

23-05-70

Code Amendment to Article IV
Sub-Section 400-23.3 Commercial Solar Energy Facility Siting

§400-23.3 COMMERCIAL SOLAR ENERGY FACILITY SITING ORDINANCE

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I. DEFINITIONS

Notwithstanding any other definitions provided elsewhere in the Stephenson County ("County") Zoning Ordinance, the following definitions apply to the terms listed below as used in this Ordinance:

- A. "Abandonment" occurs when deconstruction has not been completed within 6 months after the Commercial Solar Energy Facility reaches the end of its useful life. For purposes of this definition, a Commercial Solar Energy Facility shall be presumed to have reached the end of its useful life if the a Commercial Solar Energy Facility fails to produce electricity for a continuous period of twelve months; or if the Owner fails, for a period of six consecutive months, to pay any property owner amounts owed in accordance with any written agreement between the Facility Owner and property owner relating to the Facility, including, but not limited to, an easement, option, lease, or license agreement relating to the siting, construction, or operation of the Facility on the property owner's real property.
- B. "Applicant" means a person or entity who submits a Special Use Permit

Application to the Director of Building and Zoning for the siting and operation of any Commercial Solar Energy Facility, Substation, and/or Supporting Facilities, pursuant to this Ordinance. All references to an Applicant in this Ordinance shall include Applicant's successors-in-interest and assigns, which includes a Commercial Solar Energy Facility Permittee, as applicable.

- C. "Application" means an application for a Special Use Permit filed with the Director of Building and Zoning pursuant to this Ordinance.
- D. "Commercial Operation Date" means the calendar date on which the Commercial Solar Energy Facility produces power for commercial sale, not including test power.
- E. "Commercial Solar Energy Facility" (or "Facility") means any device or assembly of devices that is ground installed and uses solar energy from the sun for generating electricity for the primary purpose of wholesale or retail sale and not primarily for consumption on the property, with a nameplate capacity of equal or greater to 500 kilowatts. This includes all solar panels, cells or modules, components, solar panel mounts and racking systems, helical piles, ground screws, ballasts or other anchoring systems, Substations, transmission lines, access roads, storage containers, Supporting Facilities, and equipment associated with the generation and storage of electricity by the Commercial Solar Energy Facility. This includes a Facility seeking an extension of a permit to construct granted by the County before January 27, 2023 (the effective date of the amendatory Act of the 102nd General Assembly to 55 ILCS 5/5-12020.)
- F. "Commercial Solar Energy Building Permit" means a permit necessary for the commencement of work performed toward the construction, erection or installation of an approved Commercial Solar Energy Facility, Substation, and/or Supporting Facilities. A Commercial Solar Energy Building Permit may only be issued by the Director of Building and Zoning after a Commercial Solar Energy Facility has obtained a Special Use Permit from the County Board and the Director of Building and Zoning determines that all conditions imposed by the Special Use Permit, if any, have been satisfied. The Commercial Solar Energy Building Permit shall require the Applicant to deliver a written "Notice to Proceed" for the Commercial Solar Energy Facility to the Director of Building and Zoning and County Board prior to commencement of construction of the Commercial Solar Energy Facility. The term "commencement of construction", as used in this Ordinance, includes any site development work (e.g., demolition, grubbing, grading, excavation, road work, construction of Project-related structures

and infrastructure improvements, etc.) regarding the Commercial Solar Energy Facility, Substation(s), or Supporting Facilities.

- G. "Commercial Solar Energy Facility Permittee" means an Applicant who applies for and receives a Special Use Permit under this Ordinance for the siting and operation of any Commercial Solar Energy Facility or Substation. All references to a Commercial Solar Energy Facility Permittee in this Ordinance shall include a Commercial Solar Energy Facility Permittee's successors-in-interest and assigns.
- H. "Director" means the Director of the Stephenson County Building and Zoning Department.
- I. "Financial Assurance" or "Financial Security" or "Decommission Security" means assurance from a credit worthy party, examples of which include a surety bond (e.g., performance and payment bond), trust instrument, cash escrow, or irrevocable letter of credit that is acceptable to the County, with the County as the beneficiary.
- J. "Ground installed" means the installation of a Commercial Solar Energy Facility, with the primary purpose of solar energy generation for wholesale or retail sale, on a parcel or tract of land.
- K. "Local Emergency Response Authorities" means each local law enforcement agency, fire department, fire protection district and rescue units, emergency medical service providers and emergency management service providers that have jurisdiction over any part of the Facility.
- L. "Notice to Proceed" means a written document, named as such, stating that the Applicant expresses an intent to commence construction activities on a Commercial Solar Energy Facility and identifying the date on which the construction activities are scheduled to commence.
- M. "Nonparticipating Property" means real property that is not a Participating Property as defined in this Ordinance.
- N. "Nonparticipating Residence" means a residence that is located on Nonparticipating Property and that is existing and occupied on the date that a Special Use Permit application is filed with the Director of Building and Zoning.
- O. "Occupied Community Building" means any one or more of the following buildings that exists and is occupied on the date that the Special Use Permit Application is filed with the Director of Building and Zoning: a school, place

of worship, day care facility, public library, or community center.

