

# Lee County Board

## Dixon, Illinois

ORDINANCE NO. \_\_\_\_\_

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### AMENDMENT OF THE LEE COUNTY SOLAR ENERGY SYSTEMS ORDINANCE

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- A. Applicability.** The purpose of this ordinance is to facilitate the construction, installation, and operation of Solar Energy Systems 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.
- B. Definitions.** For the purposes of this Ordinance, the following words and terms are hereby defined:
1. **Agricultural Impact Mitigation Agreement (AIMA):** An agreement negotiated between the Illinois Department of Agriculture and a utility company focused on the restoration aspect of impacts that result from utility projects being constructed across a landowner's productive agricultural land.
  2. **Applicant:** Upon the submission of a Petition for a Special Use Permit for the purpose of a Solar Energy System ("SES"), any person, firm or partnership, association, corporation, company or organization of any kind proposing to obtain site location approval and permits for a solar energy system in unincorporated Lee County and includes the proposed operator and/or operator of the SES, and any other party with an interest in the SES.
  3. **"As-built" drawings:** A revised set of drawing submitted by a contractor upon completion of a project or a particular job. They reflect all changes made in the specifications and working drawings during the construction process, and show the exact dimensions, geometry, and surveyed location of all elements of the work completed under the contract.
  4. **Solar Cable Management System:** A system, such as a "CAB" system, used to safely store and bundle cables underneath and between solar panels and arrays that meet all the federal and state safety requirements as well as any UL requirements and standards.
  5. **County Appointed Third Party Engineer:** An Illinois licensed, professional engineer who selected by the County and paid for by the Applicant to perform reviews and inspections of applicable project plans and sites.
  6. **Dwelling:** As stated in §10-1-4 of the Lee County Code, a building, or portion thereof, occupied or intended to be occupied exclusively for residential purposes, but not including recreational vehicles, travel trailers or tents, which complied with the use regulations set out in the various districts provided for in the Lee County Revised Zoning Ordinance.

7. Dwelling Exclusion Zone: An eight hundred (800) foot by eight hundred (800) foot, square area centered on a non-participating primary dwelling, unless otherwise agreed to by the non-participating adjacent landowner. The SES equipment and fences are excluded from this area.
8. Escrowee: A bank or trust company duly authorized to do business in the State of Illinois and legally authorized to do business in the State of Illinois and legally authorized to administer trusts and escrow accounts.
9. Ground-mounted Solar Energy System: A solar energy system and its related equipment that has its support structure placed directly on the ground and is not attached or affixed to an existing structure.
10. Hearing Facilitator: The Hearing Facilitator shall be an attorney, licensed to practice in the State of Illinois, to be jointly selected and compensation negotiated on behalf of the Zoning Board of Appeals by the State's Attorney (or his/her designee) and the County Zoning Administrator. Upon completion of the Hearing, the Applicant shall reimburse the County of Lee for the total fees charged by the Facilitator.

The Hearing Facilitator shall be an independent contractor who shall conduct a hearing in accordance with the Rules of Procedure for the Lee County Zoning Board of Appeals but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, the admissibility of evidence and the propriety of any arguments.

11. Illinois Certified Shorthand Reporter: A court reporter is the silent person in the courtroom who is responsible for making a full, verbatim stenographic report of all of the testimony and the evidence and all other proceedings presented in the trial court. And, upon request, produce a written transcript of the proceeding.
12. Land Evaluation and Site Assessment: An evaluation system created by the U.S. Department of Agriculture to combine soil quality factors with other factors that affect the importance of the site for continued agricultural use.
13. Landowner: Person(s) holding legal title to property for the location of an SES from whom the Company is seeking, or has obtained, a temporary or permanent easement, or any person(s) legally authorized by a landowner to make decisions regarding the mitigation or restoration of agricultural impacts to such landowner's property, unless the property owner has an equity interest in an SES.
14. Operator: The entity responsible for the day-to-day-operation and maintenance of the SES, including any party subcontractor.
15. Owner: The entity or entities with an equity interest in an SES Project, including their respective successor and assigns. Owner does not mean (i) the property owner from whom land is leased for locating the SES Project (unless the property owner has an equity interest in the SES Project); or (ii) any person holding a security interest in a SES Project 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 SES Project(s) at the earliest practicable date.

