family Residential uses - ASES that have a maximum total panel square footage of 2,000, shall be permitted as a use by right in all zoning districts. ASES that have a total square footage greater than 2,000 shall comply with the requirements of Section 3 – Principal Solar Energy Systems. The panel square footage for ground mounted systems shall count to the maximum impervious surface coverage and shall not exceed the zoning district requirement.
   b. Multiple-Family Residential and Non-Residential uses – ASES that have a maximum total panel square footage of 40,000 shall be permitted as a use by right in R4, IN, OT, CN, CM, CH, 11, 12, I3 and HI zoning districts. The panel square footage for ground mounted systems shall count to the maximum impervious surface coverage and shall not exceed the zoning district requirement.
3. Exemptions
   a. ASES with an aggregate collection and/or focusing area of 10 square feet or less are exempt from this ordinance.
   b. ASES constructed prior to the effective date of this Ordinance shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing ASES whether or not existing prior to the effective date of this Ordinance that replaces solar equipment, as defined within this Ordinance, the ASES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

4. The ASES layout, design, installation and ongoing maintenance shall conform to applicable industry standards, such as the National Electric Code (NEC), the American National Standards Institute (ANSI), the Underwriter’s Laboratories (UL), the American Society of Testing & Materials (ASTM), the Institute of Electric & Electronic Engineers (IEEE), the Solar Rating & Certification Corporation (SRCC), the Electrical Testing Laboratory (ETL) and other certifying organizations, and shall comply with the Indiana Building Code (IBC), and any other standards applicable to solar energy systems. The manufacturer specifications for the key components of the ASES shall be submitted with the application.

   Upon completion of installations, the ASES shall be maintained in good working order in accordance with Porter County Codes and Ordinances. Failure of the property owner to maintain the ASES in good working order is grounds for appropriate enforcement actions by Porter County in accordance with applicable ordinances.

5. All on-site utility, transmission lines, and plumbing shall be placed underground to the extent feasible.

6. The owner of an ASES shall provide Porter County written confirmation that the public utility company to which the ASES will be connected has been informed of the customer’s intent to install a grid connected system and approved of such connection. Off-grid systems shall be exempt from this requirement.

7. The display of advertising is prohibited except for reasonable identification of the manufacturer of the system.

8. Glare:
   a. All ASES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways.
   b. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses through siting or mitigation.

9. Prior to the issuance of a building permit, applicants must acknowledge in writing that the issuing of said permit for a solar energy system shall not and does not create in the property
owner, its, his, her or their successors and assigns in title or, create in the property itself: (a) the right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such property; or (b) the right to prohibit the development on or growth of any trees or vegetation on such property.

10. Decommissioning
   a. Each ASES and all solar related equipment shall be removed within twelve (12) months of the date when the use has been discontinued or abandoned by system owner and/or operator, or upon termination of the useful life of same.
   b. Failure to remove solar related equipment within the twelve (12) month period shall result in the county starting proceedings before the Hearing Officer for equipment removal. If granted permission by the Hearing Officer to remove said solar equipment the county may place a lien on the parcel to cover all expenses incurred with the equipment removal.
   c. The ASES shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of twelve (12) continuous months.

B. Roof Mounted and Wall Mounted Accessory Solar Energy Systems:

1. A roof mounted or wall mounted ASES may be located on a primary or accessory structure.

2. The total height of the structure with an ASES shall not exceed by more than 18 inches above the maximum structure height specified for primary or accessory structures within the applicable zoning district.

3. Wall mounted ASES shall comply with the setbacks for primary and accessory structures in the underlying zoning districts.

4. Solar panels shall not extend beyond any portion of the roof edge.

5. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the building codes adopted by Porter County and that the roof or wall is capable of holding the load imposed on the structure.

C. Ground Mounted Accessory Solar Energy Systems:

1. Setbacks
   a. The minimum yard setbacks from side and rear property lines shall be equivalent to the accessory structure setbacks standards within the applicable zoning district.
   b. Ground mounted ASES are prohibited in front yards, between the primary structure and the public road right-of-way.
   c. The Porter County Board of Zoning Appeals may only grant the installation of a ground mounted ASES in front of the primary structure with a Development
Standards Variance if the applicant demonstrates that, due to solar access limitations, no location exists on the property other than the front yard where the solar panel can perform effectively.

2. Height
   a. Freestanding ground mounted ASES shall not exceed the maximum accessory structure height for the applicable zoning district.