- P. "Operator" means the person or entity responsible for the day-to-day operation and maintenance of a Commercial Solar Energy Facility, including any third-party subcontractors. The Operator must be a qualified solar power professional. All references to an Operator in this Ordinance shall include an Operator's successors-in-interest and assigns.
- Q. "Owner" means (i) a person or entity with a direct ownership interest in the Facility, regardless of whether the person or entity is involved in acquiring the necessary rights, permits, and approvals or otherwise planning for the construction and operation of the Facility, or (ii) at the time the facility is being developed, a person or entity who is acting as a developer of the Facility by acquiring the necessary rights, permits, and approvals or by planning for the construction and operation of the facility, regardless of whether the person or entity will own or operate the Facility.
- "Owner" does not include the owner of a Participating Property (unless the property owner has an equity interest in a WECS Facility); or (ii) any person or entity holding a security interest in a WECS Facility solely to secure an extension of credit, or a person or entity foreclosing on such security interest, provided that after foreclosure, such person or entity seeks to sell the WECS at the earliest practicable date.
- R. "Participating Property" means real property that is the subject of a written agreement between a Facility Owner and the owner of the real property that provides the Facility Owner an easement, option, lease, license or other rights to use the real property for the purpose of siting, constructing, or operating a Commercial Solar Energy Facility, Substation, or Supporting Facilities. "Participating property" also includes real property that is owned by a Facility Owner for the purpose of siting, constructing, or operating a Commercial Solar Energy Facility, Substation, or Supporting Facilities.
- S. "Participating Residence" means a residence that is located on Participating Property and that is existing and occupied on the date that an application for a Special Use Permit is filed with the Director of Building and Zoning.
- T. "Professional Engineer" means an professional engineer licensed to practice engineering in the State of Illinois. Where a structural engineer is required to take some action under terms of this Ordinance, a Professional Engineer may serve as the structural engineer if he or she has the appropriate structural engineering certification.
- U. "Protected Lands" means real property that is subject to a permanent conservation right consistent with the Real Property Conservation Rights

Act or registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

- V. "Public Conservation Lands" means land owned in fee title by county, state or federal agencies and managed specifically for conservation purposes, including but not limited to county, state and federal parks, state and federal wildlife management areas, state scientific and natural areas, and federal wildliferefuges and waterfowl protection areas. Public Conservation Lands do not include private lands upon which conservation easements have been sold to government agencies or non-profit conservation organizations. Public conservation lands also do not include private lands for which the owners have entered into contractual relationships with government or non-profit conservation organizations for conservation purposes.
- W. "Special Use Permit" means a permit, subject to the requirements of this Ordinance, approved by the Stephenson County Board, after a public hearing, allowing for the siting, construction, and operation of a Commercial Solar Energy Facility, Substation, and/or Supporting Facilities at a specified location subject to compliance with specified conditions as may be required by the County Board.
- X. "Substation" means the apparatus that collects and connects the electrical collection system of the Commercial Solar Energy Facility and increases the voltage for connection with the utility's transmission lines.
- Y. "Supporting Facilities" means the transmission lines, electrical power lines utilized for the conveyance of power within or from a Facility to the electric grid, operations and maintenance buildings, access roads, fencing, lighting, storage containers, and any other equipment associated with the generation and storage of electricity by the Commercial Solar Energy Facility.

II. APPLICABILITY

- A. This Ordinance governs the siting of Commercial Solar Energy Facilities, Substations and Supporting Facilities for such Facilities.

III. PROHIBITION

- A. No Commercial Solar Energy Facility, Substation or Supporting Facilities governed by this Ordinance shall be constructed, erected, installed, or located within the County, unless prior siting approval has been obtained pursuant to a Special Use Permit under this Ordinance.

IV. COMMERCIAL SOLAR ENERGY FACILITY SPECIAL USE PERMIT

APPLICATION

- A. An Applicant for a Special Use Permit must submit a Special Use Permit Application with the Director of Building and Zoning that complies with the requirements of this Ordinance.
- B. In addition to any information required by Section 400-92 of the County's Zoning Ordinance, a Special Use Permit Application under this Ordinance shall contain or be accompanied by the following information:
 1. A Commercial Solar Energy Facility summary, including, to the extent available: (a) a general description of the project, including (i) its approximate overall name plate generating capacity, (ii) the potential equipment manufacturer(s), (iii) type(s) of solar panels, cells and modules, (iv) the number of solar panels, cells and modules, (v) the maximum height of the solar panels at full tilt, (vi) the number and proposed locations of Substations, (vii) the number and proposed locations of any operations and maintenance buildings, (viii) a project site plan, project phasing plan and project construction timeline plan, and (ix) the general location of the project; and (b) a description of the Applicant, Owner and Operator, including their respective business structures;
 2. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), if known, and documentation demonstrating land ownership or legal control of the property;
 3. A site plan for the Commercial Solar Energy Facility showing the planned location of solar panels, including legal descriptions for each site, Participating and Nonparticipating Residences, Occupied Community Buildings, parcel boundary lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, operations and maintenance buildings, electrical cabling to the Substation(s), ancillary equipment, Supporting Facilities, third party transmission lines, the location of any wetlands, flood plain, drainage structures including surface ditches and subsurface drainage lines, underground mines, scenic and natural areas within one thousand five hundred (1,500) feet of any part of the proposed Commercial Solar Energy Facility, and the layout of all structures within the geographical boundaries of any applicable setback;
 4. A proposed Decommissioning Plan for the Commercial Solar