16. Prime farmland: Agricultural land comprised of soils that are defined by the USDA Natural Resources Conservation Service as being “prime” soils (generally considered the most productive soils with the least input of nutrients and management).
17. Professional Engineer: A qualified individual who is licensed as a professional engineer by the State of Illinois.
18. Solar Energy System (“SES”): 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; also known as a solar power plant and a solar farm.
19. Substation: The apparatus that connects the electrical collection system of the SES(s) and increases the voltage for connection with the utility’s transmission lines.
20. Visual screen: A visual barrier which, through the use of vegetative landscaping, opaque fencing, or approved combination thereof, is of such nature and density that provides year-round opacity and screens structures and activities on the parcel, from a single-story dwelling viewpoint.

**C. Prohibition.**

1. Construction of Solar Energy Systems: No person shall construct or operate an SES without having fully complied with all the provisions of this ordinance.
  - a. Permits Required: No person shall construct or operate an SES without first obtaining both a special use permit and a building permit.
  - b. Special Use: A Solar Energy Project may be permitted in the Ag-1 District as a special use, in accordance with the following regulations and design standards.

**D. Performance and Design standards.** The design standards and bulk regulations listed in §10-9-3 of the Lee County Code for setbacks, lot size, lot coverage, lot area, height; §10-14-3 of the Lee County Code for fences and §10-12-10 of the Lee County Code for 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.

1. Foundations. An Illinois Licensed Professional Engineer shall certify that the foundation is within accepted professional standards, given the design of the solar panels, local soil and climate conditions to be reviewed by a County Appointed Third Party Engineer.
2. 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 to be reviewed by a County Appointed Third Party Engineer. All electrical components of the SES must have an Underwriters Laboratories (UL) listing for the most recent phase(s) of the project and all solar collectors must be designed with an anti-reflective coating.

3. The Agricultural Impact Mitigation Agreement (AIMA) executed between the Illinois Department of Agriculture and operator of the SES shall be the minimum standards applied to all construction and deconstruction activities. The owner and operator, contractors, and subcontractors must, at a minimum, comply with the specifications of the AIMA. Where there is conflict between the AIMA specifications and this Ordinance, the more restrictive shall apply.
4. Power and communication lines. The 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. If the Lines are not buried, a solar cable management system, or similar technology, must be utilized. When Lines are buried underground, the County 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.
5. Height. Systems, equipment, and structures shall not exceed twenty (20) 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.
6. Fencing.
  - a. Unless otherwise provided in this section, security fencing having a minimum height of six (6) feet shall be installed, maintained, and secured around the solar panels and all energy producing and storage equipment of the SES and required to comply with the National Electric Code requirements for fencing.
  - b. At the request of the non-participating resident, an eight (8) foot high woven wire fence may be substituted at the boundary of the Exclusion Zone of any home located on an adjacent, non-participating parcel.
  - c. Fencing shall contain appropriate warning signage that is in accordance with National E Electrical Safety Code and American National Standards Institute Z535 Safety Sign Standards and OSHA regulations.
  - d. The required fence shall be maintained by the Applicant to prevent the growth of woody vegetation or noxious weeds within and along the fence.
  - e. Fencing is not required between participating parcels.
7. Setbacks.
  - a. Equipment Setbacks. A ground-mounted SES shall have the following equipment setbacks:
    - i. A minimum of fifteen (15) feet from any property line.
    - ii. A minimum of four hundred (400) feet from any foundation of an adjacent, non-participating primary dwelling, [i.e., an eight hundred (800) foot by eight hundred

(800) foot, square exclusion zone centered on the adjacent, non-participating primary dwelling foundation].

- iii. A minimum of sixty (60) feet from the centerline of any township roadway; a minimum of seventy-five (75) feet from the centerline of any county roadway, and a minimum of fifty (50) feet from the right-of-way of any state road.
- iv. A minimum of four hundred (400) feet from the property line of any platted subdivision.
- v. A minimum of five hundred (500) feet from any dwelling for any inverters, transformers and/or storage equipment that are part of the project unless a waiver is obtained from the owner of the dwelling.
- vi. No setbacks are required between adjacent participating land parcels.
- vii. The Zoning Board of Appeals may recommend granting a variance to any setback requirement unless a waiver has been obtained from property owners in which they agree to waive any 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.

b. Fencing Setbacks.