3. Coverage
   a. The following components of a ground mounted ASES shall be considered impervious coverage and calculated as part of the impervious coverage limitations for the underlying zoning district. Said coverage shall count towards the parcel total with the primary and accessory structures and shall not exceed the maximum coverage allowed per zoning district.
      i. Total panel square footage.
      ii. All mechanical equipment of the system including any structure for batteries or storage cells.

4. Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devises, equipment and structures. All electrical control devices associated with the ASES shall be locked to prevent unauthorized access or entry.

5. Ground mounted ASES shall not be placed within any legal easement or right-of-way location, or placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

6. Ground mounted ASES shall not be located over a septic field, unless approval is granted from the Porter County Health Department.

Chapter 10; Permits, Processes and Fees
Chapter 10; Permits, processes and Fees shall be amended as follows.

A. Permit Requirements

1. Building permit applications shall document compliance with this Section and shall be accompanied by drawings showing the location of the system on the building or property, including property lines. Permits must be kept on the premises where the ASES is constructed.

2. The building permit shall be revoked if the ASES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the ASES not to be in conformity with this Ordinance.
3. The ASES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions, the Director or his/her designee shall give written notice specifying the violation to the owner of the ASES to conform or to remove the ASES.

SECTION 3 — PRINCIPAL SOLAR ENERGY SYSTEMS (PSES) – Amending Chapters 2, Zoning Districts, Chapter 5, Zoning District Development Standards and Chapter 10, Processes, Permits and Fees.

Chapter 2; Zoning Districts
Chapter 2; Zoning Districts shall be amended as follows:

Principal Solar Energy Systems (PSES) shall be permitted within the A1, General Agricultural District; I1, Light Industrial District; I2, General Industrial District and I3, Heavy Industrial District. PSES shall be permitted in the RR, Rural Residential District with the approval of a Special Exception from the Porter County Board of Zoning Appeals.

PSES constructed prior to the effective date of this Ordinance shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing PSES whether or not existing prior to the effective date of this Ordinance that replaces solar equipment, as defined by this ordinance, the PSES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a permit.

Chapter 10; Processes, Permits and Fees
Chapter 10; Processes, Permits and Fees shall be amended as follows.

A. Special Exception (Porter County Unified Development Ordinance 5.54 SE-01: Special Exception; General and 10.22 Special Exception) approval required.

B. Additional Special Exception Criteria: the following items shall be addressed with the Special Exception application for PSES. Said criteria shall be submitted with the Special Exception application before a hearing date is set with the Porter County Board of Zoning Appeals.

1. Conceptual Plan of the PSES shall be submitted showing: project location, parcels with parcel owner information, (per Auditor and Assessor records), location of PSES equipment showing setbacks, location of existing county roads, location of existing regulated drain easements within the project area or adjacent, proposed landscaping and fence locations, location of power grid proposed to connect to and their easements with the approximate location of the connection(s), proposed access to the site(s) from the county right-of-way, on-site roadways, general location of the proposed equipment and structures on-site and the site topography (this can be taken from current data within the Porter County GIS section of the Department).
2. Transportation plan: Provide route and access plan for construction and operation phases. Show proposed construction traffic route(s) and ingress egress points for the project site. Commitment to provide a Letter of Credit or Road Guarantee for damage caused by construction traffic on county roads used during construction phase and to work with county staff on appropriate routes for construction traffic. Project developer and highway department personnel shall meet to discuss routes to be used, video the routes for existing conditions and discuss permitting of overweight vehicles or frost law if required.

3. Commitment letters from power utility companies committing to the purchase of electricity generated from the proposed site.

4. An estimation on the construction time and phases if proposed for the project with an estimate of the construction jobs that will be created. An estimate on the permanent jobs created once the solar panel construction is completed.

5. Visual impacts: Review and demonstrate the visual impact using photos or renditions of the project or similar projects with consideration given to tree plantings and setback requirements. Conceptual plan shall show potential landscaping areas and fencing if constructed.

6. Public Safety: Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public roadways and to the community in general that may be created.

Chapter 10; Processes, Permits and Fees

Chapter 10; Processes, Permits and Fees shall be amended as follows.

A. Development Plan (Porter County UDO Section 10.09 Development Plan as amended by Ordinance No. 12-03 and subsequent ordinances) approval required.

