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AUGUST H. GRIFFIN
REGISTER OF DEEDS
EDGAR COUNTY, IL
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ORDN

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COUNTY OF EDGAR, ILLINOIS

ORDINANCE NO. - 2023-35

**AN ORDINANCE ADOPTING RESTRICTIONS AND SITING STANDARDS RELATED
TO THE INSTALLATION AND USE OF COMMERCIAL SOLAR ENERGY
FACILITIES**

ADOPTED BY THE COUNTY BOARD
OF THE COUNTY OF EDGAR, ILLINOIS
THIS 22 DAY OF May, 2023

Published in pamphlet form by the authority of Edgar County,
Illinois, this 22 day of May, 2023

COUNTY OF EDGAR, ILLINOIS

Ordinance No. 2023-35

**AN ORDINANCE ADOPTING RESTRICTIONS AND SITING STANDARDS RELATED
TO THE INSTALLATION AND USE OF COMMERCIAL SOLAR ENERGY
FACILITIES**

WHEREAS, the County of Edgar, Illinois is an Illinois non-home rule unit of local government pursuant to Article VII, § 7 of the 1970 Illinois Constitution, organized and operating under the Illinois Counties Code, 55 ILCS 5/1-1-1, *et seq.*; and

WHEREAS, “The county board may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to counties, with such fines or penalties as may be deemed proper except where a specific provision for a fine or penalty is provided by law.” 55 ILCS 5/5-1113; and

WHEREAS, Section 5-12020 of the Counties Code (55 ILCS 5/5-12020) authorizes a county to “establish standards for commercial wind energy facilities, solar energy facilities, or both.”

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF EDGAR, ILLINOIS, AS FOLLOWS:

SECTION 1: The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the County Board.

SECTION 2: The County Board hereby adopts the “Edgar County Solar Energy System (Ses) Ordinance” attached hereto as “EXHIBIT A”.

SECTION 3: All ordinances and parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby superseded to the extent that they may conflict.

SECTION 4: If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid

provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

SECTION 5: This Ordinance shall take effect upon its passage and publication as required by law.

SECTION 6: The County Clerk shall publish this Ordinance in pamphlet form.

PASSED this 22nd day of May, 2023.

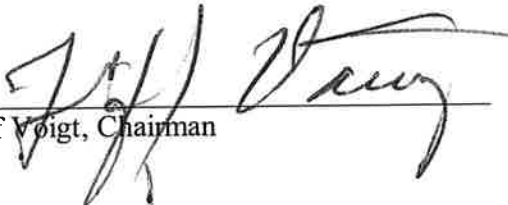
AYES: 5

NAYS: 0

ABSENT: 0

PRESENT: 2

APPROVED this 22 day of May, 2023.



Jeff Voigt, Chairman

ATTEST:



August Griffin, Clerk

STATE OF ILLINOIS)
) ss.
COUNTY OF EDGAR)

CERTIFICATE

I, the undersigned, do hereby certify that I am the duly qualified and acting Clerk of the County of Edgar, Illinois.

I further certify that on May 22, 2023, the County Board of such County passed and approved Ordinance No. 2023-35 entitled:

**AN ORDINANCE ADOPTING RESTRICTIONS AND SITING STANDARDS
RELATED TO THE INSTALLATION AND USE OF COMMERCIAL SOLAR ENERGY
FACILITIES**

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2023-35 including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the Clerk's Office, commencing on May 22, 2023, to continue for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the County Clerk.

DATED at Paris, Illinois, this 22 day of May, 2023.

(SEAL)