- i. Fences adjoining roadways may be placed up to the property line.
  - ii. All other fences shall be set back a minimum of three (3) feet from property lines to allow non-participating landowners to farm up to property lines and for the developer to access the outside of the fence for maintenance purposes.
  - iii. Fences around adjacent, non-participating dwellings shall be set back to the boundary of the Exclusion Zone.
  - iv. Fences around platted subdivision shall be set back a minimum of four hundred (400) feet from the subdivision property line.
8. Security. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.
9. Lighting. If lighting is provided at the site, lighting shall be full cut-off fixtures to minimize light pollution on adjacent parcels.
10. Noise. Noise levels must meet the Illinois Pollution Control Board noise standards (35 IL Administrative Code Part 900). After construction of the SES, the Zoning Administrator shall take appropriate enforcement action as necessary to investigate each noise complaint and take any additional enforcement action as proves warranted to stop any violation that is occurring, including but not limited to requiring the Applicant to take reasonable steps to mitigate the noise complaint.

11. Glare. Solar collectors shall be placed such that concentrated solar 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. After construction of the SES, the Zoning Administrator shall take appropriate enforcement action as necessary to investigate each complaint of glare and take any additional enforcement action as proves warranted to stop any significant glare that is occurring, including but not limited to requiring the Applicant to take reasonable steps to mitigate the glare such as the installation of additional screening.

12. Screening. In an effort to help minimize the visual impacts of an SES on adjacent, non-participating dwellings, from a single-story dwelling viewpoint. Screening shall be provided as follows:

a. Platted Subdivisions. A platted subdivision shall have a visual screen designed, installed, maintained and ultimately removed by the Applicant at the time of decommissioning. The visual screen will be installed on the property being leased by the SES, immediately adjacent to the property line. This provides for the most effective screening and minimizes the potential of drain tile damages.

b. Adjacent, Non-participating Dwellings, Excluding Platted Subdivisions. Subject to the provision of this paragraph, a Visual Screening Option shall be provided by the Applicant to the owner of any adjacent, non-participating dwelling.

c. The Visual Screening Option shall provide the following options:

i. The owner of any adjacent, non-participating dwelling, at their discretion, may elect to receive a one-time payment from the Applicant equal to the cost of design, installation, maintenance, and removal of a visual screen in lieu of the actual visual screen. This option shall be detailed in writing by the Applicant, including a proposed design and budgetary estimate for the design, installation, maintenance, and removal of the visual screen, as prepared by an Illinois Registered Landscape Architect. This one-time payment allows for the owner of the adjacent, non-participating dwelling to install the visual screen on their own property if and as they desire. This one-time payment shall be paid prior to the issuance of any building permit, and proof of payment shall be provided to the Zoning Administrator.

OR

ii. The owner of any adjacent, non-participating dwelling, at their discretion, may request a visual screen be designed, installed, maintained and ultimately removed by the Applicant at the time of decommissioning. If this option is chosen, the visual screen will be installed on the property being leased by the SES, immediately adjacent to the property line. This provides for the most effective screening and minimizes the potential of drain tile damages.

d. If the owner of any adjacent, non-participating dwelling does not elect one of the above two (2) options, no visual screen will be installed, and a one-time payment will be provided

as described in the first option. Payment shall be mailed to the property owner via certified mail and proof of mailing the payment shall be provided to the Lee County Zoning Administrator a minimum of thirty (30) days prior to the issuance of any building permit.

e. A minimum of thirty (30) days prior to the issuance of any building permit, the Applicant shall provide a signed copy of a Memorandum of Understanding to the Zoning Administrator, outlining the terms of the Visual Screening Option as agreed upon by the Applicant and owner of any adjacent, non-participating dwelling.

f. Standards for a Visual Screen are as follows:

i. A Visual Screen shall be in the form of vegetative landscaping, opaque fencing, or approved combination thereof, as agreed upon by the non-participating landowner and the Applicant.

i. All Visual Screens shall be designed and prepared by an Illinois Registered Landscape Architect.

ii. All fences used as, or part of, a Visual Screen must be built in accordance with §10-14 of the Lee County Code.

ii. All vegetative landscaping shall be planted at a minimum of three (3) feet tall and must reach a minimum height of eight (8) feet within four (4) years of planting.

iii. If the vegetative landscaping, or any portion thereof, that has been installed by the Applicant does not maintain a height of eight (8) feet any time after its fourth (4<sup>th</sup>) year of being planted, the Visual Screen, or affected portion, shall be replaced by the Applicant at the start of the next growing season.

iv. All Visual Screens that are installed by the Applicant shall be maintained in good condition by the Applicant at all times.

v. The Visual Screen shall be installed as early as possible in construction phase of the SES.

13. Signage. A warning sign that is in accordance with National Electrical Safety Code and American National Standards Institute Z535 Safety Sign Standards and OSHA regulations 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.

