

Lee County Board

Dixon, Illinois

ORDINANCE NO. 12-17-002

AN ORDINANCE REGULATING DEVELOPMENT OF SOLAR ENERGY SYSTEMS

The purpose of this ordinance is to facilitate the construction, installation, and operation of solar farms (Solar Energy Systems – SES) in Lee County that promote economic development and ensure the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. This ordinance is not intended to replace safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

- A. **Definition:** As used in this section, a Solar Energy System (“SES”), also known as a solar power plant and a solar farm, means an alternative energy facility that consists of one or more ground-mounted or free-standing solar collection devices, solar energy related equipment, and other associated infrastructure with the primary intention of generating electricity or otherwise converting solar energy to a different form of energy for primarily commercial or other off-site use.
- B. **Construction of Solar Energy Systems:** No person shall construct or operate an SES without having fully complied with the provisions of this section.
- C. **Permits Required:** No person shall construct an SES without first obtaining both a special use permit and a building permit.
- D. **Special Use:** An SES shall be permitted in the Ag-1 district as a special use, in accordance with the following regulations and design standards.
 - 1. **Design standards.** The design standards and bulk regulations listed in the Ag-1 district for setbacks, lot size, lot coverage, lot area, height, and signage shall be suspended for an SES and the following regulations shall apply instead. All other design standards and bulk regulations of the district shall apply.
 - a. **Foundations.** The manufacturer’s engineer or another qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.
 - b. **Other standards and codes.** All solar farms shall be in compliance with any applicable local, state and federal regulatory standards, and the National Electric Code as amended.

- c. Power and communication lines. Power and communication lines ("Lines") running between banks of solar panels shall be buried underground except from point of interconnection to existing utility-owned, above-ground electrical wires. The Zoning Administrator, when or after granting a building permit, may grant variances when shallow bedrock, watercourses, or other elements of natural landscape interfere with the ability to bury Lines.
- d. Minimum lot size. No SES shall be erected on any lot less than two (2) acres in size.
- e. Height. Systems, equipment, and structures shall not exceed thirty (30) feet in height when ground mounted. Excluded from this height requirement, however, are electric transmission lines, utility poles, and other poles and equipment used in connecting a ground-mounted piece of equipment to an electric transmission line.
- f. Setbacks. A ground-mounted SES shall have a setback for all equipment excluding fences a minimum of fifty (50) feet from the front property line and fifteen (15) feet from side and rear property lines in an agricultural district. The SES shall be set back a minimum of three hundred (300) feet from the property line of a platted subdivision or other residence that is not in an Ag-1 district. Setbacks for inverters and transformers shall be no less than two hundred (200) feet from any residence that is not on property that is permitted under the special use permit. The Zoning Board of Appeals may recommend granting a variance to any setback requirement if the proposed or existing buffer is sufficient to screen the SES from view from adjoining property or public rights-of-way or, if the owners of the adjoining properties agree to waive these setback requirements. The Zoning Board of Appeals' recommendation regarding any variations will be a part of the Zoning Board of Appeals' recommendation to the County Board.
- g. Security. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.
- h. Lighting. If lighting is provided at the site, lighting shall be shielded and downcast so that the light does not spill onto adjacent parcels.
- i. Noise. Noise levels measured at the property line shall not exceed fifty (50) decibels (not including background noise) when located adjacent to an existing residence or residential district.
- j. Glare. Solar collectors shall be placed such that concentrated solar radiation or glare does not project onto nearby structures, roadways or other areas accessible to the public. The applicant has the burden of proving that any glare produced does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
- k. Signage. An appropriate warning sign shall be provided at the entrance to the facility and along the perimeter to the SES. The sign at the entrance to the

facility shall include the facilities 911 address and a 24-hour emergency contact number.

1. Outdoor storage. Only the outdoor storage of materials, vehicles and equipment that directly support the operation and maintenance of the SES shall be allowed, except for outdoor storage that is otherwise expressly allowed in the zoning district as specified herein. The Zoning Administrator or his or her designee shall have the discretion to determine whether outdoor storage complies with this provision.