Energy Facility;

5. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance;
 6. An Agricultural Impact Mitigation Agreement (AIMA) executed between the Applicant and the Illinois Department of Agriculture;
 7. The topographic map shall include the Commercial Solar Energy Facility site and the surrounding area;
 8. Any other information normally required by the County as part of its permitting requirements for siting buildings or other structures;
 9. Waivers from the setback requirements executed by the Occupied Community Building owners and/or the Nonparticipating Property owners bearing a file stamp from the County Recorder of Deeds Office confirming that the waiver was recorded against title to the affected real property.
 10. Results and recommendations from the Illinois Department of Natural Resources obtained through the Ecological Compliance Assessment Tool or a comparable successor tool.
 11. Results of any United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with any applicable United States Fish and Wildlife Service's solar wildlife guidelines.
 12. Information demonstrating that the Commercial Solar Energy Facility will avoid Protected Lands.
 13. Any other studies, reports, certifications, or information requested by the County or the County consultants that is necessary to evaluate the siting application and operation of the Commercial Solar Energy Facility and to demonstrate that the Commercial Solar Energy Facility meets each of the regulations in this Ordinance.
- C. Material changes to the application are not permitted once the notice of the public hearing has been published.
- D. The Applicant shall submit twelve (12) copies of the Special Use Permit application to the County, and at least one (1) copy in electronic format.

V. DESIGN AND INSTALLATION

A Design Safety Certification

1. Commercial Solar Energy Facilities shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), or an equivalent third party. All solar panels, cells and modules; solar panel mounts and racking, including any helical piles, ground screws, ballasts, or other anchoring systems shall be new equipment commercially available; no used or experimental equipment shall be used without the approval of a variance by the County Board.
2. Following the granting of siting approval under this Ordinance, a Professional Engineer shall certify, as part of the Commercial Solar Energy Facility Building Permit application process, that the design of the Commercial Solar Energy Facility is within accepted professional standards, given local soil, subsurface and climate conditions.

B. Electrical Components: All electrical components of the Commercial Solar Energy Facility shall conform to applicable local, state, and national laws, regulations, and codes, and relevant national and international standards (e.g. ANSI and International Electrical Commission).

C. Height: No component of a solar panel, cell or modules may exceed twenty (20) feet in height above the ground at full tilt.

D. Aesthetics and Lighting

1. Vegetative Management Plan: The Applicant shall include as a part of its Application, a Vegetation Management Plan, designed to maximize community benefits, including, but not limited to, reduced stormwater runoff, flooding, and erosion at the Facility, improved soil health, and increased foraging habitat for birds and pollinators. The Vegetative Management Plan shall require the Commercial Solar Energy Facility Permittee to plant, establish and maintain for the life of the Facility vegetative ground cover throughout the Facility, consistent with the goals of the Pollinator-Friendly Solar Site Act (525 ILCS 55/1). The Vegetation Management Plan must also be

consistent with short-term and long-term property management practices that provide and maintain native and non-invasive naturalized perennial vegetation to protect the health and well-being of pollinators, as set forth in the applicable Illinois Department of Natural Resources guidelines for Commercial Solar Energy Facility Vegetation Management Plans.

2. Vegetative Screening Plan: The Applicant shall include as a part of its Application a Vegetative Screening Plan which shall provide for a continuous line of native evergreen foliage and/or native shrubs and/or native trees and/or any existing wooded area and/or plantings of tall native grasses and other native flowering plants at and throughout the Facility, designed to screen the Facility from the sight lines from neighboring roads or properties.
 3. Lighting: Any lighting shall be for security and safety purposes only. If lighting is provided at the Facility, any lighting shall be of a low intensity, shielded and downcast such that light does not extend substantially onto any adjacent Nonparticipating Property.
 4. Intra-project Power and Communication Lines: All power lines used to collect power and all communication lines shall be buried underground at a depth in accordance with the Agricultural Impact Mitigation Agreement until same reach the property line of a substation.
- E. Fencing: A fence of at least six (6) feet and not more than twenty-five (25) feet in height shall enclose and secure the Commercial Solar Energy Facility.
- F. Warnings
1. A conspicuous warning sign regarding voltage must be placed at the base of all pad-mounted transformers and Substations.
 2. Visible, reflective, colored objects, such as flags, plastic sleeves, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires (if any) up to a height of fifteen (15) feet from the ground.
- G. Setback Requirements
1. The Commercial Solar Energy Facility shall be sited as follows, with setback distances measured from the nearest edge of any

component of the facility:

- a. Occupied Community Buildings and residences on Nonparticipating Properties: one hundred fifty (150) feet to the nearest point on the outside wall of the structure;
 - b. Nonparticipating Residences: one hundred fifty (150) feet to the nearest point on the outside wall of the structure;
 - c. Boundary Lines of Participating Property: None;
 - d. Boundary Lines of Nonparticipating Property: fifty (50) feet to the nearest point on the property line of the Nonparticipating Property;
 - e. Public Road Rights-of-Way: fifty (50) feet the nearest edge of the public road right-of-way.
2. The setback requirements for Nonparticipating Properties may be waived by the written consent of the owner(s) of each affected Nonparticipating Property. The Applicant does not need to obtain a variance from the County upon waiver by the property owner of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be recorded with the Recorder of Deeds of the County.
- H. Compliance with Additional Regulations: Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations.
- I. Use of Public Roads
1. An Applicant proposing to use any County, municipal, township or village road(s), for the purpose of transporting Commercial Solar Energy Facility or Substation parts and/or equipment for construction, operation, or maintenance of the Commercial Solar Energy Facility or Substation(s), shall:
 - a. Identify all such public roads in its Application; and
 - b. Obtain applicable weight and size permits from relevant government agencies prior to construction.
 2. To the extent an Applicant must obtain a weight or size permit from the County, municipality, township or village, the Applicant shall, as a part of its Application:

- a. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
- b. Any proposed public roads that will be used for construction purposes shall be identified and approved in writing by the respective Road District Commissioner and the County Engineer prior to the granting of the Special Use Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from the respective highway authority. Any road damage caused by the transport of the facility's equipment, the installation, maintenance, or removal, must be completely repaired to the reasonable satisfaction of the Road District Commissioner and the County Engineer. The Road District Commissioner and County Engineer may choose to require either remediation of road repair upon completion of the Community Solar Energy Facility or are authorized to collect fees for overweight and/or oversized load permits. Further, financial assurance in an amount and manner to be fixed and approved by the Road District Commissioner to ensure the Road District or the County that future repairs are completed to their reasonable satisfaction shall be provided. Applicant shall submit a draft form of said financial assurance as part of its.
- c. Enter into a road use agreement with the County and each affected Road District that includes the following provisions, at a minimum:
 - i. Project layout map;
 - ii. Transportation impact analysis;
 - iii. Pre-construction plans;
 - iv. Project traffic map;
 - v. Project scope of repairs;
 - vi. Post-construction repairs;
 - vii. Insurance;
 - viii. Financial Security in forms and amounts acceptable to the County.

If an agreement allowing for overweight vehicles is reached, such road use agreement shall require the Applicant to be responsible for the reasonable cost of improving roads used

to construct Commercial Solar Energy Facility and the reasonable cost of repairing roads used by the Facility Owner during construction of the Community Solar Energy Facility so that those roads are returned to their pre-construction state and are in a condition that is safe for the driving public after the completion of the Commercial Solar Energy Facility construction. Roadways improved in preparation for and during the construction of the Community Solar Energy Facility shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities. Any such road use agreements shall be submitted as a part of the Application.

3. All repairs and improvements to public roads and roadway appurtenances shall be subject to the prior approval of the County Engineer before being made and shall also be subject to inspection and acceptance by the County Engineer after such repairs and improvements are completed. The County's road use agreement, and any further agreements contemplated therein, regarding the maintenance and repair of public roads and highways, must be approved by the County Board prior to the County Board's approval of any Special Use Permit and any approval of any Commercial Solar Energy Facility Building Permit Application.
- J. Site Assessment: To ensure that the subsurface conditions of the site will provide proper support for the Commercial Solar Energy Facility and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports to the County Engineer as part of its Commercial Solar Energy Facility Building Permit. The Applicant shall follow any guidelines submitted by the County Soil and Water Conservation District. Also, the Applicant shall submit grading plans for the proposed Substation(s) and operation and maintenance building(s) for review and comment by the County Soil and Water Conservation District prior to the issuance of any Commercial Solar Energy Facility Building Permit. The County's Soil and Water Conservation District's Land Evaluation and Site Assessment report for the proposed Commercial Solar Energy Facility shall be submitted as a part of the Applicant's Special Use Permit application.
- K. Noise Levels: Noise levels from Commercial Solar Energy Facilities and Substations shall be in compliance with applicable sound limitations established by the Illinois Pollution Control Board (IPCB) under 35 Ill. Adm. Code Parts 900, 901 and 910. As part of its Application, the Applicant shall

submit manufacturer's sound power level characteristics and other relevant data regarding noise characteristics necessary for a competent noise analysis and demonstrate, through the use of a qualified professional, compliance with the applicable noise requirement, which shall include, at a minimum, a baseline pre-operation background study consistent with all IPCB Regulations.