County Clerk

EXHIBIT A

EDGAR COUNTY SOLAR ENERGY SYSTEM (SES) ORDINANCE

I. DEFINITIONS

- A. "Agricultural Impact Mitigation Agreement" or "AIMA" means the Agreement between the Commercial Solar Energy Facility Owner and the Illinois Department of Agriculture.
- B. "Applicant" means the entity who submits to the County an application for a Special Use Permit related to the siting and operation of any Commercial Solar Energy Facility or Substation. All references to Applicant in this Ordinance shall include Applicant's successors-in-interest and assigns, which includes a Commercial Solar Energy Facility Permittee.
- C. "Commercial Operation Date" means the calendar date on which the Commercial Solar Energy Facility produces power for commercial sale, not including test power.
- D. "Commercial Solar Energy Facility" or "Commercial Solar Energy System" means any device or assembly of devices that is ground installed and uses solar energy from the sun for generating electricity for the primary purpose of wholesale or retail sale and not primarily for consumption on the property. "Commercial solar energy facility" does not mean a utility-scale solar energy facility being constructed at a site that was eligible to participate in a procurement event conducted by the Illinois Power Agency pursuant to subsection (c-5) of Section 1-75 of the Illinois Power Agency Act. Also referred to herein as "SES" or "SES Project"
- E. "Commercial Solar Energy Facility Building Permit" means a permit necessary for the commencement of work performed toward the construction, erection or installation of an approved Commercial Solar Energy Facility, Substation, Supporting Facilities, or operations and maintenance building in connection with a Commercial Solar Energy Facility. A Commercial Solar Energy Facility Building Permit may be issued by the county after a Commercial Solar Energy Facility has obtained a Special Use Permit from the Edgar County Board. The Commercial Solar Energy Building Permit shall require the Applicant to deliver a written "Notice to Proceed" for the Commercial Solar Energy Facility to the county prior to commencement of construction of the Commercial Solar Energy Facility. The term "commencement of construction", as used in this Ordinance, includes any site development work (e.g., demolition, grubbing, grading, excavation, road work, construction of Project-related structures and infrastructure improvements, etc.) regarding the Commercial Solar Energy Facility.
- F. "Commercial Solar Energy Facility Permittee" means an Applicant who applies for and receives a Special Use Permit under this Ordinance for the siting and operation of any Commercial Solar Energy Facility or Substation. All references to a Commercial Solar Energy Facility Permittee in this Ordinance shall include a Commercial Solar Energy Facility Permittee's successors-in-interest and assigns.
- G. "Deconstruction" means the removal of a Commercial Wind Energy Facility from a Participating Property and the restoration of that property as provided in the Agricultural Impact Mitigation Agreement. The terms "Deconstruction" and "Decommissioning" have the same meaning and, therefore, may be interchanged with each other.

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- H. "Financial Assurance" or "Financial Security" or "Decommission Security" means any commercially available financial assurance from a credit worthy party that is acceptable to the County, with the County as a primary beneficiary and the owners of Participating Properties as secondary beneficiaries. Examples of Financial Assurances include a surety bond (e.g., performance and payment bond), trust instrument, cash escrow, or irrevocable letter of credit.
- I. "Notice to Proceed" means a written document, named as such, stating that the Applicant expresses an intent to commence construction activities on a Commercial Solar Energy Facility and identifying the date on which the construction activities are scheduled to commence.
- J. "Nonparticipating property" means real property that is not a participating property.
- K. "Nonparticipating residence" means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the Commercial Solar Energy Facility is filed with the county.
- L. "Occupied Community Building" means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the Commercial Solar Energy Facility is filed with the county: a school, place of worship, day care facility, public library, or community center.
- M. "Operator" means the person or entity responsible for the day-to-day operation and maintenance of a Commercial Solar Energy Facility, including any third-party subcontractors. The Operator must be a qualified solar power professional. All references to Operator in this Ordinance shall include Operator's successors-in-interest and assigns.
- N. "Owner" means the person or entity or entities with an equity interest in a Commercial Solar Energy Facility, including their respective successors-in-interest and assigns. The Owner does not mean (i) the property owner from whom land is leased for locating a Commercial Solar Energy Facility (unless the property owner has an equity interest in a Commercial Solar Energy Facility); or (ii) any person holding a security interest in a Commercial Solar Energy Facility solely to secure an extension of credit, or a person foreclosing on such security interest, provided that after foreclosure, such person seeks to sell a Commercial Solar Energy Facility at the earliest practicable date. This definition includes the definition of Facility Owner as defined in 55 ILCS 5/5-12020.
- O. "Participating property" means real property that is the subject of a written agreement between a facility Owner and the owner of the real property that provides the facility Owner an easement, option, lease, or license to use the real property for the purpose of constructing a Commercial Solar Energy Facility or Supporting Facilities. "Participating property" also includes real property that is owned by a facility Owner for the purpose of constructing a Commercial Solar Energy Facility or supporting facilities.
- P. "Participating residence" means a residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the Commercial Solar Energy Facility is filed with the county.
- Q. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in Illinois. Where a structural engineer is required to take some action under

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terms of this Ordinance, a Professional Engineer may serve as the structural engineer if he or she has the appropriate structural engineering certification.

