

COMMERCIAL SOLAR ENERGY FACILITY SITING ORDINANCE FOR FULTON COUNTY

WHEREAS Fulton County, Illinois has been granted authority to regulate and restrict location and use of structures pursuant to 55 ILCS 5/5-12001 *et. seq.* and 55 ILCS 5/5-12020 *et. seq.* and make rules and regulations (a) governing the construction and alteration of all buildings pursuant to 55 ILCS 5/5-1063, and

WHEREAS, the Fulton County Zoning Board of Appeals held a public hearing pursuant to Illinois law for review of the COMMERCIAL SOLAR ENERGY FACILITY SITING ORDINANCE FOR FULTON COUNTY, and approved this ordinance as written.

NOW THEREFORE BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF FULTON AS FOLLOWS:

PURPOSE

This ordinance is adopted to advance and protect the public health, safety, morals, comfort, and general welfare of the county and its residents by creating regulations for the installation and operation of Commercial Solar Energy Facilities, with the following objectives:

- A. To provide a regulatory framework for the designation of properties suitable for the location, construction, and operation of any Commercial Solar Energy Facility;
- B. To ensure compatible land uses in the vicinity of the areas affected by any Commercial Solar Energy Facility;
- C. To mitigate the impacts of any Commercial Solar Energy Facility on environmental resources such as important agricultural lands, forests, wetlands, wildlife, and other protected lands and resources;
- D. To create synergy between Commercial Solar Energy Facility development and other goals of the county and its comprehensive plan; and
- E. To comply with the requirements of 5/5-12020 of the Illinois Counties Code.

I. DEFINITIONS

- A. "Applicant" means the entity who submits to the Zoning Board of Appeals an application for the siting and operation of any Commercial Solar Energy Facility or Substation. All references to Applicant in this Ordinance shall include Applicant's successors-in-interest and assigns, which includes a Commercial Solar Energy Facility Permittee (as defined herein),
- B. "Commercial Operation Date" means the calendar date on which the Commercial Solar Energy Facility produces power for commercial sale, not including test power.
- C. "Commercial Solar Energy Facility" or "Commercial Solar Energy System" 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 on which the device or devices reside.

- D. "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, Supporting Facilities, or operations and maintenance building in connection with a Commercial Solar Energy Facility. A Commercial Solar Energy Building Permit may be issued by the Zoning Board after a Commercial Solar Energy Facility has obtained a Conditional Use Permit from the Zoning Board of Appeals and the Zoning Board of Appeals determines that all conditions, if any, have been satisfied that are imposed by the Conditional Use Permit. 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 Zoning Department 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.
- E. "Commercial Solar Energy Facility Permittee" means an Applicant who applies for and receives a Conditional 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.
- F. "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.
- G. "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.
- H. "Nonparticipating property" means real property that is not a participating property.
- I. "Nonparticipating residence" means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the Commercial Solar Energy Facility is filed with the county.
- J. "Occupied community building" means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the Commercial Solar Energy Facility is filed with the county: a school, place of worship, day care facility, public library, or community center.
- K. "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 Operator in the Ordinance shall include Operator's successors-in-interest and assigns.
- L. "Owner" means the person or entity or entities with an equity interest in a Commercial Solar Energy Facility, including their respective successors-in-interest and assigns. The Owner does not mean (i) the property owner from whom land is leased for locating a Commercial Solar Energy Facility (unless the property owner has an equity interest in a Commercial Solar Energy Facility); or (ii) any person holding a security interest in a Commercial Solar

Energy Facility solely to secure an extension of credit, or a person foreclosing on such security interest, provided that after foreclosure, such person seeks to sell a Commercial Solar Energy Facility at the earliest practicable date. This definition includes the definition of Facility Owner as defined in 55 ILCS 5/5-12020.

- M. "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, or license to use the real property for the purpose of constructing a Commercial Solar Energy Facility or supporting facilities. "Participating property" also includes real property that is owned by a facility owner for the purpose of constructing a Commercial Solar Energy Facility or supporting facilities.
- N. "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 permit to develop the Commercial Solar Energy Facility is filed with the county.
- O. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in any state in the United States. 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.
- P. "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.
- Q. "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 wildlife refuges 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.
- P. "Conditional Use Permit" means a permit approved by the Zoning Board of Appeals, after a public hearing, allowing a particular use at a specified location subject to compliance with certain specified special conditions as may be required by the Zoning Board of Appeals.
- Q. "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.
- R. "Supporting Facilities" means the transmission lines, substations, access roads, storage containers, and equipment associated with the generation and storage of electricity by the Commercial Solar Energy Facility. "Supporting Facilities" includes energy storage systems capable of absorbing energy and storing it for use at a later time, including, but not limited to, batteries and other electrochemical and electromechanical technologies or systems.

