

ORDINANCE NO. _____

AN ORDINANCE REGULATING COMMERCIAL SOLAR FARMS

WHEREAS, White County, Illinois is a non-home rule unit of local government pursuant to Article VII, Section 8 of the 1970 Illinois Constitution;

WHEREAS, the County Board of White County has determined it necessary to pass an ordinance regulating solar farms pursuant to its lawful authority to regulate and restrict location and use of structures pursuant to 55 ILCS 5/5-12001;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF WHITE COUNTY, ILLINOIS, THAT THE FOLLOWING ORDINANCE TO REGULATE COMMERCIAL SOLAR FARMS BE AND HEREBY IS ADOPTED:

1. Design Standards.

- a. This ordinance shall apply only to solar farms that are erected for commercial purposes and shall not apply to any personal use of solar power.
- b. Foundations. The project's engineer or another qualified engineer shall certify that the foundation and design of the solar panel is within accepted professional standards, given local soil and climate conditions. All solar farms shall be in compliance with any applicable local, state and federal regulatory standards, Illinois Public Act 099-0906 and the National Electric Code as amended. The installation of new solar energy generation facilities shall be installed by a qualified person as defined by Illinois Public Act (known as the "Future Energy Jobs Act").
- c. Power and communication lines. Power and communications lines running between arrays of solar panels and to electric substations or interconnections with buildings shall be buried underground, except in areas where technical or physical constraints make it more practicable to install above ground. Exemptions or variances may be granted in instances where shallow bedrock, watercourses, or other elements of natural landscape interfere with the ability to bury lines. JULIE shall be contacted before digging/excavating begins.
- d. Minimum lot size. No commercial solar farm shall be erected on any lot less than five (5) acres in size.
- e. Height. Systems, equipment and structures shall not exceed 30 feet in height when ground mounted. Excluded from this height requirement, however, are electric transmission lines and utility poles.
- f. Setbacks. Ground mounted solar energy systems as part of a solar farm shall have a setback for all equipment excluding fences a minimum of 100 feet on the front

(entrance to solar energy farm) and 50 feet from all other property lines, with the exception of residential property lines, in which the solar energy system shall be setback 100 feet for existing residential properties, with the setback distances to be measured from the edge of the solar equipment of the solar farm to the property line of existing residential properties. The White County Board may grant a variance to such setback requirement if the proposed or existing buffer is sufficient to screen the project from view from adjoining property or public rights-of-way, if the owners of the adjoining properties agree to waive these setback requirements. For clarification, these setbacks do not apply to adjacent parcels included within the project site.

- g. **Screening and fencing.** The solar energy system shall be fully enclosed and secured by a fence with a minimum height of six feet. Keys shall be provided at locked entrances for access by appropriate emergency personnel. The applicant shall propose a landscaping plan, where necessary, to minimize the visibility of the project from adjacent residential structures. The landscape plan shall take into account the type(s) of vegetation to be planted, along with its approximate location. Earth berms and other topographical features and existing wooded areas may be acceptable forms of screening.
- h. **Lighting.** If lighting is provided at the site, lighting shall be shielded and downcast such that the light does not spill onto adjacent residential parcel.
- i. **Noise.** Noise levels measured at the property line shall not exceed 50 decibels when located adjacent to an existing residence or residential district.
- j. **Performance standards.** All solar power plants must conform to the performance standards as set forth by any local, state, federal regulatory standards, Illinois Public Act 099-0906 or the National Electric Code as amended.
- k. **Signage.** An appropriate warning sign shall be provided at the entrance to the facility and along the perimeter to the solar farm project. The sign at the entrance to the facility shall include the facilities 911 address and two 24-hour emergency contact numbers in letters that are a minimum of 4 inches.
- l. **Outdoor storage.** Only the outdoor storage of materials, vehicles, and equipment that directly support the operation and maintenance of the solar farm shall be allowed. The White County Board Solar Farm Subcommittee (“Subcommittee”) shall have the discretion in determining whether outdoor storage is in compliance with this provision. In any event, all outdoor storage areas shall be paved with a bituminous surface and either fenced or screened to prevent viewing from adjoining properties and uses. For clarification purposes, during construction periods, it is understood that there may be materials, vehicles, and equipment on the site(s) that do not support the operation or maintenance of the solar farm. It will be further understood that any materials, vehicles, or equipment on the site during construction that does not directly support the operation and maintenance

of the solar farm will be removed at the completion of the construction as to be compliance with this section.