- R. "Protected lands" means real property that is subject to a permanent conservation right consistent with the Real Property Conservation Rights Act or registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.
- S. "Special Use Permit" means a permit approved by the County Board, after a public hearing, allowing a Commercial Solar Energy Facility at a specified location subject to compliance with the conditions of this Solar Energy System (SES) Ordinance as may be required by the County Board.
- T. "Substation" means the apparatus that collects and connects the electrical collection system of the Commercial Solar Energy Facility and increases the voltage for connection with the utility's transmission lines.
- U. "Supporting Facilities" means the transmission lines, substations, access roads, storage containers, and equipment associated with the generation and storage of electricity by the Commercial Solar Energy Facility.

II. APPLICABILITY

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

III. PROHIBITION

No Commercial Solar Energy Facility or Substation governed by this Ordinance shall be constructed, erected, installed, or located within the county, unless prior siting approval has been obtained for each individual Commercial Solar Energy Facility or for a group of Commercial Solar Energy Facilities under a joint siting application pursuant to this Ordinance.

IV. SPECIAL USE PERMIT APPLICATION

- A. To obtain siting approval, the Applicant must first submit a Special Use Permit application to the County.
- B. The Special Use Permit application shall contain or be accompanied by the following information:
 - 1. A Commercial Solar Energy Facility Summary, including: (a) a general description of the project, including (i) its approximate overall name plate generating capacity, (ii) the potential equipment manufacturer(s), (iii) type(s) of solar panels, cells and modules, (iv) the number of solar panels, cells and modules, (v) the maximum height of the solar panels at full tilt, (vi) the number of Substations, (vii) a project phasing plan and project construction timeline plan, and (viii) the general location of the project; and (b) a description of the Applicant, Owner and Operator, including their respective business structures;

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2. The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all Participating property owner(s), if known, and documentation demonstrating land ownership or legal control of the Participating property;
3. A site plan for the Commercial Solar Energy Facility showing:
 - a. The planned location of solar panels, including legal descriptions for each site,
 - b. Participating Residences,
 - c. Non-participating Residences and Occupied Community Buildings, parcel boundary lines (including identification of adjoining properties) within _____ feet of the SES Project,
 - d. Setback lines,
 - e. Public access roads and turnout locations,
 - f. Substation(s), operations and maintenance buildings,
 - g. Electrical cabling to the Substation(s),
 - h. Ancillary equipment,
 - i. Third party transmission lines, the location of any wetlands, flood plain, drainage structures including surface ditches and subsurface drainage lines, underground mines, scenic and natural areas within one thousand five hundred (1,500) feet of the proposed Commercial Solar Energy Facility, and
 - j. the layout of all structures within the geographical boundaries of any applicable setback;
4. A proposed Decommissioning Plan for the Commercial Solar Energy Facility;
5. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance;
6. An Agricultural Impact Mitigation Agreement (AIMA) executed between the Applicant and the Illinois Department of Agriculture;
7. A topographic map of the Commercial Solar Energy Facility site and the surrounding area;
8. Any other information normally required by the County as part of its permitting requirements for siting buildings or other structures;
9. Any waivers from the setback requirements executed by the Occupied Community Building owners and/or the Nonparticipating Property owners bearing a file stamp from the County Recorder of Deeds Office confirming that the waiver was recorded against title to the affected real property;
10. Results and recommendations from the Illinois Dept. of Natural Resources obtained through the Ecological Compliance Assessment Tool (EcoCAT) or a comparable successor tool;
11. Results of any United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with any applicable United States Fish and Wildlife Service's solar wildlife guidelines;

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12. Information demonstrating that the Commercial Solar Energy Facility will avoid protected lands;
 13. For any SES or SES Project located within 500 feet of an airport, the Applicant must complete a glint/glare analysis to assess ocular impact to any Airport Traffic Control Tower cab using the Solar Glare Hazard Analysis Tool (SGHAT) or equivalent tool and include the results of the analysis with the Special Use Permit application;
 14. Any other information requested by the County that is necessary to evaluate the siting application and operation of the Commercial Solar Energy Facility and to demonstrate that the Commercial Solar Energy Facility meets each of the regulations and standards in this Ordinance;
- C. Material changes to the application are not permitted once the notice of the public hearing has been published, unless requested or permitted by the County; and
- D. The Applicant shall submit twenty (20) copies of the Special Use Permit application to the County, and at least one (1) copy in electronic format.