14. 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 their designee shall have the discretion to determine whether outdoor storage complies with this provision.

15. During construction of the SES, construction activities shall commence no earlier than 6:00 A.M. and shall be discontinued no later than 9:00 P.M.

#### **E. Application Requirements.**

A petition for special use permit for a SES must be on a form approved by the County Zoning Administrator and must be accompanied by:

- i. A copy of the Agricultural Impact Mitigation Agreement executed between the owner and operator of the SES and the Illinois Department of Agriculture, if applicable.
- ii. A copy of a comprehensive drainage plan, if applicable, for farmland where surface or subsurface drainage will be impacted as a result of the construction, maintenance, or deconstruction of a SES, staging areas, construction access lanes or driveways, substations, installation of underground wiring or cabling, or other construction, maintenance, or deconstruction activities associated with the SES Project, developed in cooperation with the property owners and impacted drainage districts where the SES project will be constructed.

Due to the unique nature and special requirements of an SES and the potential impacts of an SES on adjoining properties and government services, the 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 ten (10) physical copies and one (1) electronic copy of all required submittals to the Zoning Office. However, the Applicant shall only be required to submit two (2) physical copies and one (1) electronic copy 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 solar collection devices, solar energy related equipment, substations, and other associated infrastructure shall be constructed. 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 application for a building permit, however, must provide the specific location of each solar panel, access road, access point, underground or overhead electric line, transformer, or other element of the SES.

1. Community Meeting. Prior to the submission of an application for a Special Use Permit for an SES, a community information meeting shall be organized and hosted by the Applicant. The purpose of the meeting is outreach, with the intent of providing conceptual information related to the project area to the community in an informal setting. The meeting shall not be construed to be a local government meeting or formal public hearing. The meeting shall be conducted in accordance with the following protocol:
  - a. Notification. The Applicant shall notify the Lee County Board, Zoning Administrator, the Township Board of the affected Township, and all persons who own real estate within a minimum of one thousand (1000) feet of the proposed solar project boundary as sited in

the application for Special Use Permit, a minimum of ten (10) days prior to the community meeting. Notification may be sent by regular, first-class mail. Notification via local newspaper, radio stations and social media should be considered.

- b. Meeting Date/Time/Location. The meeting shall be held a minimum of forty-five (45) days prior to the hearing on the petition/application for Special Use Permit, on a weeknight (Monday through Thursday) at an accessible location within a Township where the proposed project will be located, such as a Township hall or other community center, or alternately at the Old Lee County Courthouse.
  - c. Content of Meeting. The informational meeting shall be arranged and hosted by the Applicant or a qualified representative and shall at a minimum include a detailed explanation of the project, the site plan for the proposed project, anticipated construction schedule, the landscaping and screening plan, and the decommissioning plan.
2. Notice of Petition. The Applicant will provide notice of this Petition to all the owners of all non-participating parcels that are located within 1,000 feet of any boundary of the SES Project and participating parcels.
  3. A site plan with existing conditions showing the following shall be submitted at a hearing to the Zoning Board of Appeals as part of the petition for Special Use:
    - 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 to the extent possible, subsurface drainage lines.
    - i. Existing pipelines and utilities.
  4. 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, height, and fencing materials of all fencing.
  - d. Planned location of Lines connecting the SES to a building, substation, or other electric load.
  - e. Planned new electrical equipment other than at the existing building or substation that is to be the connection point for the SES.
  - f. Weed/Grass Control. At a minimum, the Applicant shall adhere to the AIMA weed control requirements. 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. Vegetation between the fencing and the property line shall be maintained such that noxious weeds are controlled or eradicated consistent with the Illinois Noxious Weed Law (505 ILCS 100/1 et seq.).
  - g. Landscaping. A landscape plan shall be submitted which shall incorporate native grasses, flowers, plants which will provide wildlife and pollinator habitat, soil erosion protection and/or aid in strengthening the soil structure.
4. 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.
5. 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.
6. 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.
7. Fire Protection.
- a. The Applicant shall provide for a fire protection plan for the construction and the operation of the facility and shall provide for and maintain reasonable means of access for emergency services.

8. 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. The Applicant shall include a copy of the Agency Action Report and the response from the IDNR. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation shall be borne by the Applicant.
- b. The SES shall be located, designed, constructed, and operated so as to avoid and, if necessary, mitigate the impacts to wildlife to a sustainable level of mortality.

9. Road Use Agreements.

a. Road Use Agreement Approval Requirements.