- L. Agricultural Impact Mitigation: Pursuant to 505 ILCS 147/15(a), the Applicant, at its expense, shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture prior to any public hearing required before a siting decision on the Commercial Solar Energy Facility application. All impacted agricultural land, whether impacted during construction, operation, or decommissioning activities, must, at a minimum, be remediated by the Applicant pursuant to the terms of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. The Applicant shall submit the executed Agricultural Impact Mitigation Agreement to the County as part of the Special Use Permit application.
- M. Protected Lands: The Applicant, at its expense, shall provide evidence of consultation with the Illinois Department of Natural Resources (IDNR) for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission (INPC) as part of its application. The Applicant must include the setback recommendations of the IDNR in its application and shall demonstrate that the project was designed to avoid any protected lands identified by the IDNR and INPC.
- N. Historic Preservation Study: The Applicant, as part of its Application and at its expense, shall provide evidence of consultation with the Illinois State Historic Preservation Office (ISHPO) to assess potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420/1 et seq.) and demonstrate its compliance with any recommendations provided by the ISHPO for the proposed facility.
- O. Avian and Wildlife Impact Study: The Applicant, at its expense, shall have a third party, qualified professional, such as an ornithology or wildlife biologist, conduct an avian and wildlife impact study and submit said study as part of its Application. All parts of a Commercial Solar Energy Facility shall be located, designed, constructed, and operated so as to avoid and if necessary mitigate the impacts to wildlife. Said study shall include, but not be limited to, a consultation with the Illinois Department of Natural Resources and United States Fish and Wildlife Services.

- P. **Identification of Adjacent and Contiguous Properties:** The Applicant shall provide a list of the names and addresses of all property owners as taken from the latest adopted tax rolls, whose property is adjacent and contiguous to the lot(s) of record of which all or a portion of is subject to the special use Application. The Applicant shall also provide a list of the owners of all Participating Properties, which shall include the nature of Applicant's rights to the Participating Properties.
- Q. **As-Built Map and Plans:** Within sixty (60) calendar days of completion of construction of the Commercial Solar Energy Facility, the Applicant or Operator shall deliver "as-built" maps, site plan and engineering plans for the Commercial Solar Energy Facility that have been signed and stamped by a Professional Engineer and a licensed surveyor.
- R. **Engineer's Certificate:** The Commercial Solar Energy Facility engineer's certificate shall be completed by a Professional Engineer and shall certify that the specific soils and subsurface conditions at the site can support the apparatus, given local soil, subsurface and climate conditions. The Commercial Solar Energy Facility engineer's certificate shall be a public record and shall be submitted as part of the Special Use Permit Application.
- S. **Conformance with Approved Application and Plans:** The Applicant shall construct and operate the Commercial Solar Energy Facility in substantial conformance with the construction plans contained in the Special Use Permit Application, any conditions placed upon the operation of the Facility in the Special Use Permit, this Ordinance and all applicable State, Federal and Local laws and regulations.
- T. **Decommissioning Plan and Site Reclamation Plans:** Applicant (or Owner, if different from Applicant) must submit a Decommissioning Plan with cost estimation to the County as part of its Application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the Application. Prior to receiving any building permit for the Commercial Solar Energy Facility, the Applicant or Owner shall provide a Decommissioning Agreement and post the required Financial Assurances for the benefit of the County. The Decommissioning Agreement and Financial Assurances shall comply with 55 ILCS 5/5-12020. Periodically, and as required by the Agricultural Impact Mitigation Agreement entered into by the Applicant or Owner and the Illinois Department of Agriculture, the Owner must update the Decommissioning Plan, cost estimations and

provide update Financial Assurances to the benefit of the County.

- U. Signage: Signage is to be consistent with ANSI standards. A conspicuous warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations, and at all entrances to the Commercial Solar Energy Facility.

- V. Additional Terms and Conditions
 - 1. All technical submissions as defined in the Professional Engineering Practice Act of 1989 (225 ILCS 325/4(w)) and contained in the Special Use Permit application shall be prepared and signed by an Illinois Professional Engineer for the relevant discipline.

 - 2. The County may retain a qualified, independent code inspector or professional engineer both to make appropriate inspections of the Commercial Solar Energy Facility during and after construction and to consult with the County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the Commercial Solar Energy Facility is performed in compliance with applicable electrical and building codes. The cost and fees so incurred by the County in retaining said inspector or engineer shall be promptly reimbursed by the Applicant of the Commercial Solar Energy Facility.

 - 3. Any Special Use Permit granted to the Applicant shall bind and inure to the benefit of the Applicant, its successors-in-interest and assigns. If any provision in this Ordinance, or conditions placed upon the operation of the Commercial Solar Energy Facility is held invalid, such invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions in this Ordinance are severable.