V. DESIGN AND INSTALLATION

A. Design Safety Certification

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

B. Electrical Components

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

C. Height

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

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D. Aesthetics and Lighting

1. **Vegetative Screening:** A vegetative screen shall be provided for any part of the Commercial Solar Energy Facility that is visible to Non-participating Residence. The landscaping screen shall be located between the required fencing and the property line of the participating parcel upon which the facility sits. The vegetative screening shall include a continuous line of native evergreen foliage, native shrubs, native trees, any existing wooded area, and/or plantings of tall native grasses and other native flowering plants.
2. **Ground Cover and Buffer Areas:** Topsoil shall not be removed during development unless part of a remediation effort. An Applicant shall plant, establish, and maintain for the life of the facility vegetative ground cover, consistent with the goals of the Pollinator-Friendly Solar Site Act, utilizing perennial vegetation to prevent erosion, manage run off and build soil. The site shall be planted and maintained to be free of invasive or noxious species as identified by Edgar County Soil and Water Conservation District. 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.
3. **Lighting:** If lighting is provided at the Commercial Solar Energy Facility, lighting shall be shielded and downcast such that the light does not spill onto any Nonparticipating property or Participating residence.
4. **Intra-project Power and Communication Lines:** Except where a Commercial Solar Energy Facility is located on a former landfill, all power lines used to collect power and all communication lines shall be buried underground at a depth in accordance with the Agricultural Impact Mitigation Agreement until same reach the property line or a substation adjacent to the property line.

E. Fencing

A fence of at least six (6) feet and not more than twenty-five (25) feet in height shall enclose and secure the Commercial Solar Energy Facility.

F. Warnings

1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
2. Visible, reflective, colored objects, such as flags, plastic sleeves, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of fifteen (15) feet from the ground.

G. Setback Requirements

1. The Commercial Solar Energy Facility shall be sited as follows, with setback distances measured from the nearest edge of any component of the facility:

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- a. Occupied Community Buildings and Dwellings on Nonparticipating Properties: one hundred fifty (150) feet to the nearest point on the outside wall of the structure.
 - b. Nonparticipating Residences: one hundred fifty (150) feet to the nearest point on the outside wall of the structure.
 - c. Boundary Lines of Participating Property: None.
 - d. Boundary Lines of Nonparticipating Property: fifty (50) feet to the nearest point on the property line of the nonparticipating property.
 - e. Public Road Rights-of-Way: fifty (50) feet from the nearest edge of the public road right-of-way.
2. The setback requirements for Nonparticipating properties may be waived by the written consent of the owner(s) of each affected Nonparticipating property. Any waiver of any of the above setback requirements shall run with the land and be recorded with the Recorder of Deeds of the County.

H. Compliance with Additional Regulations

Nothing in this Ordinance is intended to preempt other applicable codes, state and federal laws and regulations including but not limited to the National Electrical Code, The National Electrical Safety Code, Illinois Commerce Commission, Federal Energy Regulatory Commission, and their designees or successors.

I. Use of Public Roads

1. An Applicant proposing to use any County, municipality, township or village road(s), for the purpose of transporting Commercial Solar Energy Facility or Substation parts and/or equipment for construction, operation, or maintenance of the Commercial Solar Energy Facility or Substation(s), shall:
 - a. Identify any proposed public roads that will be used for construction purposes and secure the written approval of the respective Road District Commissioner and the County Engineer prior to the granting of the Special Use Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from the respective highway authority. Any road damage caused by the transport, installation, maintenance, or removal of the Commercial Solar Energy Facility's equipment, must be completely repaired to the reasonable satisfaction of the Road District Commissioner and the County Engineer. The Road District Commissioner and County Engineer may choose to require either remediation of road repair upon completion of the Community Solar Energy Facility or are authorized to collect fees for overweight and/or oversized load permits. Further, financial assurance in an amount to be fixed by the Road District Commissioner to ensure the Road District or the County that future repairs are completed to their reasonable satisfaction shall be provided. Applicant shall submit a draft form of said financial assurance with the application for Special Use Permit;
 - b. Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage;

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- c. Obtain applicable weight and size permits from relevant government agencies prior to construction; and
- d. Enter into a road use agreement with the County and each affected Road District that includes the following provisions, at a minimum:
 - i. Project layout map;
 - ii. Transportation impact analysis;
 - iii. Pre-construction plans;
 - iv. Project traffic map;
 - v. Project scope of repairs;
 - vi. Post-construction repairs;
 - vii. Insurance; and
 - viii. Financial Security in forms and amounts acceptable to the County.