- i. A Road Use Agreement (RUA) shall be approved by the Developer and the County Board not less than thirty (30) days prior to the issuance of the building permits for the SES project.

b. Agreement Contents.

- i. The contents of the Road Use Agreement shall include, but not be limited to the following:
  - a. Transportation Impact Analysis (TIA) that details the expected construction routes and the ESAL count per roadway segment. Core samples, or non-destructive testing methods, as approved by the County Engineer, shall be used to determine the base and surface thicknesses of each public roadway used. In addition, all bridges and culvers on the construction routes shall be identified and evaluated for structural adequacy. Adequate exhibits shall be included so that the full impact to the public roadways within the project footprint can be determined.
  - b. Requirements that regulate the construction traffic impacts.
  - c. Requirements for repairing damages to the roadway base, surface and appurtenances, in addition to providing for roadway surface upgrades.
  - d. Governing practices regarding utility installations on or near the rights of way.
  - e. County requirements that include providing permits when proper information is provided by the Developer.
  - f. Requirement for a Certificate of Liability Insurance for ten million dollars (\$10,000,000) per occurrence.
  - g. Requirement for a Security instrument in the amount of one hundred twenty-five percent (125%) of the estimated roadway base damage repair and roadway surface repairs and upgrades.

- c. Consulting Fund. Not less than thirty (30) days after zoning has been granted, an initial engineering and legal fee of no less than one hundred thousand dollars (\$100,000) shall be deposited into the County Treasury (the Consulting Fund) to cover all engineering consulting and legal fees incurred by the County for the duration of the project from conception to completion. The amount of the initial engineering and legal fee may be adjusted at the discretion of the County Engineer based on the size of the proposed project. Additional funds shall be required, as deemed necessary by the County Engineer. Monies remaining in the Consulting Fund at the completion of the project will be refunded back to the SES project.

10. Storm Water Management, Retention of Topsoil and Minimized Disturbance to Prime Farmland.

- a. Storm Water Management.

At a minimum, the Applicant shall adhere to the AIMA standards addressing soil retention and restoration issues. A storm water management plan and drainage permit in accordance with the County's Storm Water Management Ordinance (Lee County Code §11-4) shall be approved by the County Engineer before the issuance of the project building permit. The plan shall be signed and sealed by an Illinois Licensed Professional Engineer.

- b. Retention of all Topsoil.

No topsoil may be removed, stripped, or sold from the proposed SES site pursuant to or as part of the construction of the SES.

- c. Minimizing Disturbance of Prime Farmland as defined by the U.S. Department of Agriculture.

Any SES to be located on identified prime farmland shall minimize the disturbance to prime farmland as follows:

- i. The disturbance to prime farmland caused by construction, operation, and deconstruction of the SES shall be minimized at all times consistent with good engineering practice.
- ii. Disturbance to prime farmland shall be offset by establishment of a vegetative ground cover within the SES that includes the following:
  - (a) The vegetative ground cover shall use native plant species as much as possible and shall be based on a site assessment of the site geography and soil conditions.
  - (b) The species selected shall serve a secondary habitat purpose as much as possible.

- (c) Maintenance of the vegetative ground cover shall use a combination of management approaches to ensure safe, cost-effective, reliable maintenance while minimizing environmental risks.
  - (d) The plan to establish and maintain a vegetative ground cover that includes native plant species as much as possible shall be detailed in a landscape plan included in the SES application. The landscape plan shall include the weed control plan required by subsection E (3-f).
  - (e) The SES shall be required to initiate and comply with all recommendations of the Lee County Soil & Water Conservation District's Natural Resources Information Report as to the appropriate vegetative ground cover species selections.
11. Agricultural Impact Mitigation Agreement (AIMA). The Applicant shall enter into and adhere to the AIMA with the Illinois Department of Agriculture, prior to construction, pursuant to 505 ILCS 147/15. Where there is conflict between the AIMA and this Ordinance, the more restrictive shall apply.
  12. Drainage. The Applicant shall commit to repairing or restoring all drainage tiles damaged during construction and deconstruction to the same or better condition as to when construction began, specifically outlined in the AIMA. The Applicant shall also commit to contact local drainage districts before the start of any construction to locate drainage district tiles.
  13. Interference: The Applicant shall verify that there will be no communication interference resulting from the SES project. If, after the start of the Commercial Operation Date of the SES project, the Applicant receives a written complaint from a property owner within a one (1) mile radius around the project boundary, related to interference with local broadcast residential television or radio, the Applicant shall respond within ten (10) working days after being notified, and shall use commercially reasonable efforts to mitigate any problems on a case-by-case basis.
  14. 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 any SES when a building permit has not been secured within thirty-six (36) months 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. If no building permit is secured by the end of the thirty-six (36) months, then the Special Use Permit automatically becomes null and void. If no building permit is secured by the end of thirty (30) months, an extension may be requested by the Applicant and may granted by the Lee County Board.
  15. "As-builts." After the construction is complete, the Applicant shall provide certified "as-built" drawing to the Lee County Zoning Administrator and the Lee County Assessor showing the locations of the SES, roads, transmission lines, and other improvements related to the SES Project and a legal description of the land utilized for the improvements.