 - 4. The Applicant shall provide an executed road use agreement between the Applicant and the appropriate governing road and highway jurisdictions or the Illinois Department of Transportation, to the County Engineer and Director of Building and Zoning showing approved entrances prior to the issuance of any Commercial Solar Energy Facility Building Permit.

 - 5. The Applicant shall submit, as part of its application, an Emergency Response Plan, consistent with the requirements of Section VI(B) of

this Ordinance.

6. The Applicant shall install locked metal gates at the access road entrances of all Facility locations. A security lock box shall be installed near the locked gate to facilitate access in case of emergencies.
7. Aviation protection. For Facilities located within 500 feet of an airport or within approach zones of an airport, the Applicant shall complete and provide the results of the Solar Glaze Hazard Analysis Tool (SGHAT) for the airport traffic control tower cab and final approach paths, consistent with the interim policy, FAA Review of Solar Energy Projects on Federal Obligated Airports, or most recent version by the FAA.

VI. OPERATION

A. Maintenance

1. Annual Report. The Applicant must submit, on an annual basis on the anniversary date of the County Board's granting of the Special Use Permit, an operation and maintenance report to the Director of Building and Zoning. The report shall contain the following information: (i) a general description of any physical repairs, replacements or modification(s) to the Commercial Solar Energy Facility and/or its infrastructure; (ii) complaints pertaining to setbacks, noise, appearance, safety, lighting and use of any public roads received by the Applicant concerning the Commercial Solar Energy Facility and the resolution of such complaints; (iii) calls for emergency services; (iv) status of liability insurance; and (v) a general summary of service calls to the Commercial Solar Energy Facility. Failure to provide the annual report shall be considered a material violation of this Ordinance and subject to Article XI (Remedies).
2. Re-Certification. Any physical modification to any part of the Facility that alters the mechanical load, mechanical load path, or major electrical components shall require re-certification under Section V(A)(1) of this Ordinance. Like-kind replacements and modifications that are made in the ordinary course of operations, including expected repairs and warranty items, shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement or other modifications made in the ordinary course of operations), the Applicant shall confer with a relevant third-party certifying entity, approved by the County Engineer, to determine

whether the physical modification requires re-certification.

B. Coordination with Emergency Responders

1. The Applicant shall submit to the local emergency responders a copy of the Site Plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), and any amendments to such documents, all local emergency response authorities so that such agencies may evaluate and coordinate their emergency response plans with the Applicant.
2. The Applicant, at its expense, shall provide annual training for, and the necessary equipment to, the Operator and Local Emergency Response Authorities and their personnel so that they can properly respond to a potential emergency at the Commercial Solar Energy Facility.
3. The Applicant and the Operator shall cooperate with all Local Emergency Response Authorities to develop an emergency response plan. The plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the Applicant and the Operator and at least three (3) designated Commercial Solar Energy Facility representatives (a primary representative with two (2) alternate representatives, each of whom are on-call "24 hours per day / 7 days per week / 365 days per year"). Any change in the designated Commercial Solar Energy Facility representative or his/her contact information shall be promptly communicated to the County. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed and updated on an annually basis.
4. Nothing in this section shall alleviate the need to comply with all other applicable life safety, fire / emergency laws and regulations.

C. Water, Sewer, Materials Handling, Storage and Disposal

1. All solid wastes related to the construction, operation and maintenance of the Commercial Solar Energy Facility shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
2. All hazardous materials related to the construction, operation and maintenance of the Commercial Solar Energy Facility shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

3. The Commercial Solar Energy Facility shall comply with existing septic and well regulations as required by the County Health Department and the State of Illinois Department of Public Health.

D. Drainage Systems

The Applicant, at its expense, will repair, in a prompt and timely manner, all waterways, drainage ditches, agricultural drainage systems, field tiles, or any other private and public infrastructure improvements damaged during construction, maintenance and operation phases of the Commercial Solar Energy Facility and in accordance with the Agricultural Impact Mitigation Agreement.

Pursuant to 55 ILCS 5/5-12020, notwithstanding any other provision of law, a Commercial Solar Energy Facility Permittee ("Permittee") is authorized to cross or impact a drainage system, including, but not limited to, drainage tiles, open drainage districts, culverts, and water gathering vaults, owned or under the control of a drainage district under the Illinois Drainage Code [70 ILCS 605/1-1 et seq.] without obtaining prior agreement or approval from the drainage district, except that the Facility Owner or Permittee shall repair or pay for the repair of all damage to the drainage system caused by the construction of the Commercial Solar Energy Facility within a reasonable time after construction of the Commercial Solar Energy Facility is complete.