The road use agreement shall require Applicant to be responsible for the reasonable cost of improving roads used to construct Commercial Solar Energy Facility and the reasonable cost of repairing roads used by the Owner or Operator during construction of the Community Solar Energy Facility so that those roads are in a condition that is safe for the driving public after the completion of the Commercial Solar Energy Facility construction. Roadways improved in preparation for and during the construction of the Community Solar Energy Facility shall be repaired and restored to the improved condition at the reasonable cost of the Owner if the roadways have degraded or were damaged as a result of construction-related activities.

2. All repairs and improvements to public roads and roadway appurtenances shall be subject to the prior approval of the County before being made and shall also be subject to inspection and acceptance by the County after such repairs and improvements are completed. The County's road use agreement, and any further agreements contemplated therein, regarding the maintenance and repair of public roads and highways, must be approved by the County Board prior to the Board's approval of any Commercial Solar Energy Facility Building Permit applications related to the construction of the proposed Commercial Solar Energy Facility.
3. The Applicant shall provide any executed road use agreement between the Applicant and Illinois Department of Transportation, Road Districts, units of local government, or other road and highway jurisdictions to the County. Such agreements must show approved entrances and be supplied to the County prior to any public hearing unless the County Highway Engineer allows for later submission. However, road use agreement(s) shall be supplied prior to the issuance of any SES Building Permit or prior to construction of the SES Project.

J. Site Assessment

To ensure that the subsurface conditions of the site will provide proper support for the Commercial Solar Energy Facility and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports to the County Engineer as part of its

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Commercial Solar Energy Facility Building Permit. The Applicant shall follow the guidelines for Illinois Agricultural Impact Mitigation Agreement subject to review by the Edgar County Soil and Water Conservation District (or equivalent regulatory agency). Also, the Applicant shall submit grading plans for the proposed Substations for review and comment by the Edgar County Soil and Water Conservation District prior to the issuance of any Commercial Solar Energy Facility Building Permit for the construction of said substations.

K. Noise Levels

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

L. Agricultural Impact Mitigation

Pursuant to 505 ILCS 147/15(a), the Applicant, at its expense, shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture prior to any public hearing required before a siting decision on the Commercial Solar Energy Facility application. All impacted agricultural land, whether impacted during construction, operation, or decommissioning activities, must, at a minimum, be remediated by the Applicant pursuant to the terms of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. The Applicant shall submit the executed Agricultural Impact Mitigation Agreement to the County as part of the Special Use Permit application.

M. As-Built Map and Plans

Within sixty (60) calendar days of completion of construction of the Commercial Solar Energy Facility, the Applicant or Operator shall deliver "as-built" maps, site plan and engineering plans for the Commercial Solar Energy Facility that have been signed and stamped by a Professional Engineer and a licensed surveyor.

N. Engineer's Certificate

The Commercial Solar Energy Facility engineer's certificate shall be completed by a structural engineer licensed in the State of Illinois or by a Professional Engineer with a certification from a structural engineer licensed in the State of Illinois and shall certify that the specific soils and subsurface conditions at the site can support the apparatus, given local soil, subsurface and climate conditions. The Commercial Solar Energy Facility engineer's certificate shall be a public record and shall be submitted as part of the Special Use Permit application.

O. Conformance with Approved Application and Plans

The Applicant shall construct and operate the Commercial Solar Energy Facility in substantial conformance with the construction plans contained in a County approved Special Use Permit application(s), this ordinance, and all applicable state, federal, and local laws and regulations.

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P. Additional Terms and Conditions

1. All technical submissions as defined in the Professional Engineering Practice Act of 1989 (225 ILCS 325/4(w)) and contained in the Special Use Permit Application shall be prepared and signed by an Illinois Professional Engineer (or structural engineer) as may be appropriate for the relevant discipline.
2. The County may retain a qualified, independent code inspector or professional or structural engineer both to make appropriate inspections of the Commercial Solar Energy Facility during and after construction and to consult with the County to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the Commercial Solar Energy Facility is performed in compliance with applicable electrical and building codes. The cost and fees so incurred by the County in retaining said inspector or engineer shall be promptly reimbursed by the Applicant.
3. The Special Use Permit granted to the Applicant shall bind and inure to the benefit of the Applicant, its successors-in-interest and assigns. If any provision in this Ordinance is held invalid, such invalidity shall not affect any other provision of this Ordinance that can be given effect without the invalid provision and, to this end, the provisions in this Ordinance are severable.