## **F. Operational Standard Conditions.**

### **1. Reports.**

- a. Progress Report. Prior to the issuance of a building permit, the Applicant of the SES Project shall submit, on a biannual basis, due by June 30 and December 31 of each year a Progress Report. The report shall include information on the status of the Building Permit submission, including delays, schedule changes, and alterations or changes to the approved Special Use Permit Application. This requirement will cease once the building permit has been issued.
- b.
- c. Maintenance Report. The Applicant of the SES Project shall submit, on an annual basis, due by June 30, a summary of the maintenance report to Lee County Zoning Office including all maintenance performed on the systems. In addition to the above annual summary, the Applicant shall furnish such maintenance report as Lee County reasonably requests. Requirements include, but are not limited to:
  - i. Emergency contact information for the SES
  - ii. Letter of credit for the SES project
  - iii. Administration fee for letter of credit
- d. Operation Report. The Applicant shall provide an annual certification report, due to Zoning Administrator by June 30 of each year. The report is to include the number of days each SES Project unit was available for operation and actually in operation. When any SES Project unit has been inoperable for more than twelve (12) consecutive months, the Applicant shall report to Lee County Zoning Administrator the following information:
  - A. The date the unit became inoperable.
  - B. The expected date for the SES unit to return to service.

### **2. Maintenance.**

- a. Any physical modification to the SES that increases the number of solar conversion devices or structures and/or the land area occupied by the SES shall require a new special use permit. Like for like replacements of all SES components including but not limited to solar panels, transformers, inverters, batteries, cabling, shall not require re-certification provided replacement is done in an equivalent fashion to the original installation and the required replacement permit fees are paid.
- b. The Applicant shall explain methods and materials used to clean the SES equipment including an estimation of the daily and annual gallons of water used and the source of the water and the management of wastewater. The Zoning Administrator may request copies of well records from the Illinois State Water Survey and may require an estimate by a qualified hydrogeologist of the likely impact on adjacent water wells.

### **3. Materials Handling, Storage and Disposal**

- a. All solid wastes related to the construction, operation and maintenance of the SES shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
- b. All hazardous materials related to the construction, operation and maintenance of the SES shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

#### 4. Points of Contact

The Applicant of the SES shall maintain with the Zoning Administrator and Lee County Sheriff's Department a primary and two (2) secondary points of contact. This information shall be kept current at all times, and changes shall be reported immediately or as soon as possible.

### **G. Repowering of the Solar Farm.**

1. The owner or Applicant of the SES may repower the existing SES to incorporate advances in SES technology including, but not limited to, solar panels, inverters, and balance of system components.
2. Repowering is permitted so long as the project adheres to all conditions of the Special Use Permit as previously imposed.
3. Repowering shall not substantially or fundamentally change the site footprint or make up of the project or the point of interconnection.
4. As such, any repower efforts taken by the owner/Applicant shall be governed by the Ordinance in effect at the time the project was permitted for its Special Use Permit.
5. Any material change to a project must be granted through the Special Use Permit process outlined in the Lee County Code and shall be governed by the current Ordinance, and all fees and costs associated with the Special Use Permit process shall apply.

### **H. Decommissioning of the Solar Farm.** At a minimum, the Applicant shall adhere to the AIMA decommissioning (deconstruction) requirements.