E. Application requirements: Due to the unique nature and special requirements of SES and the potential impacts of an SES on adjoining properties and government services, SES shall be required to submit and obtain approval on the following items in addition to any requirements specified in the special use section of the County Code or special conditions required by the County Board. The required information must be submitted either with the application or during the hearing on the application before the Zoning Board of Appeals. The applicant shall provide fifteen (15) copies of all required submittals to the Zoning Office. However, the applicant shall only be required to submit two (2) copies of all documents proving ownership or interest in the property. The applicant shall be required to seek a special use permit for parcels of real estate on which shall be constructed solar collection devices, solar energy related equipment, substations, and other associated infrastructure. A special use permit is not required for a parcel of real estate on which shall be placed or buried only one or more Lines, electric transmission lines, or poles. The application for special use permit need not identify the specific location of each solar panel, access road, access point, underground or overhead electric line, transformer, or other element of the SES. The applicant for a building permit, however, must provide the Zoning Administrator the specific location of each solar panel, access road, access point, underground or overhead electric line, transformer, or other element of the SES.

1. A site plan with existing conditions showing the following:

- a. Existing property lines from the exterior boundaries, including the names of adjacent property owners and current use of those properties.
- b. Existing public and private roads, showing widths of the roads and any associated easements.
- c. A contour map showing topography at two-foot intervals of the project site.
- d. Existing vegetation (list type and percent of coverage: i.e. cropland, grassland, wooded areas etc.).
- e. Waterways, streams, and rivers.
- f. A copy of the current FEMA FIRM map that shows the subject property.
- g. Mapped soils according to the Lee County Soil Survey.
- h. Surface water drainage patterns and field tile lines.

2. A plan for the SES showing the following:

- a. Planned location and spacing of solar panels.
- b. Planned location of access roads and access points.
- c. Planned location of Lines connecting the SES to a building, substation, or other electric load.
- d. Planned new electrical equipment other than at the existing building or substation that is to be the connection point for the SES.
- e. Weed/Grass Control. The applicant shall submit and adhere to an acceptable weed/grass control plan for property inside and outside the fenced area for the entire property.
- f. Fencing. Perimeter chain linked fencing having a minimum height of six (6) feet shall be installed, maintained, and secured around the boundary of the SES. The fence shall contain appropriate warning signage that is posted such that it is clearly visible on the site.
- g. Landscaping. A landscape plan shall be submitted which shall incorporate native grasses, flowers, plants which will provide wild life and pollinator habitat, soil erosion protection and/or aid in strengthening the soil structure. This plan shall be for all other areas of the SES that will not interfere with the solar arrays.

3. Manufacturer's specifications.

- a. The applicant shall provide standard manufacturer's specifications and recommended installation methods for all major equipment, including solar panels, mounting systems and foundations for poles and racks. Specifications for the actual equipment to be used in the SES shall be required before a building permit is issued.

4. Connection and Interconnection.

- a. A description of the method of connecting the SES to a building or substation.
- b. At the time of applying for building permit, the applicant shall provide proof that the applicant has entered into an agreement to sell the power to be generated by the SES.

5. Aviation Protection.

- a. For any SES to be located within five hundred (500) feet of an airport or within approach zones of an airport, the applicant shall complete and provide the results of the Solar Glare 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 adopted by the FAA.

6. Fire Protection.

- a. A fire protection plan for the construction and the operation of the facility and emergency access to the site.

7. Endangered Species and Wetlands.

- a. The applicant shall be required to initiate a natural resource review consultation with the Illinois Department of Natural Resources (IDNR) through the Department's online EcoCat Program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation shall be borne by the applicant.

8. Road Use Agreements.

- a. All routes on either County or Township roads that will be used for construction or maintenance purposes shall be identified on the site plan. The routing shall be approved by the Lee County Highway Engineer and the Township Road Commissioners. The applicant shall provide a preconstruction baseline survey for determining existing road conditions that assesses potential future road damage and provide a letter of credit or other financial security as required by the Lee County Highway Engineer.

9. Drainage. The applicant shall commit to repairing or restoring all drainage tiles damaged during construction to the same or better condition as to when construction began. The applicant also shall commit to contact local drainage districts before beginning construction to locate drainage district tiles.

