

STATE OF ILLINOIS)
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COUNTY OF DEKALB)

ORDINANCE 2018-06

**AN ORDINANCE ADOPTING
A SOLAR ENERGY SYSTEM ORDINANCE
FOR DEKALB COUNTY**

WHEREAS, the DeKalb County Board has determined the need for regulations governing the construction, installation, and operation of solar energy systems; and

WHEREAS, the Planning and Zoning of the DeKalb County Board has drafted a Solar Energy System Ordinance to address this need; and

WHEREAS, the DeKalb County Community Development Department, under the direction of the Planning and Zoning Committee of the DeKalb County Board, has prepared and submitted an application for a Zoning Text Amendment for the adoption of a Solar Energy System Ordinance; and

WHEREAS, following due and proper notice by publication in the Daily Chronicle not less than fifteen (15) nor more than thirty (30) days prior thereto, the DeKalb County Hearing Officer conducted a public hearing on January 31, 2018, at which ten (10) members of the public spoke for the application and two (2) members of the public spoke against the application, which was continued to February 15, 2018, at least thirteen (13) members of the public presented questions and comments regarding the application, regarding the Draft Solar Energy Systems Ordinance; and

WHEREAS, based on the testimony given at the public hearing, the Hearing Officer has forwarded to the Planning and Zoning Committee findings and a recommendation that the requested Draft Solar Energy Systems Ordinance be approved, with three (3) elements of the draft ordinance recommended for further consideration by the Planning and Zoning Committee, as set forth in the Findings of Fact and Recommendation of the DeKalb County Hearing Officer, dated March 12, 2018; and

WHEREAS, the Planning and Zoning Committee of the DeKalb County Board has reviewed and considered the Draft Solar Energy Systems Ordinance proposed the Text Amendment, and the recommendation of the Hearing Officer, and having moved to amend the proposed language in response to the recommendation of the Hearing Officer and concerns raised at the public hearing, and has forwarded a recommendation to the DeKalb County Board that the proposed Solar Energy Ordinance, be adopted; and

WHEREAS, the DeKalb County Board has determined that it is in the best interests of the citizens of the County to amend the DeKalb County Zoning Ordinance to adopt the Solar Energy System Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF DEKALB COUNTY, ILLINOIS, as follows:

SECTION ONE: The Findings above and the recommendations of the Planning and Zoning Committee are hereby adopted as the findings and conclusions of the DeKalb County Board.

SECTION TWO: The DeKalb County Solar Energy Systems Ordinance, Exhibit "A" appended hereto, is hereby adopted, effective as of April 1, 2018.

SECTION THREE: This Ordinance shall be in full force and effect upon its adoption by the County Board of DeKalb County, Illinois.

PASSED BY THE COUNTY BOARD THIS 21TH DAY OF MARCH, 2018, A.D.

Mark Pietrowski, Jr.
Chairman, DeKalb County Board

ATTEST:

Douglas J. Johnson
DeKalb County Clerk

DEKALB COUNTY SOLAR ENERGY SYSTEM (SES) ORDINANCE

Scope

This article applies to all solar energy installations in unincorporated DeKalb County.

Purpose

The purpose of this ordinance is to promote and encourage economic development, while maintaining order in the construction, installation and operation of Solar Energy Systems (SES) in DeKalb County, while ensuring protection of the health, safety and welfare of the residents of DeKalb County by promoting the safe, effective, and efficient use of solar energy to reduce on-site consumption of fossil fuels or utility-supplied electric energy. Also, to avoid adverse impact to important areas such as agricultural land, endangered species habitats, conservation land, and other sensitive lands. This ordinance shall not be deemed to nullify any provisions of local, state or federal law.

Definitions

Active Solar Energy System: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Building-integrated Solar Energy Systems: An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

Grid-intertie Solar Energy System: A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

Ground Mount: A solar energy system mounted on a rack or pole that rests on or is attached to the ground.

Off-grid Solar Energy System: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

Passive Solar Energy System: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Photovoltaic System: An active solar energy system that converts solar energy directly into electricity.

Renewable Energy Easement, Solar Energy Easement: An easement that limits the height or location, or both, of permissible development on the burdened land in terms of

a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

Roof Mount: A solar energy system that is mounted on a rack that is fastened onto a building roof.

Solar Access: Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

Solar Collector: An assembly, structure, and the associated equipment and housing, designed for gathering, concentrating, or absorbing direct and indirect solar energy for which the primary purpose is to convert or transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System (SES): All components required to become a complete assembly or structure that will convert solar energy into electricity for use.