II. APPLICABILITY

- A. This Ordinance governs the siting of Commercial Solar Energy Facilities and Substations that generate electricity to be sold to wholesale or retail markets.

III. PROHIBITION

- A. No commercial solar energy facility or supporting facilities governed by this ordinance shall be constructed, erected, installed, or located within the county without a special use permit and building permit granted by the county. Commercial solar energy facilities and supporting facilities are only allowed by special use permit and building permit upon agricultural or industrial zoned properties. Unless otherwise allowed by the county, all projects shall conform to the representations made within the special use permit application, representations during the public hearing process, and representations contained within the building permit application and supporting facilities.

IV. CONDITIONAL USE PERMIT APPLICATION

- A. To obtain a Conditional Use Permit for the commercial solar energy facility and its supporting facilities, the Applicant must first submit a complete Conditional Use Permit application to the Zoning Enforcement Officer for review of completeness and scheduling of a public hearing on the application with the Zoning Board of Appeals.

The Applicant shall be responsible for reserving a location for the hearing to take place, after consulting with the Zoning Enforcement Officer.

The Applicant shall also be responsible for sending "Notice of Hearing" letters. Said notice shall be sent to the property owners, as recorded in the County Recorder of Deeds, of all property adjacent to, or within two hundred fifty (250) feet in each direction of the location for which the conditional use permit is requested and the number of feet occupied by all public roads, streets, alleys and other public ways shall be excluded in determining the two hundred fifty (250) feet requirement.

Said Notices shall also be sent to any incorporated municipality within 1.5 miles of any portion of the proposed Commercial Solar Energy Facility.

- B. The Conditional Use Permit application shall contain or be accompanied by the following information:
 - 1. A project summary for the Commercial Solar Energy Facility and its supporting facilities, including:
 - (a) A general description of the project, including:
 - i. Approximate overall nameplate generating capacity;
 - ii. Potential equipment manufacturers of the solar panels, racking and energy storage system;
 - iii. Type(s) of solar panels, cells and modules;
 - iv. Number of solar panels, cells and modules;
 - v. Maximum height of the solar panels at full tilt;

- vi. Description of supporting facilities, including Energy Storage Systems (if any);
- vii. Energy Storage System nameplate capacity, overall acreage, number of modules, number of batteries and types of energy systems to be utilized (if any);
- viii. Project site plan, project phasing plan & project construction timeline;
- ix. 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 parcel numbers and legal descriptions for each site, Participating and Non-participating Residences, Occupied Community Buildings, parcel boundary lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, all supporting facilities including any Energy Storage Systems, Substation(s), operations and maintenance buildings, temporary and permanent meteorological towers (if any), concrete batch plants, laydown yards, electrical cabling to the Substation(s), ancillary equipment, 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 the proposed Commercial Solar Energy Facility, and the layout of all structures within the geographical boundaries of setbacks;
4. A proposed Decommissioning Plan for the Commercial Solar Energy Facility, including cost estimations and a draft form of financial assurance for same;
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 Owner and the Illinois Department of Agriculture (IDOA);
7. A topographic map that shall include the Commercial Solar Energy Facility site and the surrounding area;
8. Any other information normally required by the Zoning Board of Appeals 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 non-participating 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 (IDNR) obtained through the Ecological Compliance Assessment Tool (EcoCAT) or a comparable successor tool.