10. Duration of Special Use Permit. Notwithstanding the provisions of Section 10-2A-3 of the Lee County Code, the Zoning Administrator shall revoke a special use permit granted for an SES when the use has not been established (substantially underway) within three (3) years from the date the special use was granted. The County Board may extend this three-year period for such time as it shall determine, for good cause and without further hearing before either the Zoning Board of Appeals or the County Board.

F. Decommissioning of the Solar Farm:

1. Before a building permit can be granted, the applicant must present a decommission plan to ensure that SES facilities are removed after their useful life.

Decommissioning of solar panels must occur in the event they are not in use for twelve (12) consecutive months. The last day of this twelve (12) month period shall be considered the termination date. The operating company and/or land owner shall complete decommissioning of the SES within twelve (12) months of the termination date or the County will perform decommissioning at the operating company's expense. The decommission plan shall include provisions and the estimated costs for removal of all structures including equipment, fencing, roads, and foundations, and shall address the restoration of soil and vegetation and include a plan to ensure financial resources will be available to fully decommission the site.

Decommissioning security financing shall be required to cover the projected cost of decommissioning in order to assure the proper decommissioning of the site and in no instance shall the financial security be less than one thousand dollars (\$1,000.00) per acre. The preferred method of security financing shall be in the form of this determined monetary amount placed in the County escrow account. The County Board may, in its sole discretion, agree to accept security, or a portion thereof, in the form of a security bond. An update to the decommissioning plan shall be submitted to the Zoning Administrator every three (3) years.

- a. The decommissioning plan shall provide for the removal of the following within twelve (12) months of the termination of SES operation:
 - i. All solar collectors and components, above-ground improvements, and outside storage.
 - ii. Foundations, pads, and underground electrical wires so as to reclaim all sites to the depth of six (6) feet below the surface of the ground.
 - iii. Hazardous materials shall be disposed of in accordance with federal and state law.
 - iv. Any earth disturbance resulting from the removal of the ground-mounted solar panels must be graded and reseeded.
- G. Off-street parking and loading. Any off-street parking or loading shall be addressed in accordance with regulations set forth in the applicable section of this chapter.
- H. Signs. All signage shall comply with the regulations set forth in the applicable section of the Lee County Zoning Code.
- I. Inspections. The Zoning Administrator or his/her representative shall have the right, at any reasonable time, to enter, in the company of the owner, operator or his agent, the premises on which the SES has been constructed to inspect all parts of said SES installation and require that repairs or alterations be made within thirty (30) days if, in his/her judgment, there exists a deficiency in the structural stability of the SES.
- J. Liability Insurance. The owner or operator of the SES shall maintain a current general liability policy covering bodily injury and property damage and naming Lee County as an additional insured with limits of at least two million dollars (\$2,000,000.00) per occurrence

and five million dollars (\$5,000,000.00) in the aggregate with a deductible of no more than five thousand dollars (\$5,000.00).

- K. Administration and Enforcement. Before obtaining a building permit, the operating company shall at its expense coordinate, with the Zoning Administrator to develop a system for logging and investigating complaints related to the SES.
- L. The Land Evaluation Site Assessment (LESA) System is used by Lee County as the primary method for determining the location of rural development. The LESA system does not, however, prevent the siting of an SES because the harvesting of solar energy is not incompatible with agriculture. The Lee County Board must not follow the LESA system blindly, but rather, must base its zoning and rezoning decisions on the totality of circumstances that arise in each case. Furthermore, in assessing the impact of the LESA score on requests for a special use, Lee County should determine whether the requested use is:
1. Exempted by 55 ILCS 5/5-12001;
 2. Exempted by other statutory provisions;
 3. A "bona fide agricultural use; a use the Lee County Board deems to be a trivial encroachment that does not interfere with agricultural use; or
 4. Desirable public policy.

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

PASSED BY THE LEE COUNTY BOARD

THIS 19th DAY OF December, 2017.

BY: James W. Wenth
Lee County Board Chairman

ATTEST:

Cathy Myers
Lee County Clerk & Recorder