Solar Energy System Addition: A private solar energy system which is structurally attached to a building or structure on the zoning lot on which said system is located. Said system shall be considered part of the building and shall comply with all provisions of this ordinance pertaining thereto.

Solar Energy System, Private: A collection of one (1) or more solar collectors designed for use by the occupant(s) of the zoning lot on which said system is located; excess power generation is limited to net metering or similar technology with regulations set by the local power utility, community, county, and state. Private solar energy system equipment shall conform to applicable industry standards, and applicants for building permits for private solar energy systems shall submit certificates from equipment manufacturers that the equipment is manufactured in compliance with industry standards.

Solar Farm: A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

Solar Garden: A commercial solar-electric (photovoltaic) array, of no more than 20 acres in size, that provides retail electric power (or a financial proxy for retail power) to multiple households or businesses residing in or located off-site from the location of the solar energy system. A county solar garden may be either an accessory use, when a part of an existing or a proposed subdivision or a special use if it is a stand-alone garden.

Solar Heat Exchanger: A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

Solar Hot Air System: An active solar energy system (also referred to as Solar Air Heat or Solar Furnace) that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air.

Solar Hot Water System: A system (also referred to as Solar Thermal) that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Solar Mounting Devices: Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

Solar Storage Unit: A component of a solar energy device that is used to store solar generated electricity or heat for later use.

Building Permit Requirements and Fees

All Solar Energy Systems (SES) will be required to have a DeKalb County Building Permit before any work can be started. A written plan and a plat/ drawing for the proposed Solar Energy System shall be provided with the Building Permit Application. The plat / drawing must show the location of the system on the building or on the property, (for a ground-mount system show arrangement of panels), with all property lines and set back footages indicated. Fees for processing the applications for building permits shall be submitted to and collected by the DeKalb County Community Development Department as follows:

0-	10 kilowatts (kW)	\$ 150.00
11-	50 kilowatts (kW)	\$ 300.00
51-	100 kilowatts (kW)	\$ 600.00
101-	500 kilowatts (kW)	\$ 1,200.00
501-	1,000 kilowatts (kW)	\$ 2,750.00
1,001-	2,000 kilowatts (kW)	\$ 6,000.00
	Over 2,000 kilowatts (kW)	\$ 6,000.00 + 200.00 for each additional 0-100 kilowatts

Any SES that construction has started before a Building Permit has been applied and paid for will be charged double the permit fee.

Permitted/Special Use

- 1) A single ground mount, roof mount or building integrated private solar energy system for residential/business use is permitted as an Accessory Use in ALL Zoning Districts where there is a principal structure, and shall be subject to the regulations for accessory uses.
- 2) Solar Gardens shall be allowed in ALL Zoning Districts, and shall require a Special Use Permit whether accessory or principal use of the property. However, the requirement for a Special Use Permit may be waived, provided the solar garden's

owner/lessee obtains, and records with the DeKalb County Recorder, signed and notarized affidavits, agreeing that the need for a Special Use Permit be waived, from all property owners adjoining the zoning lot on which the solar garden is to be located (as determined by DeKalb County Community Development Department). Unless otherwise noted in this ordinance, solar gardens must comply with all required standards for structures in the district in which the system is located.

- 3) Solar Farms in the A-1 Zoning Districts require a Special Use Permit. Unless otherwise noted in this ordinance, solar farms must comply with all required standards for structures in the district in which the system is located.

Set Back Requirements

- 1) Set back requirements for all Solar Energy Systems (SES) shall meet the structure minimum set back requirements when the SES is oriented at any & all positions.
- 2) The solar array and all components of the solar collector system in a Solar Farm shall be kept at least one hundred (100) feet from a property line or right-of-way. However, this requirement may be waived, provided the solar farm's owner/lessee obtains, and records with the DeKalb County Recorder, signed and notarized affidavits, agreeing that the required minimum setback be waived, from all property owners and affected road authorities adjoining the zoning lot on which the solar farm is to be located (as determined by DeKalb County Community Development Department). However, in no instance shall any part of a solar farm, be located within fifty (50) feet of any of the aforementioned items
- 3) No solar energy system shall be allowed to be placed in the front yard of any residentially used or zoned property.
- 4) Roof mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted.

Height Requirements

- 1) Building or roof mounted solar energy systems shall not exceed the maximum allowed height in any Zoning District, as stated in Article 5** of the DeKalb County Zoning Ordinance.
- 2) Ground or pole mounted solar energy systems shall not exceed the maximum height, when oriented at maximum tilt, for the zoning district in which it is located.