11. Information demonstrating that the Commercial Solar Energy Facility will avoid protected lands as identified by the Illinois Department of Natural Resources (IDNR) and the Illinois Nature Preserves Commission (INPC).
 12. Any other information requested by the Zoning Board of Appeals 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, including the Conditional Use Permit standards set forth below.
 13. Written approval from relevant road authorities of the roads to be utilized for construction and a draft form of financial assurance for the protection of said roads;
 14. Sound modeling for all potential equipment manufacturers (including solar panels, inverters and energy storage systems) showing the sound emissions, the relevant Illinois Pollution Control Board standards, the impact upon all effected properties, and all supporting data;
 15. Waivers from any noise enforcement executed by participating property owners, participating residence owners, nonparticipating property owners and/or nonparticipating residence owners bearing a file stamp confirming that the waiver was recorded against the title to the affected real property. The waiver must reflect the amount of overage to be reasonably expected by the operation of the project;
 16. Results and recommendations from consultation with the Illinois State Historic Preservation Office (SHPO) regarding potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act;
 17. A farmland drainage plan (to include a drain tile survey) which shall be provided to the county and any impacted drainage district;
 18. Adequate proof that the special use permit application has been submitted to local emergency response agencies;
 19. A proposed vegetative screening plan and vegetation/weed management plan;
 20. A proposed grading plan if any grading will be necessary for the construction of the project;
 21. A copy of all communication and interference studies demonstrating the potential impacts of the project on television, radio, telephone (including mobile phone communications), transportation communication devices, emergency and law enforcement communications including E911 communications, and weather radar utilized by the National Weather Service or others to communicate weather events to the public;
 22. Unless otherwise provided, all information required under Section 5-12024 of the Illinois Counties Code (55 ILCS 5/5-12024) for energy storage systems (if any) utilized for the project;
- C. Material changes to the application are not permitted once the notice of the public hearing has been published, unless requested or permitted by the County; and
- D. The Applicant shall submit twelve (12) copies of the Conditional Use Permit application

to the Zoning Board of Appeals, 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") (most recent edition), National Electric Code (most recent edition) and requirements of the public utility. Prior to the issuance of a building permit, 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 Zoning Board of Appeals.
2. Following the granting of siting approval under this Ordinance, a structural engineer shall certify, as part of the Commercial Solar Energy Facility Building Permit application process, which 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 codes, and relevant national and international standards (e.g. ANSI and International Electrical Commission).

C. Height

1. 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 Screening:* A vegetative screen shall be provided for any part of the Commercial Solar Energy Facility that is visible to Non-participating Residence. The landscaping screen shall be located between the required fencing and the property line of the participating parcel upon which the facility sits, and shall be at least 5 feet in height at the commercial operation date. The vegetative screening shall include 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.
2. *Lighting:* All projects shall comply with responsible outdoor lighting provided by the International Dark-Sky Association and shall limit outdoor lighting to that which is minimally required for safety and operational purposes. Any outdoor lighting shall be reasonably shielded and downcast from all residences and adjacent properties.

3. *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 (AIMA) until same reach the property line or a substation adjacent to the property line.
4. *Debris and Garbage:* The project area shall be kept free of debris and garbage at all times during the life of the project, including those areas outside the fencing of the project.
5. *Solar Panel Consistency:* All solar panels shall be of similar design, size, and height; rotate in the same direction; and be consistent in color and direction with nearby facilities.
6. *Vegetation/Weed Management Plan:* The project shall perform an assessment of the property for the presence of noxious weeds, in particular, those regulated by the Illinois Noxious Weed Law (505 ILCS 100/1 et seq.) and the Illinois Exotic Weed Act (525 ILCS 10/1 et seq.). In addition to those weeds specifically regulated by statute or regulation, the applicant shall perform an assessment of the property for all species of *Amaranthus*, including but not limited to, *Amaranthus Tuberculatus* (waterhemp, roughfruit waterhemp, roughfruit amaranth, etc.). Such assessment shall include the presence and propensity for such weeds to exist within the project area and a plan for eradication and management of such weeds. The Vegetation/Weed Management Plan must be submitted as part of the special use permit application and may be subject to revision, review and approval prior to the issuance of the building permit.

E. Fencing

1. 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.
2. All gates must be clearly labeled with a numbering schema as approved by the Fulton County 911 Office and updated annually.
3. All locked gates with access to a public road must be locked with a lock that utilizes a numeric code or be equipped with a "Knox Box". If equipped with a lock utilizing a numeric code, that code must be on file with the Fulton County 911 Office and updated annually. In the event the code is changed between the annual reporting requirements, the Owner shall inform the Fulton County Zoning Office and Fulton County 911 Office within 14 days of the date of change.

F. Warnings

1. A reasonably visible warning sign concerning voltage must be placed at all entrances, at all transformers and inverters, substations, and other locations where high voltage is present and is reasonably accessible by others.
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 up to a height of fifteen (15) feet from the ground.

