



June 13, 2025

Navajo County
100 East Code Talkers Drive
Holbrook, AZ 86025

RE: Navajo County Zoning Ordinance Update, Article 12: Renewable Energy

Supervisors, Commissioners, and Community Development Staff,

The Arizona Solar Energy Industries Association (AriSEIA) appreciates the opportunity to provide comments on the draft zoning ordinance for renewable energy facilities in Navajo County. AriSEIA is a nonprofit trade association representing the solar and storage industries across Arizona. We advocate for thoughtful, streamlined, and effective land use policies that enable renewable energy development while respecting community values and local priorities. We have previously engaged on the City of Eloy, Mohave County, City of Buckeye, Town of Chino Valley, Yavapai County, City of Surprise, and Apache County solar/storage ordinances.

We commend the County's efforts to develop a regulatory framework for renewable energy and offer the following comments and recommendations to improve clarity, reduce unintended burdens, and ensure alignment with industry standards and legal precedents.

I. General Legal and Process Concerns

1. Entitlements Should Not Require BOS Approval to Transfer

We recommend against the provision requiring Board approval for the transfer or assignment of an approved Special Use Permit (SUP). Land use entitlements run with the land—not the landowner—and cannot be subject to reassignment approvals. Requiring discretionary approval for every property transfer introduces legal uncertainty and would significantly chill investment. If the original conditions remain in effect and are adhered to by the new owner, no additional approval should be required.

2. Clarity on the Relationship Between SUPs and Development Agreements

The draft appears to treat Development Agreements and SUPs as overlapping but does not clearly delineate the requirements for each. Specifically, it is unclear whether the Development Agreement will incorporate requirements from Section 1201(2)(u). Greater clarity is needed to avoid duplicative or conflicting obligations.

II. Comments on Draft Article 12 – Section 1201 (Solar and General Renewable Energy)

3. Impervious Surface Designation

We strongly urge the County to clarify that solar arrays are not considered impervious surfaces and are exempt from the Maximum Lot Coverage standards in A-General (50%) and RU-20 (3%) zones. The definition of “impervious” should be revised or clarified to exclude structures like solar arrays, particularly when vegetation or non-compacted soils are preserved beneath the panels.

4. Underground Collection Line Requirement (1201(2)(d))

We recommend flexibility in the siting of collection lines. While undergrounding may reduce some visual impacts, it can increase cost and site disturbance. These lines typically run within the array footprint and are low-profile. Allowing above-ground options where appropriate could reduce environmental disruption and construction costs.

5. Fence Height Discrepancy (1201(2)(r))

The draft permits fences up to 8 feet in height for renewable energy projects, but the general zoning standards cap fence/wall height at 7 feet. This inconsistency should be resolved to avoid ambiguity in enforcement.

6. Decommissioning Bond Timing and Beneficiaries (1201(2)(s))

We recommend phasing the decommissioning bond over the first 10 years of operation, with full bonding (minus salvage value) required by year 10. This balances financial feasibility with long-term accountability. Additionally, we urge the County to designate a single bond beneficiary—typically the County—to streamline administration and avoid disputes.

7. Tribal Consultation Guidance (1201(2)(v))

We request that the County provide clear expectations for what constitutes adequate tribal consultation. This includes what documentation will be accepted and what level of engagement is required.

8. Public Communication Requirements (1201(2)(x))

The requirement for lifetime responsiveness to inquiries is operationally unfeasible. We suggest limiting real-time responsiveness to the construction phase. For long-term operations, we propose a 24/7 emergency hotline, a publicly available online form, and a monthly response requirement for general inquiries.

9. Public Outreach and Project Changes (1201(2)(u))

We request clarity on whether the outreach described in 1201(2)(u) is a prerequisite to the public hearing process and what happens if key project features change after notifications are sent to surrounding landowners. A mechanism for reasonable updates should be included.

10. Avoid Regulatory Overreach into Federal or State Jurisdiction (1201(2)(j), 1201.1)

The ordinance appropriately avoids regulating projects on federal or state land but then attempts to impose technical standards (e.g., on experimental components or wildlife policy) outside the

County’s expertise. Sections referencing FAA, USFWS, and other federal authorities should defer to their standards rather than impose independent criteria.

11. Problematic Language and Ambiguities

We recommend removing vague or subjective standards such as “minimal visual impact,” “low wildlife habitat value,” or “maximum extent possible.” These terms lack clear metrics and create enforcement risk. More appropriate phrasing would be “to the maximum extent feasible” with reference to applicable regulatory guidance.

12. Feedback Cards and Tabulated Results (1201(2)(u)(ii))

The ordinance calls for tabulating community feedback, but such data often reflects opposition bias due to self-selection. It should be considered informational, not determinative.

13. Decommissioning Enforcement (1201(2)(aa)(ii))

The ordinance should include standard cure period language to protect against subjective enforcement or abrupt bond forfeiture. This provides fairness and legal clarity in the event of a dispute.

III. Comments on Draft Article 12 – Section 1202 (Wind-Specific Provisions)

14. Noise Standards (1202(1)(a) & (b))

We recommend adopting standard sound thresholds of 45 dBA at night and 55 dBA during the day, based on EPA guidance. The “baseline plus 5 dBA” approach is difficult to measure and legally risky due to inconsistent baseline data.

15. Low-Frequency Noise (1202(1)(c))

We strongly recommend removing all references to low-frequency noise. There is no peer-reviewed scientific evidence supporting its health impacts, and this provision responds to misinformation rather than substantiated risk.

16. Wind Turbine Setbacks (1202 generally)

The proposed setbacks are excessive and unsupported by public health data, effectively amounting to a ban on wind development. AriSEIA has provided the below table of commonly accepted setbacks that maintain public safety while allowing viable project siting.

Occupied Community Buildings	Nearest Structure	2.1x tip height (meters)
Participating Residences	Nearest Structure	1.1x tip height (meters)
Non-Participating Residences	Nearest Structure	2.1x tip height (meters)
Non-Participating Property Lines	Property Line	1.1x tip height (meters)
Public Road Rights-of-way	Centerline+60 feet	1.1x tip height (meters)
Setback from publicly managed lands	Property Line	2.1x tip height (meters)
County Roads	Center Line+30 feet	1.1x tip height (meters)
Overhead communication lines	Centerline+50 feet	1.1x tip height (meters)

Shadow Flicker	Tower Base	30 (hrs/yr at receptor)
Transmission and Distribution lines	Centerline+50 feet	1.1x tip height (meters)
Railroads	Centerline+50 feet	1.1x blade length (meters)
Public use areas/buildings, office buildings	Nearest Structure	1.1x tip height (meters)
Boundaries of Incorporated Communities	Boundary Line	1.0 (mile)
O&G pipelines	Center Line+30 feet	1.1x blade length (meters)
Sound emissions - daytime	Tower Base	55 (dBA)
Sound emissions - nighttime	Tower Base	45 (dBA)
Ice-Throw Setback	Tower Base	1.1x tip height (meters)

IV. Final Comments

This draft ordinance includes several constructive elements but also introduces significant risks of legal challenge, development delays, and regulatory overreach. AriSEIA urges the Commission and/or Board to revise the ordinance to ensure clarity, legal consistency, and feasibility for renewable energy developers while maintaining appropriate community safeguards. We remain available to support the County in this process and provide additional detail upon request.

Thank you for your consideration.

Respectfully,
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