- m. **Aviation protection.** For solar energy systems 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 Glaze 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 FAA.
 - n. **Fire protection.** A fire protection plan for the construction and the operation of the facility and emergency access to the site.
 - o. **Endangered species and wetlands.** Solar farm developers shall be required to initiate a natural resource review consultation with the Illinois Department of Natural Resources (IDNR) through the Department's online EcoCat Program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation shall be borne by the developer.
2. **Application requirements.** Due to the unique nature and special requirements of solar power plants and their potential impacts to adjoining properties and government services, solar power plants shall be required to submit and obtain approval on the following items or any special conditions required by the White County Board. The applicant shall be required to submit two copies of all documents proving ownership or interest in the property.
- a. **A site plan with existing conditions showing the following:**
 - i. Existing property lines and property lines extending 100 feet from the exterior boundaries of the solar project, including the names of adjacent property owners and current use of those properties.
 - ii. Existing adjacent public and private roads, showing widths of the roads and any associated easements.
 - iii. Location and size of any abandoned wells, sewage treatment plants within the solar farm or on adjacent parcels.
 - iv. Existing buildings and any impervious surfaces within the solar farm.
 - v. A contour map showing topography at two-foot intervals. A contour map of surrounding properties may also be required.
 - vi. Existing vegetation (list type and percent of coverage: i.e. cropland/plowed fields, grassland, wooded areas etc.)
 - vii. Waterways, watercourses, lakes, public water and wetlands.
 - viii. Any delineated wetland boundaries.
 - ix. A copy of the current FEMA FIRM map that shows the subject property. And, the 100-year flood elevation and any regulated flood protection elevation, if available.

- x. Floodway, flood fringe and/or general floodplain district boundary, if applicable and not provided on the copy of the current FEMA FIRM map.
 - xi. Mapped soils according to the White County Soil Survey.
 - xii. Surface water drainage patterns.
 - xiii. The location of any known subsurface drainage tiles.
- b. Plan of proposed conditions:
- i. Location and spacing of solar panels.
 - ii. Location of access roads and access points.
 - iii. Planned location of underground or overhead electric lines connecting the solar farm to a building, substation or other electric load.
 - iv. New electrical equipment other than at the existing building or substation that is to be the connection point for the solar farm.
 - v. Sketch elevation of the premises accurately depicting proposed solar energy conversion system and its relationship to structure on adjacent land.
 - vi. Weed/grass control. Applicant must present an acceptable weed control plan for property inside and outside fenced area for entire property. The operating company during the operation of the solar farm must maintain the fence and adhere to the weed/grass control plan. If the operating company does not, there can be a fine of \$750.00 per violation per week if the fence is not secure or the weed/grass control plan is not followed.
- c. All solar power plant applications shall be accompanied by a preliminary map and plan showing the roads and rights-of-ways that will be utilized for both the construction and operation of the solar power plant. The applicant shall submit an executed agreement between the solar power plant owner/operator and all road district authorities with infrastructure affected by the solar power plant to the county. This agreement shall include at a minimum:
- i. A final map identifying the routes that will be used.
 - ii. A plan for maintaining and/or repairing the affected roads.
 - iii. Other inclusions as specified by the White County Board or affected road authority.
 - iv. Manufacturer's specification and recommended installation methods for all major equipment, including typical solar panels, mounting systems and foundations for poles or racks.
- d. A general cost per megawatt.
- e. A description of the method of connecting the array to a building or substation.
- f. At the time of the applying for approval, a written demonstration shall be provided that the applicant is in the queue to acquire an interconnect agreement. A copy of an interconnect agreement with the appropriate electric utility, or a written explanation outlining why an interconnection agreement is not necessary should be provided to the county.

- g. A decommissioning plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event that they are not in use for 12 consecutive months. The operating company shall have six (6) months to complete the decommissioning plan or the county will take the necessary decommissioning steps. The plan shall include provisions for removal of all structures (including equipment, fencing and roads) and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structure and/or foundation shall meet the provisions of any applicable White County ordinances and/or any regulations of the Illinois Environmental Protection Agency or the United States Environmental Protection Agency. The decommissioning security amount will be developed by a third party Illinois-licensed professional engineer which has been mutually agreed upon by the applicant and the White County Board and shall be required by the county in order to assure the proper decommissioning of the site. The third party Illinois-licensed professional engineer may account for the scrap and salvage value of the project in developing the proposed decommissioning security amount. In no instance shall the financial security be less than \$1,000.00 per acre. This security financing should be in the form of a guaranty, an irrevocable letter of credit or bond. The decommissioning plan and financial security must be presented to and accepted by the White County Board prior to the start of construction for the facility. The applicant/owner will re-evaluate the decommissioning cost and financial assurance at the end of years ten, twenty, and thirty, as applicable. The reevaluation of the decommissioning cost and financial assurance will be mutually agreed upon by the applicant and the White County Board. All costs associated with the third party Illinois-licensed professional engineer will be paid by the owner operator of the solar farm.**

The county shall have access to the financial assurance for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within six (6) months of the end of project life or facility abandonment. The county is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.