G. Setback Requirements

1. The Commercial Solar Energy Facility and all project supporting facilities shall be sited as follows, with setback distances measured from the nearest edge of any above-ground component of the facility, excluding fencing:
 - a. Occupied Community Buildings and Dwellings 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 from 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 Zoning Board of Appeals 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.
3. Setback Requirements for fencing in relation to public rights-of-way shall be those set forth for parcels zoned as Agricultural Conservation (A/C) and Industrial (I) by the Fulton County Zoning Ordinance.

H. Compliance with Additional Regulations

1. 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, municipality, township or village road(s), for the purpose of transporting Commercial Solar Energy Facility or supporting facility parts and/or equipment for construction, operation, or maintenance of the Commercial Solar Energy Facility or supporting facilities shall:
 - a. Identify all such public roads; and
 - b. Obtain applicable Oversize and Overweight Load permits from relevant government agencies prior to construction.
 - c. Obtain applicable Entrance and Utility within Right-of-Way permits from relevant government agencies prior to construction, should they be required.
2. To the extent an Applicant must obtain an Oversize or Overweight Load permit

from the County, municipality, township or village, the Applicant shall:

- a. Conduct a third-party 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 Authority prior to the granting of the Conditional 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 respective Road Authority. The respective Road Authority may choose to require remediation of road repair upon completion of the Commercial Solar Energy Facility in addition to being authorized to collect fees for overweight and/or oversized load permits. Further, financial assurance in an amount to be fixed by the Road District Commissioner or County Engineer 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 with application for Conditional Use Permit.
 - 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;

The road use agreement shall require 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 Commercial Solar Energy Facility so that those roads 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 Commercial 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.
3. All repairs and improvements to public roads and roadway appurtenances shall be subject to the prior approval of the respective Road Authority before being made and shall also be subject to inspection and acceptance by the respective Road Authority 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 Zoning Board of Appeals/Zoning Department approval of any Commercial Solar Energy Facility Building Permit applications related to the construction of the proposed Commercial Solar Energy Facility.

J. Site Assessment

1. To ensure that the subsurface conditions of the site will provide proper support for the project and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports to the County Engineer with respect to each solar array and any energy storage system, as part of its Commercial Solar Energy Facility Building Permit. The Applicant shall follow the guidelines for Conservation Practices Impact Mitigation submitted by the County Soil and Water Conservation District (or equivalent regulatory agency). Also, the Applicant shall submit grading plans for the project for review and comment by the County Soil and Water Conservation District (or equivalent regulatory agency) prior to the issuance of any Commercial Solar Energy Facility Building Permit.

K. Noise Levels

1. Noise levels from Commercial Solar Energy Facilities shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. The Applicant shall submit manufacturer's sound power level characteristics and other relevant data regarding noise characteristics necessary for a competent noise analysis. The Applicant, through the use of a qualified professional, shall appropriately demonstrate compliance with the applicable noise requirements in its Conditional Use Permit application.

In accordance with Section 25 of the Environmental Protection Act, a participating property, participating residence, nonparticipating property, nonparticipating residence, or any combination of those properties or residences may waive enforcement of the rules adopted by the IPCB under 35 Ill. Admin. Code parts 900.901, & 910 by written waiver that complies with the applicable directive established in Section 25 of the Environmental Protection Act and is recorded in the Office of the Fulton County Recorder of Deeds. Once recorded, such waiver shall be binding on any current and future owners, residents, lessees, invitees, and users of the participating property, participating residence, nonparticipating property, or nonparticipating residence for enforcement purposes.

An owner of any participating residence or nonparticipating residence shall disclose the existence of such a waiver to a lessee before entering into a new lease for the residence. Any seller or transferor of a participating property, participating residence, nonparticipating property, nonparticipating residence or any combination of those properties or residences shall disclose the existence of such a waiver to any buyer or transferee before any sale or transfer of the property.

L. Agricultural Impact Mitigation

Pursuant to 505 ILCS 147/15(a), the Applicant, at its expense, shall enter into an Agricultural Impact Mitigation Agreement (AIMA) with the Illinois Department of Agriculture (IDOA) 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 Zoning Board of Appeals as part of the Conditional Use Permit application.