Other Requirements

- 1) Upon request from the DeKalb County Community Development Department, an owner of a commercial Solar Energy System must provide documentation, within thirty (30) days, that the Solar Energy System is still in use. If it is not, the owner of the System will have 180 days, after notification from the Zoning Department, to remove

the Solar Energy System from the property.

- 2) Upon request from the DeKalb County Community Development Department, the owner or operator of a Solar Farm or a Solar Garden must submit, within 14 days, a current operation and maintenance report to the Department.
- 3) In all undeveloped areas, the Solar Energy developer will be required to complete a consultation with both the Illinois Historic Preservation Agency (IHPA) and the Illinois Department of Natural Resources (IDNR) through the Department's online EcoCat Program. The cost of this consultation shall be at the developer's expense. The final certificate from EcoCat shall be provided to the DeKalb County Zoning Dept. before a permit or Special Use Permit will be issued.
- 4) No fencing is required however if installed on the property the fencing shall have a maximum height of eight (8) feet. The fence shall contain appropriate warning signage that is posted such that is clearly visible on the site.
- 5) Any lighting for Solar Farms / Gardens shall be installed for security and safety purposes only. Except for lightening that is required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the facility.
- 6) Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties.
- 7) Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).
- 8) Solar Energy Systems must be in compliance with ALL State of Illinois Building, Electric, Plumbing and Energy Codes.

Design Standards: Active solar energy systems shall be designed to conform to the county comprehensive plan and to blend into the architecture of the building or may be require to be screened from routine view from public right-of-ways other than alleys. Screening may be required to the extent it does not affect the operation of the system. The color of the solar collector is not required to be consistent with other roofing materials.

- 1) *Building Integrated Photovoltaic Systems.* Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.
- 2) *Solar Energy Systems with Mounting Devices.* Solar energy systems using roof mounting devices or ground-mount solar energy systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way or immediately adjacent to a residential structure.
- 3) *Reflectors.* All solar energy systems using a reflector to enhance solar production shall

minimize glare from the reflector affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.

- 4) *Aviation Protection.* For solar units located within 500 feet of an airport or within approach zones of an airport, the applicant must 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 Federally Obligated Airports, or most recent version adopted by the FAA.

Coverage: Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access for fire-fighting purposes to the south-facing or flat roof upon which the panels are mounted. Ground-mount private solar energy systems shall be exempt from impervious surface calculations if the soil under the collector is not compacted and maintained in vegetation. Foundations, gravel, or compacted soils are considered impervious.

Plan Approval Required: All solar energy systems shall require administrative plan approval by the DeKalb County Building official via the review of the application for a building permit.

- 1) *Plan Applications.* Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.
 - a) *Pitched Roof Mounted Solar Energy Systems.* For all roof-mounted systems other than a flat roof the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
 - b) *Flat Roof Mounted Solar Energy Systems.* For flat roof applications a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.
- 2) *Plan Approvals.* Applications that meet the design requirements of this ordinance, and do not require an administrative variance, shall be granted administrative approval by the Director of Community Development and shall not require Planning and Zoning Committee review. Plan approval does not indicate compliance with Building Code or Electric Code.

Approved Solar Components: Electric solar energy system components must have a UL listing or approved equivalent and solar hot water systems must have an SRCC rating.

Compliance with Building Code: All active solar energy systems shall meet approval of county building code officials, consistent with the State of Illinois Building Code and solar thermal systems

shall comply with HVAC-related requirements of the Energy Code. Any county adopted building codes will apply and take precedence where applicable.

Compliance with State Electric Code: All photovoltaic systems shall comply with the Illinois State Electric Code.

Compliance with State Plumbing Code: Solar thermal systems shall comply with applicable Illinois State Plumbing Code requirements.

Compliance with State Energy Code: All photovoltaic systems and solar thermal systems shall comply with the Illinois State Energy Code.

Utility Notification: All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

Principal Uses. DeKalb County encourages the development of commercial or utility scale solar energy systems where such systems present few land use conflicts with current and future development patterns. Ground-mounted solar energy systems that are the principal use on the zoning lot or lots are special uses in selected districts.

- a) Solar gardens: DeKalb County permits the development of unincorporated county solar gardens, subject to the following standards and requirements:

Rooftop Gardens Permitted. Rooftop community systems are permitted in all zoning districts where buildings are permitted.

Ground-Mount Gardens. Ground-mount community solar energy gardens must be less than twenty (20) acres in total size. Ground-mount solar developments covering more than twenty (20) acres shall be considered solar farms.