VI. OPERATION

A. Maintenance

1. Annual Report. The Applicant must submit, on an annual basis on the anniversary date of the Special Use Permit application, an operation and maintenance report to the County. The report shall contain the following information: (i) a general description of any physical repairs, replacements or modification(s) to the Commercial Solar Energy Facility and/or its infrastructure; (ii) complaints pertaining to setbacks, noise, appearance, safety, lighting and use of any public roads received by the Applicant concerning the Commercial Solar Energy Facility and the resolution of such complaints; (iii) calls for emergency services; (iv) status of liability insurance; and (v) a general summary of service calls to the Commercial Solar Energy Facility. Failure to provide the annual report shall be considered a material violation of this Ordinance and subject to Article XI (Defaults & Remedies).
2. Re-Certification.
 - a. Prior to making any physical modification (other than a like-kind replacement or other modifications made in the ordinary course of operations), the Applicant shall confer with a relevant third-party certifying entity identified in Article V, Section A (Design and Installation), Paragraph 1 of this Ordinance to determine whether the physical modification requires re-certification.
 - b. Notwithstanding the foregoing paragraph (a), Any physical modification to the Commercial Solar Energy Facility that alters the mechanical load, mechanical load path, or major electrical components shall require re-

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certification consistent with Article V, Section A (Design and Installation), Paragraph 1 of this Ordinance.

- c. Like-kind replacements and modifications that are made in the ordinary course of operations, including expected repairs and warranty items, shall not require re-certification.

B. Coordination with Emergency Responders:

1. The Applicant shall submit to the Edgar County Emergency Management Agency a copy of the Site Plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), and any amendments to such documents, for the Commercial Solar Energy Facility so that the local law enforcement, fire protection district and rescue units, emergency medical service providers and emergency management service providers that have jurisdiction over each tower site may evaluate and coordinate their emergency response plans with the Applicant of the Commercial Solar Energy Facility.
2. The Applicant, at its expense, shall provide annual training for, and the necessary equipment to, the Operator and local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the Commercial Solar Energy Facility.
3. The Applicant and the Operator shall cooperate with all local emergency responders through the Edgar County Emergency Management Agency to develop an emergency response plan. The plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the Applicant and the Operator and at least three (3) designated Commercial Solar Energy Facility representatives (a primary representative with two (2) alternate representatives). Representatives must be selected such that at least one is available at all times seven (7) days per week and three hundred sixty-five (365) days per year. Any change in the designated Commercial Solar Energy Facility representative or a representative's contact information shall be promptly communicated to the County within no more than five (5) business days.. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed and updated on an annual basis.
4. Nothing in this section shall alleviate the need to comply with all other applicable life safety, fire, and emergency laws and regulations.

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

1. All solid waste related to the construction, operation, and maintenance of the Commercial Solar Energy Facility shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.
2. All hazardous materials related to the construction, operation and maintenance of the Commercial Solar Energy Facility shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.
3. The Commercial Solar Energy Facility shall comply with existing septic and well regulations as required by the County Health Department and the State of Illinois

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Department of Public Health, including but not limited to the Department of Public Health Act and the Private Sewage Disposal Code.

- D. Signage. Signage regulations are to be consistent with ANSI standards. A reasonably visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations, and at all entrances to the Commercial Solar Energy Facility.
- E. Drainage Systems. The Applicant, at its expense, will repair, in a prompt and timely manner, all waterways, drainage ditches, agricultural drainage systems, field tiles, or any other private and public infrastructure improvements damaged during construction, maintenance and operation phases of the Commercial Solar Energy Facility in accordance with the Agricultural Impact Mitigation Agreement.

VII. LIABILITY INSURANCE AND INDEMNIFICATION

- A. Commencing with the issuance of a Commercial Solar Energy Facility Building Permit, the Applicant shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least Five Million Dollars (\$5,000,000.00) per occurrence and in the aggregate; and, shall further maintain the above-stated lines of insurance from delivery of the Notice to Proceed by the Applicant for the Commercial Solar Energy Facility, in coverage amounts of at least Five Million Dollars (\$5,000,000.00) per occurrence and Twenty Million Dollars (\$20,000,000.00) in the aggregate during the life of the Commercial Solar Energy Facility. The Applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a Commercial Solar Energy Facility Building Permit, corresponding policies and endorsements to be provided within sixty (60) days of issuance, and at each subsequent renewal, at least annually thereafter.
- B. The Applicant shall defend, indemnify and hold harmless the County and its officers, appointed and elected officials, employees, attorneys, engineers and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney's fees relating to or arising out of the issuance of the Special Use Permit or the construction, operation, maintenance and removal of the Commercial Solar Energy Facility including, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of the Applicant, the Owner or the Operator under this Ordinance or the Special Use Permit, except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the negligence or intentional acts of such Indemnified Parties. This general indemnification shall not be construed as limiting or qualifying the County's immunities or other indemnification rights available under the law.