1. Before a building permit can be granted, the Applicant must present a decommission plan to ensure that all SES facilities are removed after their useful life. The decommission plan shall include provisions and the estimated costs for removal of all structures and modifications including equipment, fencing, roads, and foundations, including but not limited to the restoration of soil and vegetation necessary to return the land to the condition in which it existed at the time the application for special use permit was first filed. The plan must also describe the particular financial security the Applicant proposes to offer to guarantee completion of the Applicant's decommissioning obligations on the site. The issuance of a building permit for any SES shall be made contingent upon the Applicant's prior filing of proof of its fulfillment of the decommissioning security obligation for the

entire site, and in no instance shall the financial security be less than forty thousand dollars (\$40,000) per megawatt. The only acceptable form of security financing shall be the Applicant's deposit of the determined monetary amount in the County escrow account, unless the County Board, in its sole discretion, agrees to accept an alternative security, or a portion thereof, in the form of a security bond approved by the County. An updated decommissioning plan shall be submitted to the Zoning Administrator every five (5) years. The initial updated decommissioning plan shall be submitted on or before the fifth (5<sup>th</sup>) anniversary of the Commercial Operation Date.

Prior to construction, the Applicant of the SES shall submit an engineer's estimate of cost for decommissioning and disposal/recycling of the SES and restoring the site in accordance with the approved decommissioning plan. Upon review and approval by the Zoning Administrator of the estimate, the Applicant shall deposit, in the County escrow account, unless the County Board in its sole discretion agrees to accept alternative security, or a portion thereof, in the form of a security bond approved by the County, an amount of one hundred twenty-five percent (125%) of the estimate, so as to cover the cost of decommissioning as well as inflation cost in future years. The value of the surety shall not be reduced based on the salvage value of any materials or equipment.

All deposits with the Escrowee under the Decommissioning Plan section shall be to an escrow or trust account to be held by the Escrowee pursuant to a written trust or escrow agreement between the SES Project Owner/Operator and the Escrowee. The written agreement shall include the provisions of this Decommissioning Plan section and such other terms and conditions as are not inconsistent herewith. The SES Owner/Operator shall provide copy of the executed written agreement to the Lee County Zoning Administrator. All disbursements from the escrow or trust account for costs, fees or expenses of decommissioning a SES Project facility shall require approval of the Lee County Zoning Administrator and Lee County Treasurer, who shall not unreasonably withhold or delay said approval. Upon the completion of the decommissioning of a SES Project facility, any excess funds held in escrow or trust account will be returned to the SES Owner/Operator. The SES Owner/Operator will be solely responsible for all costs, fees and expenses of decommissioning a SES Project facility in excess of the amount held in the escrow or trust account. The written agreement between the SES Owner/Operator and the Escrowee shall be binding upon and insure to the benefit of the assignees and successors in interested or the SES Owner/Operator and the Escrowee. The SES Owner/Operator shall be solely liable and responsible for all costs, fees and expenses of establishing and maintaining the escrow or trust account.

During the operation of the SES, a new engineer's estimate of cost for decommissioning shall be submitted to the Zoning Administrator every five (5) years. The initial updated cost estimate shall be submitted on or before the fifth (5<sup>th</sup>) anniversary of the Commercial Operation Date. Upon approval of the estimated costs by the Zoning Administrator, a revised surety shall be provided to the Zoning Administrator in the amount of one hundred fifty percent (150%) of the new estimate. The value of the surety shall not be reduced based on the salvage value of any materials or equipment.

- 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, fencing, above-ground improvements, and outside storage.
- ii. Foundations, pads, and underground electrical wires so as to reclaim all sites to the depth of five (5) 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, unless otherwise agreed upon by the property owner.
- v. Vegetative screening that has been installed by the Applicant.

**I. Revocation.**

1. Any Lee County Zoning Board of Appeals recommendation to revoke the Special Use for the inoperable/abandoned SES Project facilities shall be forwarded to the full Lee County Board for consideration of the recommended revocation of the Special Use Petition. Revocation of Special Use for one or more SES Project units does not revoke the Special Use approval for other SES Project facilities approved by a common, original Special Use Petition. Decommissioning of solar panels must occur in the event they are not producing power for twelve (12) consecutive months and/or the landowner does not receive payment for six (6) months. The last day of this twelve (12) month period shall be considered the termination date. The operating company 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.
2. In the case of revocation of the Special Use Petition for the SES Project facilities by the Lee County Board, the Lee County Zoning Administrator shall notify the Applicant and the landowner that an updated Decommissioning Plan must be submitted to the Lee County Zoning Office within sixty (60) days of the certified revocation date.
3. All decommissioning and restoration work conducted pursuant to revocation of the Special Use Petition by the Lee County Board shall be completed in a timely manner not to exceed two hundred forty (240) days after the date of the revocation order by the Lee County Board. Up to one hundred eighty (180) days of additional time to accomplish decommissioning and restoration may be granted by the Lee County Zoning Administrator if the Lee County Zoning Administrator determines that additional time is in the best interests of Lee County, landowners and area highway authorities.