Stormwater and NPDES. Solar gardens are subject to DeKalb County's Stormwater Management regulations, erosion and sediment control provisions and NPDES permit requirements.

Interconnection. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.

Aviation Protection. For solar gardens located within 500 feet of an airport or within approach zones of an airport, the applicant must 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 Federally Obligated Airports, or most recent version adopted by the FAA.

Other Standards. Ground-mount systems must comply with all required standards for structures in the district in which the system is located. All solar gardens shall also be in compliance with all applicable local, state and federal regulatory codes, including the State of Illinois Uniform Building Code, as amended; and the National Electric Code, as amended. Also, Health Department requirements for wells and septic systems must be met.

- b) *Solar farms*: Ground-mount solar energy systems that are the primary use on the lot, designed for providing energy to off-site uses or export to the wholesale market, are permitted under the following standards:
- 1) *Special Use Permit*. Solar farms are special uses in agricultural district.
 - 2) *Stormwater and NPDES*. Solar farms are subject to DeKalb County's Stormwater Management regulations, erosion and sediment control provisions and NPDES permit requirements.
 - 3) *Ground Cover and Buffer Areas*. Top soils shall not be removed during development, unless part of a remediation effort. Soils shall be planted to and maintained in perennial vegetation to prevent erosion, manage run off and build soil. A plan must be approved by the Soil Water Conservation District and paid for by the developer. DeKalb County has a Noxious Weed Ordinance which is to be followed. Due to potential county liability under the Illinois Endangered Species Protection Act (520 ILCS 10/11(b)) it is required that any crops planted be in compliance with all federal and state laws protecting endangered species. This will also include pollinators such as bees. A report showing demonstration of plan compliance shall be submitted annually, and paid for by the developer.
 - 4) *Foundations*. A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.
 - 5) *Other Standards and Codes*. All solar farms shall be in compliance with all applicable local, state and federal regulatory codes, including the State of Illinois Uniform Building Code, as amended; and the National Electric Code, as amended.
 - 6) *Power and Communication Lines*. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by DeKalb County in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Director of Community Development. In addition, the Illinois Department of Agriculture (IDOA) has established standards and policies in the Agricultural Impact Mitigation Agreements (AIMA) regarding the construction or burial of electric transmission lines which should be agreed to and adhered to between the landowner and the developer.
 - 7) *Site Plan Required*. A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, farm tile, electric equipment, fencing, and screening materials and all other characteristics requested by DeKalb County. The site plan should also show all zoning districts, and overlay districts.
 - 8) *Aviation Protection*. For solar farms located within 500 feet of an airport or within

approach zones of an airport, the applicant must 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 Federally Obligated Airports, or most recent version adopted by the FAA.

- 9) *Endangered Species and Wetlands.* Solar farm developers 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 will be borne by the developer.

Liability insurance and indemnification

- 1) For Solar Farms and Solar Gardens, commencing with the issuance of building permits, the Applicant, Owner, or Operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$3 million per occurrence and \$5 million in the aggregate. Such insurance may be provided pursuant to a plan of self-insurance, by a party with a net worth of \$20 million or more. The County shall be named as an individual insured on the policy to the extent the county is entitled to indemnification.
- 2) For Private / Individual SES(s), commencing with the issuance of building permits, the Applicant or Owner shall maintain a current liability policy covering bodily injuries and any damage that may occur, on their home owner's policy or other applicable policy as approved by the Director of Community Development.
- 3) Any SES(s), Applicant, Owner, or Operator, whether individual or commercial, shall defend, indemnify, and hold harmless the County and its officials, employees, and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of actions, damages, injuries, costs, expenses, and liabilities whatsoever, including reasonable attorney's fees, except to the extent arising in whole or part out of negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of Applicant, Owner, or Operators selection, construction, operation, and removal of the SES(S) and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limited or qualifying the county's other indemnification rights available under the law.

Decommissioning

- 1) A decommissioning plan shall be required to be submitted when applying for all Solar Farms and Solar Gardens, to ensure that facilities are properly removed after their useful life.
- 2) Decommissioning of solar panels must occur in the event they are not in use for 90 consecutive days.
- 3) The owner or operator will have 6 months to complete the decommissioning plan after operation of a Solar Farm or Solar Garden stops being operational.

Exhibit "A"

- 4) The decommissioning plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site.
- 5) The DeKalb County Board may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure the proper decommissioning. The posting of a bond may be required prior to the issuance of a building permit for the facility.
- 6) In the event that the State of Illinois enacts a law with regards to the decommissioning of a Solar Farm, the strictest requirements shall prevail.