VIII. DECOMMISSIONING AND SITE RECLAMATION PLAN REQUIRED

- A. Applicant or Owner (if different from Applicant) must submit a Decommissioning Plan with cost estimation to the County as part of the siting application and provide testimony supporting the calculation of costs provided in said plan during the public hearing on the Application. Prior to receiving any building permit for the Commercial Solar Energy Facility,

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the Applicant or Owner shall provide a Decommissioning Agreement and post the required Financial Assurances for the benefit of the County. The Decommissioning Agreement and Financial Assurances shall comply with 55 ILCS 5/5-12020 and the Illinois Department of Agriculture's standard wind farm agricultural impact mitigation agreement. A Professional Engineer selected by and paid for by the Owner shall assess and certify the estimate for decommissioning before the SES's sixth, eleventh, fifteenth, and twenty-first years of operation.

- B. The County may, but is not required to, reevaluate the estimated costs of Deconstruction of any Commercial Solar Energy Facility after the tenth anniversary, and every five years thereafter, of the Commercial Operation Date which reevaluation must be performed by an independent third-party Professional Engineer. The County shall provide the Owner with a copy of any reevaluation report. Based on any reevaluation, the County may require changes in the level of Financial Assurance used to calculate the phased coverages described in the AIMA required from the Owner.
- C. The Applicant or Owner (if different from Applicant) shall ensure that the Commercial Solar Energy Facility is properly decommissioned consistent with the Decommissioning Plan within twelve (12) months after the end of the useful life of the Commercial Wind Energy Facility life. A Commercial Solar Energy Facility will be presumed to have no remaining useful life if the Commercial Solar Energy Facility Owner fails, for a period of 6 consecutive months, to pay the Landowner amounts owed in accordance with any Underlying Agreement.

IX. DEFAULTS & REMEDIES

- A. The failure of an Applicant or Owner to materially comply with any of the provisions of this Ordinance, and/ or failure to comply with any law or regulation related to the SES shall be a default and shall be grounds for revocation of the Special Use Permit by the County Board.
- B. Prior to implementation of the applicable County procedures for the resolution of default(s), the County Board must first provide written notice to the Applicant, Operator, and Owner, if different from Applicant, (hereinafter collectively "Notified Parties") by certified mail or personal service, setting forth the alleged default(s) and provide an opportunity for the Notified Parties to cure the default(s) within a thirty (30) calendar days from the date of the notice. Should the Notified Parties commence the cure within that 30-day cure period, and diligently pursue a cure, then the Notified Parties shall receive not less than an additional sixty (60) calendar days to continue to pursue the cure before the County pursues procedures for the resolution of default. If the default relates to a life safety issue or interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Notified Parties shall take all necessary and available commercial measures to immediately cure the default. If the Notified Parties cannot cure the default(s) or resolve the alleged default(s) within the cure period, then applicable County ordinance provisions addressing the resolution of such default(s) shall govern.
- C. To accomplish the purpose of this ordinance, Edgar County Board members, Highway Engineer, and the Supervisor of Assessments shall have the right to enter upon any land which a SES or structure related to the operation or maintenance of such SES is situated.

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If entry is denied, the Edgar County Board may seek an administrative search warrant to enter and inspect the land and structures.

- D. Any violation of this Ordinance shall be an offense punishable by a fine of not less than \$100 but not to exceed \$1,000 per day. A separate offense shall be deemed committed upon each day during or on which a violation of any provision of this Ordinance or of any other County ordinance exists, occurs, or continues. It is the goal of this ordinance to promote safety to protect the public, and the court in setting an appropriate fine shall consider the nature of the offense, the degree of public safety involved, the efforts of the County and the responsible Owner or Applicant to quickly and safely resolve any infraction.

X. FEE SCHEDULE AND PERMITTING PROCESSES

A. Application Fees

1. Prior to processing any Application for a Commercial Solar Energy Facility, the Applicant must submit a certified check to the County for the Application Fee equal to \$5,000 per megawatt (mW) of proposed nameplate capacity. These funds shall be placed in an FDIC insured account and will be used to cover the county's cost incurred in processing the Application.
2. Should the actual costs to the County exceed the submitted Application Fee, the Applicant shall be responsible for those additional costs and shall remit additional funds to the County within 15 days of receipt of a request from the County. No hearings on an Application shall be conducted nor final decisions rendered on an Application if there are Application fees due to the County.
3. Any unused amounts of the Application Fee shall be refunded to the Applicant within six months of the County Board rendering a final decision on the matter, unless any pending litigation, disputes or negotiations involving the County exist regarding the Commercial Solar Energy Facility, in which case any amounts owed to the Applicant shall be refunded within six months of the conclusion of the litigation, disputes or negotiations. An Applicant may request any unused Application Fee be applied toward the Building Permit Fees for the Facility.