M. Communications Analysis; Interference

1. The applicant shall, at its own expense, retain a third-party qualified professional to conduct a television reception analysis within a 1.5-mile radius of the project footprint. The analysis shall document all television stations received in the area and shall serve as the baseline conditions prior to construction. This study shall be submitted as part of the special use permit application for the project.
2. The applicant shall, at its own expense, retain a qualified third-party professional to conduct a communications study demonstrating that E911, other emergency communications, and official county or municipal communications will not be negatively impacted by the project. This study shall be submitted as part of the special use permit application for the project.
3. The owner/operator shall, at its own expense, immediately mitigate and eliminate any interference any interference the project causes with electromagnetic communications, including radio, telephone, microwave, or television signals, especially those affecting government public safety communications (police, fire, emergency management services, and 911 dispatch).
 - i. The applicant shall provide microwave transmission providers and local emergency service providers with a copy of the project summary and site plan. If these providers demonstrate a likelihood of interference, the owner/operator shall take all necessary measures to minimize and mitigate the anticipated interference. For any interference affecting public safety communications, the owner/operator shall immediately implement all necessary and commercially available measures to eliminate the interference.
 - ii. If the owner/operator receives a written interference complaint after construction, it shall respond immediately. For public safety communications complaints, the owner/operator must immediately take all necessary and commercially available steps to eliminate the interference.
4. If, after construction of the project, the owner/operator receives a written complaint related to interference with local residential television or radio reception, the owner/operator shall take commercially reasonable steps to investigate and respond. A summary of the complaint and subsequent response from owner/operator shall be forwarded to the county for review. The owner/operator shall have 30 calendar days to verify the complaint, and 15 calendar days to respond. Said response shall be addressed and forwarded to both the county and the complainant. Such response shall include, but not be limited to, an acknowledgment that a complaint was made and evaluated by the owner/operator; and if considered valid by the owner/operator, an explanation, including a timeline, as to what the

owner/operator intends to do about the complaint. In no event shall valid television reception issues persist beyond 60 calendar days from the date the complaint is validated. If considered invalid by the owner/operator, an explanation, including supporting documentation and expert opinions as to why the applicant believes the complaint is not valid shall be provided to the county and the complainant.

N. Avian and Wildlife Impact Study

1. The applicant, at its expense, shall have a third-party, qualified professional conduct an avian and wildlife impact study and submit said study to the county as part of the special use permit application. The project shall be located, designed, constructed, and operated so as to avoid and if necessary, mitigate, impacts to wildlife.

O. As-Built Maps and Plans

1. Within sixty (60) calendar days of completion of construction of the Commercial Solar Energy Facility and any supporting facilities, the Applicant or Operator shall deliver "as-built" maps, a final site plan and engineering plans for the Commercial Solar Energy Facility and any supporting facilities, that have been signed and stamped by a Professional Engineer and an Illinois licensed surveyor.
2. Within ninety (90) calendar days of completion of construction of the Commercial Solar Energy Facility and any supporting facilities, pursuant to 35 ILCS 200/10-740, the Owner of the Commercial Solar Energy Facility shall, at their own expense, commission a metes and bounds survey description of the land upon which the commercial solar energy system and any supporting facilities is installed, including access routes, over which the owner of the commercial solar energy system has exclusive control. Said survey shall be performed and prepared by an Illinois registered land surveyor. The survey shall be recorded in the Fulton County Recorder's Office at the expense of the Owner, and a separate copy shall be provided to the Chief County Assessment Officer.

P. Engineer's Certificate

1. The Commercial Solar Energy Facility engineer's certificate shall be completed by a structural engineer registered in the State of Illinois or by a Professional Engineer with a certification from a structural engineer registered in the State of Illinois 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 Conditional Use Permit application.

Q. Conformance with Approved Application and Plans

1. The Applicant shall construct and operate the project in conformance with the construction plans approved in its Conditional Use Permit conditions placed upon the operation of the Facility, this ordinance and all applicable state, federal and local laws and regulations.

R. Additional Terms and Conditions

2. All technical submissions as defined in the Professional Engineering Practice Act of 1989 (225 ILCS 325/4(w)) and contained in the Conditional Use Permit Application and the building permit application shall be prepared and signed by an Illinois Professional Engineer (or structural engineer) for the relevant discipline.
3. The applicant shall obtain the services of a certified court reporter to record the hearing and issue the report to the applicant and to Fulton County. The certified court reporter is required to physically attend the hearing, and may not appear virtually or by any other electronic means. The cost of the reporter shall be borne by the applicant.
4. The County may retain a qualified, independent code inspector or professional engineer both to make appropriate inspections of the Commercial Solar Energy Facility and any supporting facilities 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 and any supporting facilities, 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.
5. The Conditional 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, and the provisions in this Ordinance are severable.
6. 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 showing approved entrances prior to the issuance of any Commercial Solar Energy Facility Building Permit.