E. Complaint Resolution

The Applicant shall, at its expense and in coordination with the Director of Building and Zoning, develop a system for logging and investigating complaints related to the Facility. The Complaint Resolution Plan shall be a part of the Application. The Applicant shall resolve such non-emergency complaints on a case-by-case basis and shall provide written confirmation to the Director of Building and Zoning. All costs and fees incurred by the County in attempting to or resolving complaints shall be reimbursed by the Owner or Permittee. The Applicant shall also designate and maintain for the duration of the Facility either a local telephone number or a toll-free telephone number and an email address as its public information / inquiry / and complaint "hotline" which shall be answered by a customer service representative 24/7 basis. The Applicant shall post the telephone number(s) and email address(es) for the customer service representative(s) in a prominent, easy to find location on their websites and on conspicuous signage at each entrance to the Facility and any operations and maintenance buildings. The Applicant shall provide the Building and Zoning Director a list of all complaints received on an annual basis or upon request.

VII. LIABILITY INSURANCE AND INDEMNIFICATION

Commencing with the issuance of a Commercial Solar Energy Facility Building Permit, the Applicant (Permittee) shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least one million dollars (\$1,000,000.00) per occurrence and in the aggregate; and, shall further maintain the above-stated lines of insurance from delivery of the Notice to Proceed by the Applicant for the Commercial Solar Energy Facility, in coverage amounts of at least one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate during the life of the Commercial Solar Energy Facility. The Applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a Commercial Solar Energy Facility Building Permit, corresponding policies and endorsements to be provided within sixty (60) days of issuance, and at each subsequent renewal, at least annually thereafter. The certificate of insurance shall name the County and its officers, appointed and elected officials, employees, attorneys, engineers and agents as an additional insured.

The Applicant (Permittee) shall defend, indemnify and hold harmless the County and its officers, appointed and elected officials, employees, attorneys, engineers and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relating to or arising out of the issuance of the Special Use Permit or the construction, operation, maintenance and removal of the Commercial Solar Energy Facility including, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of the Applicant, the Owner or the Operator under this Ordinance or the Special Use Permit, except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the gross negligence or intentional acts of such Indemnified Parties. This general indemnification shall not be construed as limiting or qualifying the County's other indemnification rights available under the law.

IX. REMEDIES

- A. The Applicant's failure to materially comply with any of the provisions under the Special Use Permit, any conditions imposed on the Facility, and/or failure to comply with any law or regulation shall be a default and shall be grounds for revocation of the Special Use Permit pursuant to the procedures set forth at Section 400-92(J)(3) of the Stephenson County Zoning Ordinance.

- B. Prior to implementation of the applicable County procedures for the resolution of default(s), the County Board must first provide written notice to the Applicant (Permittee) and Operator, setting forth the alleged default(s) and provide an opportunity for the Applicant or the Operator to cure the default(s) within a thirty (30) calendar day period from the date of the notice. Should the Applicant commence the cure within that 30-day cure period, and diligently pursues a cure, then the Applicant shall receive an additional sixty (60) days to continue to pursue the cure before the County pursues procedures for the resolution of default. If the default relates to a life safety issue or interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant or the Operator shall take all necessary and available commercial measures to immediately cure the default. If the Applicant or Operator cannot cure the default(s) or resolve the alleged default(s) within the cure period, then procedures for the revocation of special use permits set forth at §400-92(J)(3) shall govern.

X. FEE SCHEDULE AND PERMITTING PROCESSES

A. Application Fees

1. At the time of its submission of its Commercial Solar Energy Facility Special Use Permit Application, the Applicant must submit a certified check to the County for the necessary Application fee.
2. Should the actual costs to the County exceed the submitted Application Fee, the Applicant shall be responsible for those additional costs and shall remit additional funds to the County within 15 days of receipt of a request from the County. No hearings on an Application shall be conducted nor final decisions rendered on an Application if there are Application fees due to the County.

B. All Costs to be Paid by Applicant or Owner

1. The Zoning Board of Appeals or County Board may also retain the services of a third-party expert to review technological evidence presented by the applicant and the applicant shall be liable for the costs of such third-party expert. The Zoning Board of Appeals or County Board may secure the services of an independent safety consultant to conduct periodic inspections

and the Applicant shall be liable for the costs of such inspections. The Applicant shall also pay all costs incurred by the County, including but not limited to, those costs associated with all offices, boards and commissions of the County. This includes, but is not limited to, the direct or indirect costs associated with the hearing, permitting, operations, inspections, decommissioning, litigation, related attorney's fees, disputes, and/ or negotiations.