1. An application for a Development Plan shall be submitted to the Porter County Department of Development & Storm Water Management (D&SWM) in accordance with the Porter County UDO Section 10.09 as amended by Ordinance No. 12-03. Failure to provide plans, report and additional requested items with the application will deem the application Incomplete and a date to a hearing shall not be set. Once an application has been deemed complete a hearing date shall be set with the Porter County Plan Commission. Said application shall contain the information within Table 10.09.C3 for a Plan Commission hearing.

2. In addition to the required plan and report items as stated in Section 10.09 (as amended by Ordinance 12-03) of the UDO the following items shall be required with the application.

b. The PSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI),
Underwriters Laboratories (UL), the American Society of Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC) or other similar certifying organizations.

c. Construction traffic route commitment with a Letter of Credit or Guarantee for damages to County road caused by construction traffic. Said traffic route and maintenance guarantee shall be agreed upon with the proposed developer, County Highway Superintendent and the County Engineer. County Commissioners shall approve the guarantee.

d. Ground mounted PSES shall not be placed within legal easement or right-of-way location, or be placed within any storm water conveyance system or in any other manner that would alter or impede storm water runoff from collecting in a constructed storm water conveyance system.

e. Ground mounted systems shall not be located over a septic field, unless approval is granted from the Porter County Health Department.

f. All on-site transmission and plumbing lines shall be placed underground to the extent feasible.

g. No portion of the PSES shall contain or be used to display advertising. The manufacturer’s name and equipment information or indication of ownership shall be allowed on any equipment of the PSES provided they comply with the prevailing sign regulations.

h. Glare: All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby structures or roadways. The applicant has the burden of proving that any glare produced does not have significant adverse impacts on neighboring or adjacent uses either through siting or mitigation.

i. Landscaping plan: Pollinator-friendly seed mixes and native plants are required around the PSES at a rate of two (2) square feet of plantings per one (1) square foot of solar panels. Allowed seed mixes are in Appendix A of this Ordinance with the recommended layout options for the seed mix. Use of the pollinator friendly seed mix per this ordinance will exempt the parcel from further landscaping that may be required under the Porter County Unified Development Ordinance unless required by the plan commission or the Board of Zoning Appeals. A guide of best management practices, please refer to Technical Guide: Establishment and Maintenance of Pollinator Friendly Solar Projects (Northern Indiana, January 2020) developed by the Michiana Area Council of Governments (MACOG).

j. Commitment letters from power utility companies committing to the purchase of electricity generated from the proposed site.

k. An estimation on the construction time and phases if proposed for the project with an estimate of the construction jobs that will be created. An estimate on the permanent jobs created once the solar panel construction is completed.

l. Visual impacts: Review and demonstrate the visual impact using photos or renditions of the project or similar projects with consideration given to tree plantings and setback requirements. Conceptual plan shall show potential landscaping areas and fencing if constructed.
m. Public Safety: Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public roadways and to the community in general that may be created.

n. Decommissioning:
   i. The PSES owner is required to notify Porter County D&SWM immediately upon cessation or abandonment of the operation. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by such system for a period of twelve (12) months.
   ii. The PSES owner shall then have twelve (12) months in which to dismantle and remove the PSES including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cable, electrical components, roads, foundations, and other associated facilities from the property.
   iii. Failure to remove solar related equipment within the twelve (12) month period shall result in the county starting proceedings before the Hearing Officer for equipment removal. If granted permission by the Hearing Officer to remove said solar equipment the county may place a lien on the parcel to cover all expenses incurred with the equipment removal.

Chapter 5; Zoning District Development Standards
Chapter 5; Zoning District Development Standards shall be amended as follows.

A. Development Standards:

1. Minimum lot size: The PSES shall meet the lot size requirements of the underlying zoning district.
2. Setbacks: The PSES shall comply with the setbacks of the underlying zoning districts for primary structures.
3. Height: Ground mounted PSES shall not exceed twenty (20) feet in height.
4. Impervious Surface Coverage: The following components of a PSES shall be considered impervious coverage and calculated as part of the impervious coverage.
   a. Foundation systems, typically consisting of driven piles or monopoles or helical screws with or without small concrete collars.
   b. All mechanical equipment of PSES including any structure(s) for batteries or storage cells.
   c. Gravel or paved areas for access roads or other purposes servicing the PSES.

Chapter 10; Processes, Permits and Fees
Chapter 10; Processes, Permits and Fees shall be amended as follows.

A. Permit Requirements

1. PSES shall comply with all applicable permit, code and regulation requirements.
2. The PSES owner and/or operator shall repair, maintain and replace the PSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep PSES in good repair and operating condition.