- J. Inspections.** The Zoning Administrator or his/her representative shall have the right, at any reasonable time and in the presence of the Applicant, its agents and/or assigns, to enter 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 with in thirty (30) days if, in his/her judgment, there exists a deficiency in the SES.

**K. Third Party Review Required.** All applicable reviews and inspections required for the construction and continued use of an SES, including but not limited to, Civil Engineer, Mechanical Engineer, Electrical Engineer, Plumbing Engineer, and Environmental Engineer, shall be covered by the applicant and approved or appointed by Lee County.

**L. Liability Insurance.** The Applicant 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 five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate with a deductible of no more than five thousand dollars (\$5,000).

**M. Standard Condition for Liability Insurance**

1. General Liability Insurance

- a. The County of Lee, Illinois, its officers and employees shall be included as an additional insured on the General Liability policy on a primary and non-contributory basis for both ongoing and completed operations. A minimum of a three (3) year extended reporting period is required for all claims-made policies.
- b. The County of Lee, Illinois, its officers and employees shall be named as additional insured with a waiver of subrogation on the Commercial Liability policy.
- c. Any Commercial Umbrella utilized shall be a “Following Form” policy.
- d. All policies must contain no more than a thirty (30) day notice of cancellation.
- e. Current copies of the insurance policies and certificates of insurance shall be kept on file with the Zoning Administrator.

2. Maintenance of General Liability Insurance

- a. The Applicant of the SES shall maintain a current general liability policy covering bodily injury and property damage with minimum limits of at least five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) in the aggregate.
- b. The Applicant of the SES shall maintain a current Commercial Auto policy of at least one million dollars (\$1,000,000).
- c. The Applicant of the SES shall maintain Workman's Compensation insurance in the following amounts:
  - i. One million dollars (\$1,000,000) per accident;
  - ii. Occupational Disease: One million dollars (\$1,000,000) per employee with a policy limit of one million dollars (\$1,000,000).

3. Pollution liability insurance shall be maintained in the amount of five million dollars (\$5,000,000) per policy.

4. The general liability policy shall identify landowners included in the Special Use Permit as additional insured.

**N. Administration and Enforcement.** Before obtaining a building permit, the Applicant of the SES, at its expense, shall coordinate with the Zoning Administrator to develop a system for logging and investigating complaints related to the SES.

**O. The Land Evaluation Site Assessment (LESA) System.** A system used by Lee County as the primary method for determining the location of rural residential development. While the Site Assessment portion of the LESA System will not be considered in the granting of a special use permit, consideration will be given to the Land Evaluation score. The Land Evaluation score will not prevent the siting of an SES in an agricultural zone, where it can be demonstrated that the harvesting of solar energy at that location minimally impacts agriculture. The Lee County Board must not follow the Land Evaluation score 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 Land Evaluation score on requests for a special use, Lee County should determine whether the requested use is:

- a. Exempted by 55 ILCS 5/5-12001;
- b. Exempted by other statutory provisions;
- c. Each parcel will be considered on an individual basis. Considerations of the Land Evaluation include, but are not limited to:
  - i. SES's proximity to grid.
  - ii. Findings of the Resource Report by the Lee County Soil and Water Conservation District.
  - iii. Parcels where soils with a Productivity Index of 117 or higher were found.
  - iv. Impacts to wildlife and protected lands such as wetlands or natural prairie.
  - v. Protection of historical resources and sites.
  - vi. Compatibility with the Comprehensive Plan.
  - vii. Any other required reports by Lee County or any Federal or State Jurisdiction.; or
- f. Desirable public policy.

**C. Indemnity.** The Applicant shall defend, indemnify and hold harmless Lee County and their officials from and against any and all claims, demands, losses, lawsuits, causes of action, damages, injuries, costs, expenses and liabilities, whatsoever, including but not limited to, reasonable attorney's fees arising out of the acts or omissions of the Applicant concerning the operation of the SES Project, without limitation, whether said liability is premised upon either contract or tort actions or other related claimed legal theory.

**D. Administration and enforcement.** Prior to obtaining a building permit, the Applicant of the SES project, at its expense, shall coordinate with the Zoning Administrator to develop a system for logging and investigating complaints related to the SES Project.

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 \_\_\_\_\_ day of \_\_\_\_\_, 2022.

BY: \_\_\_\_\_  
Lee County Board Chair

ATTEST:

\_\_\_\_\_  
Lee County Clerk