XI. REVIEW, HEARING AND CONSIDERATION OF SPECIAL USE APPLICATION

- A. Upon the submission of an Application under this Ordinance and the necessary Application Fees, the Director of Building and Zoning Officer shall schedule a date for a public hearing before the Zoning Board of Appeals. The public hearing shall be held within forty-five (45) days of the submission of the Application and necessary Application Fees. Notice of the public hearing must be published in a newspaper of general circulation not more than 30 days and not less than 15 days prior to the public hearing. The content of the notice must be consistent with the requirements of 55 ILCS 5/5-12009.5.
- B. The Zoning Board of Appeals must also give at least 15 days' notice before the hearing to (i) any municipality whose boundaries are within 1.5 miles of any part of the property proposed as a special use and (ii) the owner or owners of any land adjacent to or immediately across any street, alley, or public right-of-way from the property proposed as a special use. The Applicant shall submit, with its application, mailing labels for all such municipalities and property owners. The Applicant must pay for the costs of publication and mailing of the notices. It is the Applicant's burden to identify all municipalities and property owners that are entitled to notice of the public hearing pursuant to this Ordinance and 55 ILCS 5/5-12020(c). The Applicant may elect to issue the necessary notices itself, but must make such election in writing, as part of its Application.
- C. The Applicant shall present at least one witness to testify at the hearing in support of its Application. The Zoning Board of Appeals shall promulgate procedures for such hearings, which shall be consistent with the Open Meetings Act and allow members of the public a reasonable opportunity to present evidence and cross-examine the applicant and its witnesses.
- D. The Zoning Board of Appeals shall submit a written report and recommendation to the County Board within 15 days after the close of the public hearing.

- E. The County Board must make its siting and permitting decisions not more than 30 days after the conclusion of the public hearing.
- F. No Commercial Solar Energy Facility Special Use Permit Application which has been denied wholly or in part by the County Board may be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence of proof of change of conditions found to be valid by the Director of Building and Zoning.

XII. HEARING FACILITATOR

The County may engage the services of a hearing facilitator. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the board and the county but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence and the propriety of any arguments.

The hearing facilitator shall be an attorney, licensed to practice in the State of Illinois. The Applicant shall reimburse the County for the fees and costs charged by the facilitator.

XIII. HEARING FACTORS

- A. The County Board may approve a Special Use Permit Application, if it finds the evidence complies with Federal, State, and Local laws and regulations, and with the standards of this Ordinance
- B. Special Use Permit Conditions and Restrictions. The County Board may stipulate conditions, guarantees and restrictions, upon the establishment, location, construction, maintenance, and operation of the Commercial Solar Energy Facility as are deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this Ordinance.
- C. Revocation.
 - 1. In any case where a Special Use Permit has been approved for under this Ordinance, the Applicant shall apply for a Commercial Solar Energy Facility Building Permit from the County and all other permits required by other government or regulatory agencies to commence construction and commence and actively pursue construction of the Project within twenty-four (24) months from the

date of the granting of the Special Use Permit. If the Applicant fails to apply for a Commercial Solar Energy Facility Building Permit from the County and all other permits required by other government or regulatory agencies prior to construction and/or fails to commence and actively pursue construction of the Project within the twenty-four (24) month period, then without further action by the County Board, the Special Use Permit authorizing the construction and operation of the Commercial Solar Energy Facility shall be automatically revoked and void. Upon written request supported by evidence that the Applicant has diligently pursued issuance of all necessary government and regulatory permits for the Project required to commence construction and that any delay in commencement of construction of the Project is due to conditions out of his/her/its control, the County Board, in its sole discretion, may extend the above twenty-four (24) month period by passage of an ordinance that amends the Special Use Permit.

2. The Special Use Permit shall be subject to revocation pursuant to the procedures set forth at §400-92 of the Stephenson County Zoning Ordinance, if the Permittee dissolves or ceases to do business, abandons the Commercial Solar Energy Facility or the Commercial Solar Energy Facility ceases to operate for more than twelve (12) consecutive months for any reason.
3. Subject to the provisions of Article IX (Remedies), a Special Use Permit may be revoked by the County Board if the Commercial Solar Energy Facility is not constructed, installed and/or operated in substantial conformance with the County-approved Project plans, the regulations of this Ordinance and the stipulated Special Use Permit conditions and restrictions.

D. Transferability; Owner or Commercial Solar Energy Facility Permittee. The Applicant shall provide written notification to the Director of Building and Zoning and the County Board upon the change in ownership of a Commercial Solar Energy Facility. The phrase "change in ownership of a Commercial Solar Energy Facility" includes any kind of assignment, sale, lease, transfer or other conveyance of ownership or operating control of the Commercial Solar Energy Facility or any portion thereof. The Applicant or successors-in-interest or assignees of the Special Use Permit, as applicable, shall remain liable for compliance with all conditions, restrictions and obligations contained in the Special Use Permit, the provisions of this Ordinance and applicable County, State and Federal laws.

E. Modification. Any modification of a Commercial Solar Energy Facility that alters or changes the essential character or operation of the Commercial Solar Energy Facility in a way not intended at the time the Special Use Permit was granted, or as

subsequently amended, shall require a new Special Use Permit. The Applicant, Permittee, or authorized representative, shall apply for a new Special Use Permit prior to any modification of the Commercial Solar Energy Facility.

- F. Permit Effective Date: The Special Use Permit shall become effective upon approval of the special use ordinance by the County Board or as otherwise provided by the County Board.

XIV. INTERPRETATION

The provisions of this Ordinance shall be held to the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of Stephenson County.

XV. SEVERABILITY

If any section, paragraph, clause, phrase or part of this Ordinance is for any reason held invalid by any court or competent jurisdiction, such decision shall not affect the validity of the remaining provisions of these regulations.

XVI. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, publication and approval as required by law.