VI. OPERATION

A. Maintenance

1. *Annual Report:* The Applicant must submit, on an annual basis on the anniversary date of the Conditional Use Permit application approval, an operation and maintenance report to the Zoning Board of Appeals. A pre-approved form for this report may be obtained from the Fulton County Zoning Office.

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 and any supporting facilities;
- 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. All 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 IX (Remedies).

2. *Re-Certification:* Any physical modification to the Commercial Solar Energy Facility and/or its supporting facilities that adds additional parcels or properties, increases the sound impacts to nonparticipating properties or nonparticipating residences, or alters the mechanical load, mechanical load path, nameplate capacity, energy capacity, or major electrical components shall require re-certification under Section VI (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 identified in Design and Safety Certification section, paragraph 1, of this Ordinance 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, for the Commercial Solar Energy Facility so that the local law enforcement, fire protection district and rescue units, emergency medical service providers and emergency management service providers that have jurisdiction over each project site may evaluate and coordinate their emergency response plans with the Applicant of the Commercial Solar Energy Facility.
2. The Applicant shall provide a map of the facility labeling the location of the following;
 - Batteries and Energy Storage Systems (ESS): The map should clearly call out battery and ESS locations and size of battery and ESS storage.
 - Roads: The Applicant shall work with the Fulton County 911 Office to develop a private lane naming and addressing schema.
 - Point of Interconnection (POI) to the utility grid
 - Main AC Disconnect, DC Disconnect, Rapid Shutdown Switch (RSD) and BESS/ESS Disconnects (if any).
3. The Applicant shall provide the Fulton County Zoning Office and 911 Office with any GIS Shape Files owned by the Applicant for the facility to assist with creating a map for the facility. In the event GIS shape files are not available, the Applicant agrees to allow Fulton County 911 Staff access to the facility to create a digital map.
4. 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 and its supporting facilities.

5. The Applicant and the Operator shall cooperate with all local emergency responders 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 communicated to the Fulton County 911 Office and Fulton County Zoning Office within 5 business days of the change. Additionally, the content of the emergency response plan, including the 24-hour contact information, shall be reviewed and updated on an annual basis.
6. 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 and regulations.
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 and regulations.
3. The project shall comply with existing septic and well regulations as required by the Fulton County Health Department and the Illinois Department of Public Health (IDPH).

D. Signage

1. Signage regulations are to be consistent with ANSI standards. A reasonably visible warning sign concerning voltage must be placed at all entrances, at all transformers and inverters, substations, and other locations where high voltage is present and is reasonably accessible by others.

E. Drainage Systems

1. The Applicant, at its expense, shall 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/or operation of the project in accordance with the Agricultural Impact Mitigation Agreement (AIMA), the Illinois Drainage Code, and any agreements related to drainage.

F. Complaint Resolution

1. The applicant shall, at its expense and in coordination with the county, develop a system for logging and investigating complaints related to the project. The applicant shall resolve such non-emergency complaints on a case-by-case basis and shall provide written confirmation to the county. All costs and fees incurred by the county in attempting to or resolving complaints shall be reimbursed by the applicant of the

project. The applicant shall also designate and maintain for the duration of the project either a local telephone number or a toll-free telephone number and email address as its public information/inquiry/complaint hotline which shall be answered by a customer service representative on a 24/7 basis. The applicant shall post the telephone number and email address for the customer service representative in a prominent, easy to find location on their websites and at the project site on signage.

VII. LIABILITY INSURANCE AND INDEMNIFICATION

1. Commencing with the issuance of a Commercial Solar Energy Facility Building Permit, the Applicant 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 Ten Million Dollars (\$10,000,000.00) 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 Ten Million Dollars (\$10,000,000.00) per occurrence and Twenty Million Dollars (\$20,000,000.00) in the aggregate during the life of the Commercial Solar Energy Facility and any supporting facilities. 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.
2. The Applicant 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 Conditional 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 Conditional Use Permit, except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the 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.