The county is granted the right to seek injunctive relief to effectuate or complete decommissioning, as well as the county's right to seek reimbursement from applicant or applicant successor for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.

Financial provisions shall not be so onerous as to make solar power projects unfeasible.

An update to this decommissioning plan should be submitted to the county every three (3) years. In addition, any decommissioning plans signed by the party responsible for decommissioning and the landowner (if different) shall be submitted with the application.

In the event that the State of Illinois enacts a law with regard to solar farms, such as AIMA legislation, the strictest requirements shall prevail. For the avoidance of doubt, this provision shall not apply to any projects or properties that are otherwise grandfathered and/or exempted under such legislation.

The county reserves the right to require reasonable additional information or components to the plan as the county deems necessary to ensure that an adequate proposal is in place to decommission the facility in its entirety and that adequate funds are available.

- h. **Liability insurance.** The owner operator of the solar farm shall maintain a current general liability policy covering bodily injury and property damage and name White County as an additional insured with limits of at least two millions dollars (\$2,000,000.00) per occurrence and five million dollars (\$5,000,000.00) in the aggregate with a deductible of no more than five thousand dollars (\$5,000). The applicant/owner must provide proof of insurance to the White County Board prior to construction and then on an annual basis. Applicant must also provide proof of insurance upon any material changes to the terms and conditions of the policy.
3. **Fees and costs.** No solar farm application shall be accepted until the filing fee of \$5,000.00 is paid and accompanied by a notarized statement of the appropriate corporate officials or official legal representative of the applicant that the applicant will pay to the county additional fees to reimburse the county for moneys expended in excess of \$5,000.00 in preparing for, processing, reviewing, and evaluating the application to its final resolution. The applicant shall also agree in said notarized statement to stop all proceedings if an invoice for reimbursement to the county is not paid to the county treasurer within ten days after the invoice has been presented to the appropriate corporate officer or official legal representative of the applicant.
4. **Administration and Enforcement.** The White County Board Solar Farm Subcommittee, which shall consist of the chairman of the White County Board, the White County Highway Engineer, and an at-large member of the White County Board selected by the chairman of the White County Board, shall enforce the provisions of this ordinance through an inspection of the solar farm every year. The White County Board Solar Farm Subcommittee is hereby granted the power and authority to enter upon the premises of the solar farm at any time by coordinating a reasonable time with the operator/owner of the facility. Any person, firm or cooperation who violates, disobeys, omits, neglects, refuses to comply with, or resists enforcement of any of the provisions of this section may face fines of not more than \$750.00 for each offense or rescission of permit. Any challenge to any fine or

rescission of permit may be challenged first to the White County Board before initiation of any suit through the appropriate court system.

The applicant shall submit its application to the Subcommittee. The Subcommittee shall review and determine whether the application is complete within thirty (30) days of applicant's filing. If the application is not deemed complete, the Subcommittee shall instruct applicant why application is insufficient and allow applicant the opportunity to re-submit a complete application. Within 30 days of the application being deemed complete, the Subcommittee shall review the application and make a recommendation to the White County Board regarding approval of the application. The White County Board will have thirty (30) days to act on such application. Applicant shall have thirty (30) days to appeal any decision by the White County Board for reconsideration by the Board.

Any approval of a solar project will be valid throughout the useful life of the project, including through decommissioning.

- 5. Annual Update Requirements. All contact information including name, phone number, and address of the current property owner, lessor, lessee, the interconnecting utility company, and buyer of the power (if applicable and if this information can be disclosed publicly), shall be submitted annually within 30 days of the anniversary date of the permit until decommissioning has been completed at which point the permit will be null and void.
- 6. This Ordinance shall be in full force and effect from and after its passage.

Passed by the White County Board on this _____ day of _____, 2018

AYES: _____
 NAYS: _____
 PRESENT: _____
 ABSENT/ABSTAIN: _____

 PAULA DOZIER
 WHITE COUNTY CLERK

Passed and Approved this _____ day of _____, 2018.

 DAVID DOSHER
 WHITE COUNTY BOARD, Chairman

ATTEST:

PAULA DOZIER
WHITE COUNTY CLERK