- B. Building Permit Fees. Prior to the issuance of building permits, the Building Permit Applicant must deposit a Building Permit Fee equating to \$_____ per megawatt (mW) of nameplate capacity. If the total nameplate capacity is less than 1 mW, the building permit fee shall be reduced pro rata.

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

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XI. HEARING FACILITATOR

- A. The County may engage the services of a hearing facilitator. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the board and the county but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters, admissibility of evidence and the propriety of any arguments.
- B. The hearing facilitator shall be an attorney, licensed to practice in the State of Illinois. The Applicant shall reimburse the county for the fees and costs charged by the facilitator.

XII. HEARING FACTORS

The County Board may approve a Commercial Solar Energy Facility Special Use Permit application, if it finds the evidence complies with state and federal law and regulations, and with the standards of this Ordinance.

XIII. REVOCATION

- A. In any case where a Special Use Permit has been approved for a Commercial Solar Energy Facility, the Applicant shall apply for a Commercial Solar Energy Facility Building Permit from the County and all other permits required by other government or regulatory agencies to commence construction, and commence and actively pursue construction of the Project within thirty-six (36) months from the date of the granting of the Special Use Permit. If the Applicant fails to apply for a Commercial Solar Energy Facility Building Permit from the County and all other permits required by other government or regulatory agencies prior to construction and/or fails to commence and actively pursue construction of the Project within the thirty-six (36) month period, then without further action by the County Board, the Special Use Permit authorizing the construction and operation of the Commercial Solar Energy Facility shall be automatically revoked and void. Upon written request supported by evidence that the Applicant has diligently pursued issuance of all necessary government and regulatory permits for the Project required to commence construction and that any delay in commencement of construction of the Project is due to conditions out of his/her/its control, the County Board, in its sole discretion, may extend the above thirty-six (36) month period by passage of an ordinance that amends the Special Use Permit.
- B. The Special Use Permit shall be subject to revocation if the Applicant dissolves or ceases to do business, abandons the Commercial Solar Energy Facility or the Commercial Solar Energy Facility ceases to operate for more than twelve (12) consecutive months for any reason.
- C. Subject to the provisions of Article XI (Defaults & Remedies), a Special Use Permit may be revoked by the County Board if the Commercial Solar Energy Facility is not constructed, installed and/or operated in substantial conformance with the County-approved Project plans and the regulations of this Ordinance.

XIV. TRANSFERABILITY

Owner or Commercial Solar Energy Facility Permittee. The Applicant shall provide written notification to the County Board at least thirty (30) days prior to any change in ownership of a

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Commercial Solar Energy Facility of any such change in ownership. The phrase "change in ownership of a Commercial Solar Energy Facility" includes any kind of assignment, sale, stock or asset purchase, lease, transfer or other conveyance of ownership or operating control of the Applicant, the Commercial Solar Energy Facility or any portion thereof. The Applicant or successors-in-interest or assignees of the Special Use Permit, as applicable, shall remain liable for compliance with all conditions, restrictions and obligations contained in the Special Use Permit, the provisions of this Ordinance and applicable County, state and federal laws.

XV. MODIFICATION

Any modification of a Commercial Solar Energy Facility that alters or changes the essential character or operation of the Commercial Solar Energy Facility from what was presented at the time the Special Use Permit was granted, or as subsequently amended, shall require a new Special Use Permit. The Applicant or authorized representative shall apply for an amended Special Use Permit prior to any modification of the Commercial Solar Energy Facility.

XVI. PERMIT EFFECTIVE DATE

The Special Use Permit shall become effective upon passage and approval of an ordinance by the County Board approving the Special Use Permit Application.

XVII. INTERPRETATION

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

XVIII. SEVERABILITY

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

XIX. CALCULATION OF DATES

The time within which any act provided by this Ordinance is to be done shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday in which Edgar County Offices are closed, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday is also a holiday or a Saturday or Sunday then such succeeding day shall also be excluded.

XX. EFFECTIVE DATE

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