VIII. DECOMMISSIONING AND SITE RECLAMATION PLAN REQUIRED

1. Applicant (or Owner, if different from Applicant) must submit a Decommissioning Plan with cost estimation to the Zoning Board of Appeals as part of the siting application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the application.
2. Prior to receiving any building permit for the Commercial Solar Energy Facility, the Applicant or Owner shall enter into an agreed upon Decommissioning Agreement with the County, to be approved by the Fulton County Board. The Applicant must also post the required Financial Assurances for the benefit of the County.
3. The Decommissioning Agreement and Financial Assurances shall comply with 55 ILCS 5/5-12020. Periodically, and as required by the Agricultural Impact Mitigation

Agreement (AIMA), the Owner must update the Decommissioning Plan, cost estimations and provide updated Financial Assurances based on the agreed upon schedule with the County.

IX. REMEDIES

4. The Applicant or Owner's failure to materially comply with any of the provisions under the Conditional Use Permit, any conditions imposed on the project, building permit, and/ or failure to comply with any law or regulation shall be a default and shall be grounds for revocation of the Conditional Use Permit and/or building permit by the Zoning Board of Appeals.
5. Prior to implementation of the applicable County procedures for the resolution of default(s), the Zoning Board of Appeals must first provide written notice to the Owner and Operator, setting forth the alleged default(s) and provide an opportunity for the Owner or the Operator to cure the default(s) within a thirty (30) calendar day period from the date of the notice. Should the Owner or Operator commence the cure within that 30-day cure period, and diligently pursues a cure, then the Owner or Operator 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 Owner or the Operator shall take all necessary and available commercial measures to immediately cure the default. If the Owner or Operator cannot cure the default(s) or resolve the alleged default(s) within the cure period, then the County may pursue all remedies available by law.

X. FEE SCHEDULE AND PERMITTING PROCESSES

1. Conditional Use Permit Application Fees

- a. Prior to processing any Conditional Use Permit Application for a Commercial Solar Energy Facility and supporting facilities, the Applicant must submit a payment to the Zoning Department equal to \$5,000 per megawatt of nameplate capacity, up to a maximum fee of \$125,000. Nameplate capacity shall include any energy storage system capacity. Nameplate capacity shall be calculated in terms of direct current (DC) nameplate capacity.
- b. Should the actual costs to the County exceed the submitted Conditional Use Permit 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 or costs due to the County.

2. Building Permit Application Fees

- a. Prior to the issuance of a building permit, the Building Permit Applicant must remit a building permit fee equating to \$5,000 per megawatt of nameplate capacity, up to a maximum fee of \$75,000 for projects with a Nameplate Capacity up to 15MW. Projects with a Nameplate capacity over 15 MW must

remit an additional \$500 per megawatt of nameplate capacity as deemed reasonable for projects over 15MW. The Nameplate capacity shall include any energy storage system capacity. Nameplate capacity shall be calculated in terms of direct current (DC) nameplate capacity.

- b. Should the actual costs to the county exceed the building permit application fee paid, the applicant shall be responsible for the additional costs and shall remit additional funds to the county within 15 days of receipt of a request from the county. No building permit shall be issued upon outstanding fees remaining due to the county.

3. All Costs to be Paid by Applicant or Owner

- a. In addition to all fees noted above, the Applicant or Owner shall pay all costs incurred by the County, including but not limited to, those costs associated with all offices, boards and commissions of the County, and third-party costs incurred by the County. This includes, but is not limited to, the direct or indirect costs associated with the hearing, permitting, operations, inspections, decommissioning, litigation, disputes, and/ or negotiations.

4. Annual Conditional Use Permit Renewal Fees

- a. All Conditional Use Permits in Fulton County require an annual renewal fee pursuant to a Fulton County Resolution passed September 11th, 2012, effective January 1st, 2013, and amended September 9th, 2025. Commercial Solar Energy Systems, Large WECS and Tier-4 Energy Storage Systems (ESS) shall remit an annual renewal fee of \$2,000 for systems with a Nameplate Capacity under 5 MW A/C, and \$2,000 plus \$50 for every MW over 5 MW A/C not to exceed \$5,000 for systems with a Nameplate Capacity of 5 MW A/C and over.

XI. HEARING FACILITATOR

1. The Zoning Board of Appeals 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 Zoning Board of Appeals 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.
2. 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.