3. The PSES and/or operator shall maintain a phone number and identify a person responsible for inquiries and complaints throughout the life of the project and provide this contact information to Porter County Department of Development & Storm Water Management (D&SWM). The PSES owner and/or operator shall make reasonable efforts to respond to inquiries and complaints.

4. As-Built Plans Requirement. The applicant, owner, or operator shall submit a copy of the Final Construction Plans (as-built plans), as amended, to the D&SWM with the measurements thereon shown. Said as-built plans shall be submitted and approved by the D&SWM for the issuance of the Certificate of Zoning Compliance.

5. Change In Ownership. It is the responsibility of the owner or operator listed in the application to inform the D&SWM of all changes in ownership and operation during the life of the project, including the sale or transfer of ownership or operation.

6. If a ground mounted PSES is removed, any earth disturbance resulting from the removal must be graded and reseeded.

7. Roof and Wall Mounted Principal Solar Energy Systems:

8. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with all construction codes adopted by Porter County and that the wall or roof is capable of holding the load imposed on the structure.

9. PSES mounted on the roof or wall of any building shall be subject to the maximum height regulations of the underlying zoning district.

Section 4. Other Ordinances. Any ordinance or provision of any Ordinance of Porter County in conflict with the provisions of this ordinance is hereby superseded by this Ordinance. Subject to the forgoing, the passage and approval of this Ordinance shall not in any way exempt the owner of any parcel from compliance with the provisions of any and all other applicable Ordinances of Porter County, including without limitation the Porter County Unified Development Ordinance.

Section 5. Severability. The invalidity of any section, clause, sentence or provisions of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.
Said amendment to the Unified Development Ordinance shall be subject to review on an annual basis by the plan commission and their sub-committee hereby referred to as the UDO Committee.

This ordinance passed and adopted this __th day of __, 2020.

PORTER COUNTY BOARD OF COMMISSIONERS

Jeffrey Good, President

Laura Blaney

Jim Biggs

Attest: Vicki Urbanik

Vicki Urbanik, Auditor

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.

Robert W. Thompson, AICP
Executive Director/County Planner
Appendix A

Wildflower and Grass Mix

### Permanent Grasses and Sedges

<table>
<thead>
<tr>
<th>Botanical Name</th>
<th>Common Name</th>
<th>Ounces/ac</th>
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</thead>
<tbody>
<tr>
<td>Bouteloua curtipendula</td>
<td>Side-Oats Grama</td>
<td>24.00</td>
</tr>
<tr>
<td>Carex spp.</td>
<td>Prairie Sedge Species</td>
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<tr>
<td>Elymus canadensis</td>
<td>Canada Wild Rye</td>
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<td>Elymus virginicus</td>
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<td>Panicum virgatum</td>
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<td>Schizachyrium scoparium</td>
<td>Little Bluestem</td>
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<td>Soghostrum nutans</td>
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<td>Sporobolus heterolepis</td>
<td>Prairie Dropseed</td>
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### Temp Nurse Crop

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<tbody>
<tr>
<td>Avena sativa</td>
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<td>Lolium multiflorum</td>
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### Native Forbs

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<td>Coreopsis lanceolate</td>
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<tr>
<td>Desmanthus illinoensis</td>
<td>Illinois Sensitive Plant</td>
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<td>Echinacea purpurea</td>
<td>Broad-Leaved Purple Coneflower</td>
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<td>Wild Lupine</td>
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<td>Monarda fistulosa</td>
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<td>Penstemon digitalis</td>
<td>Foxglove Beard Tongue</td>
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<td>Ratibida pinnata</td>
<td>Yellow Coneflower</td>
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<td>Black-Eyed Susan</td>
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<td>Solidago speciosa</td>
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<td>Symphyotrichum laeve</td>
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### Grass Only Mix

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Native Seed Planting Layout Options and Seed Mix Examples for Solar Sites

NATIVE SEED PLANTING OPTIONS FOR SOLAR SITES

**OPTION 1**
Whole Site Pollinator Seed Mix

**OPTION 2**
Grass Mix Underneath Solar Panels Only

**OPTION 3**
Grass Mix Underneath & Between Solar Panels

**OPTION 4**
Buffer from Pesticide Drift

**LEGEND**
- Solar Panels
- Pollinator Seed Mix
- Grass Seed Mix

*Not to Scale*