XII. HEARING FACTORS

1. The Zoning Board of Appeals may approve a Commercial Solar Energy Facility Conditional Use Permit application, if it finds the evidence complies with state, federal, and local law and regulations, and with the standards of this Ordinance, including the factors listed below. The factors below shall be applied as a balancing test, rather than individual requirements to be met.
 - a. The establishment, maintenance or operation of the Commercial Solar Energy Facility will not be detrimental to or endanger the public health, safety, morals,

comfort or general welfare;

- b. The Commercial Solar Energy Facility will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values of surrounding properties;
- c. The establishment of the Commercial Solar Energy Facility will not impede the normal and orderly development and improvement of the surrounding properties;
- d. Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;
- e. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
- f. The proposed Commercial Solar Energy Facility is not contrary to the objectives of the current comprehensive plan of the County (if any); and
- g. The Commercial Solar Energy Facility shall, in all other respects, conform to the applicable regulations of this Ordinance and the zoning district in which it is located (if a zoning ordinance is in effect), except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the Zoning Board of Appeals.

XIII. CONDITIONAL USE PERMIT CONDITIONS AND RESTRICTIONS

1. Conditions:

The Zoning Board of Appeals 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.

2. Revocation.

- a. In any case where a Conditional Use Permit has been approved for a Commercial Solar Energy Facility, 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 five (5) years from the date of the granting of the Conditional 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 five (5) year period, then without

further action by the Zoning Board of Appeals, the Conditional Use Permit authorizing the construction and operation of the Commercial Solar Energy Facility shall be automatically terminated, 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 Zoning Board of Appeals, in its sole discretion, may extend the above five (5) year period by passage of an ordinance that amends the Conditional Use Permit for a reasonable extension of time.

- b. The Conditional Use Permit shall be subject to termination and revocation if the Applicant 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.
- c. Subject to the provisions of Article IX (Remedies), a Conditional Use Permit may be revoked by the Zoning Board of Appeals if the Commercial Solar Energy Facility is not constructed, installed and/or operated in substantial conformance with the Zoning Board of Appeals approved Project plans, the regulations of this Ordinance and the stipulated Conditional Use Permit conditions and restrictions, or failure to comply with any county, state or federal permits, laws or regulations.

3. Transferability

- a. The Owner shall provide written notification to the Zoning Board of Appeals at least thirty (30) days prior to any change in ownership of the project. Change in ownership shall include any kind of assignment, sale, lease, transfer or other conveyance of ownership or operating control of the Applicant, the Commercial Solar Energy Facility or any portion thereof.
- b. The Applicant or successors-in-interest or assignees of the Conditional Use Permit, as applicable, shall remain liable for compliance with all conditions, restrictions and obligations contained in the Conditional Use Permit, and any conditions, building permit, the provisions of this Ordinance and applicable county, state and federal permits, laws and regulations.
- c. In addition to the written notification outlined in paragraph "a", the Owner shall record a document in the Fulton County Land Records office memorializing the assignment, sale, lease, transfer or other conveyance of ownership and operating control of the Applicant for the Commercial Solar Energy Facility or any portion thereof.

4. Modification

Any modification of a Commercial Solar Energy Facility that alters or changes the essential character or operation of the Commercial Solar Energy Facility and/or any supporting facilities in a way not intended at the time the Conditional Use Permit was granted, or as

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

5. Permit Effective Date

The Conditional Use Permit granted under this ordinance shall become effective upon the date of approval of the Conditional Use Permit by the Zoning Board of Appeals.

XIV. INTERPRETATION

The provisions of these regulations shall be held to the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of Fulton County. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of the Fulton County nor conflict with any statutes of the State of Illinois.

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 this ordinance.

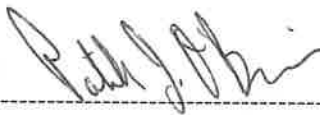
XVI. EFFECTIVE DATE

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

LET IT FURTHER BE ORDAINED, that this Ordinance hereby REVOKES and REPLACES the current Section 9.4 "Commercial Solar Energy Facility Siting Ordinance for Fulton County" of the Fulton County Zoning Ordinance of 2009.

PRESENTED AND ADOPTED this 12th day of May, 2026

ATTEST:



PATRICK O'BRIAN
EX-OFFICIO CLERK OF THE FULTON COUNTY BOARD



JOHN SPANGLER
CHAIRMAN OF THE FULTON COUNTY BOARD